

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
127TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 859, L.D. 1259, Bill, "An Act To Increase Consumer Protections"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 5 MRSA §90-F is enacted to read:

**§90-F. Refusal of records for filing or recording; removal of filed or recorded records**

**1. Refusal.** Notwithstanding any other provision of law, if a person presents a record to the Secretary of State for filing or recording, the Secretary of State may refuse to accept the record for filing or recording if the record is not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe the record is materially false or fraudulent. This subsection does not create a duty upon the Secretary of State to inspect, evaluate or investigate a record that is presented for filing or recording.

**2. Removal.** The Secretary of State may remove a record that has been filed or recorded with the Secretary of State if the Secretary of State determines that the record was filed or recorded erroneously because the record was not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe that the record is materially false or fraudulent. If the Secretary of State removes a record that was filed or recorded, the Secretary of State shall immediately notify the person who presented the record for filing or recording.

**3. Action after refusal or removal.** If the Secretary of State, pursuant to subsection 1, refuses to accept a record for filing or recording, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to accept the record for filing or recording. If the Secretary of State, pursuant to subsection 2, removes a record that was filed or recorded, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the

**COMMITTEE AMENDMENT**

1 Secretary of State to reinstate the filing or recording from the original date of filing or  
2 recording. If the court determines that the record is appropriate for filing or recording, it  
3 shall order the Secretary of State to accept the record for that purpose or require the  
4 Secretary of State to reinstate the record from the original date of filing or recording.'

5 Amend the bill in section 1 in paragraph (g) in the last line (page 1, line 9 in L.D.) by  
6 inserting after the following: "." the following: 'or'

7 Amend the bill by striking out all of sections 2 and 3 and inserting the following:

8 'Sec. 2. 11 MRSA §9-1516, sub-§(2), ¶(h) is enacted to read:

9 (h). In the case of a record submitted for filing or recording with the Secretary of  
10 State, the Secretary of State refuses to accept the record in compliance with Title 5,  
11 section 90-F.'

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
13 section number to read consecutively.

#### 14 SUMMARY

15 This amendment gives the Secretary of State the authority to refuse to file or record a  
16 record that is not required or authorized to be filed or recorded with the Secretary of  
17 State. The Secretary of State may also refuse to file or record a record if the Secretary of  
18 State has reasonable cause to believe the record is materially false or fraudulent.

19 The amendment gives the Secretary of State the authority to remove a record that was  
20 filed or recorded erroneously because the record was not required or authorized to be  
21 filed or recorded with the Secretary of State or the Secretary of State has reasonable cause  
22 to believe that the record is materially false or fraudulent.

23 The amendment gives the person who presented the refused or removed record the  
24 option of asking the Superior Court to require the Secretary of State to file or record the  
25 refused record, or reinstate the filing or recording of the removed record from the original  
26 date of the filing or recording.

**FISCAL NOTE REQUIRED**  
**(See attached)**



# 127th MAINE LEGISLATURE

LD 1259

LR 1810(02)

An Act To Increase Consumer Protections

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Judiciary

Fiscal Note Required: Yes

*A (H-166)*

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## Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund

### Correctional and Judicial Impact Statements

Increases the number of civil suits.

The collection of additional filing fees may also increase General Fund revenue by minor amounts.