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Fees: Employment Security Liens
35 M.R.S.A. § 751
26 M.R.S.A. § 1227(2)

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November 3, 1977

Joseph M. Jabar
District Attorney
Kennebec County Courthouse
Augusta, Maine 04330

Dear Mr. Jabar:

This is in response to your request for an opinion resolving the apparent inconsistency in the statutes governing the recording fees to be paid to Registers of Deeds in regard to employment security tax liens. As discussed herein Registers of Deeds are entitled to receive fees as provided for in P.L. 1977, c. 145 from the period of May 11, 1977, to October 24, 1977, and as provided in P.L. 1977, c. 189 after October 24, 1977.

Chapter 145 of the Public Laws of 1977 amended Title 35 M.R.S.A. § 751 so as to provide that the Registers of Deeds shall receive \$5 for the first record page and \$1 for each additional record page of each instrument or document presented for recording. This measure was enacted as emergency legislation and became effective on the date of its approval on May 11, 1977.

Chapter 189 of the Public Laws of 1977 amended Title 26 M.R.S.A. § 1227(2) so as to increase the fee to be paid to the Registers of Deeds by the Employment Security Commission for the recording of employment security tax liens from \$1 to \$3. This provision was approved on May 20, 1977, and became effective on October 24, 1977.

The rules of statutory construction provide that to the extent two enactments cover the same subject matter, those facets of either statute which treat the common subject matter

in the more direct, special and minute manner will usually be held to prevail. Opinion of the Justices, 311 A.2d 103 (Me., 1973). The rules of statutory construction further provide that where two inconsistent statutes are carried into the codified law the one last passed which is the later declaration of the legislative will, should prevail. Cram v. Inhabitants of Cumberland Cty., 148 Me. 515 (1953).

In this situation, Chapter 189, the provision last passed by the Legislature, is more specific and detailed in regard to the recording fees for employment security tax liens than is Chapter 145. Therefore, applying the above rules of statutory construction to these provisions requires that the Employment Security Commission pay \$3 for the recording of its tax liens pursuant to Chapter 189.

However, as Chapter 145 became effective on May 11, 1977, and Chapter 189 did not become effective until October 24, 1977, no conflict between these provisions existed until October 24, 1977. Therefore, payment of fees for recording employment security tax liens to Registers of Deeds shall be made pursuant to Chapter 145 for the period of May 11, 1977, to October 24, 1977, and pursuant to Chapter 189 for the period after October 24, 1977.

I hope this information is helpful.

Sincerely,


JOSEPH E. BRENNAN
Attorney General

JEB/ec

cc: Patricia McDonough