

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 466

H. P. 314

House of Representatives, January 18, 1961

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Berman of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Relating to a Chattel Mortgage Recording Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 119, § 9, amended. The first paragraph of section 9 of chapter 119 of the Revised Statutes is amended to read as follows:

'No agreement that personal property bargained and delivered to another shall remain the property of the seller till paid for is valid unless the same is in writing and signed by the person to be bound thereby; ~~and when.~~ When so made and signed, whether said agreement is or is called a note, lease, conditional sale, purchase on installments or by any other name, and in whatever form it may be, it shall not be valid except as between the original parties thereto, unless it or a memorandum thereof is recorded in the office of the clerk of the city, town or plantation organized for any purpose, in which the purchaser resides at the time of the purchase; but if any of the purchasers are not residents of the state or reside in an unorganized place in the state, then in the registry of deeds in the county where the seller resides at the time of the sale same manner as chattel mortgages. The fee for recording the same shall be the same as that for recording mortgages of personal property. All such property, whether said agreements are recorded or not, shall be subject to redemption and to trustee process as provided in section 50 of chapter 114, section 50, but the title may be foreclosed in the same manner as is provided for mortgages of personal property.'

Sec. 2. R. S., c. 178, § 1, repealed and replaced. Section 1 of chapter 178 of the Revised Statutes is repealed and the following enacted in place thereof:

Sec. 1. Mortgages of personal property; record. No mortgage of personal property shall be valid against a trustee in bankruptcy or an assignee in insolvency of the mortgagor, or against an assignee under a general assignment for the benefit of the creditors of the mortgagor, or against any person other than the mortgagor, unless and until possession of such property is delivered to the mortgagee within 20 days from the date written on said mortgage, or when undated, then from the date of execution and delivery of the same, and unless such possession is retained by the mortgagee, or unless and until the mortgage or a memorandum thereof is recorded within the said period of 20 days in the office of the register of deeds in the registry district in which the mortgagor resides when the mortgage is given, or registry of deeds as provided in this section.

I. Mortgagors nonresidents; part in State. When all mortgagors reside without the State, the mortgage or a memorandum thereof shall be so recorded in the office of the register of deeds in the registry district where the property is when the mortgage is made; but if a part of the mortgagors reside in the State, then in the office of the register of deeds in the registry district in which such mortgagors reside when the mortgage is given.

II. Mortgagor in unorganized place. If any mortgagor resides in an unorganized place, the mortgage or a memorandum thereof shall be so recorded in the office of the register of deeds for the registry district in which such unincorporated place is located.

III. Corporation organized under Maine law. A mortgage or a memorandum thereof made by a corporation organized under the laws of the State shall be so recorded in the office of the register of deeds in the registry district where it has its established place of business, being its principal place of business as set forth in its articles of incorporation.

IV. Corporation not organized under Maine law. A mortgage, or memorandum thereof, made by a corporation not organized under the laws of the State, shall be recorded in the office of the registry of deeds in the registry district where such corporation has its principal established place of business, and if said corporation has no established place of business in the State, or if said place of business is in an unorganized place in the State, then in the office of the register of deeds for the registry district in which such property is when the mortgage is made. Such chattel mortgages or the memorandums thereof need not be acknowledged for presentation for record. If possession is taken or said mortgage or a memorandum thereof is recorded subsequent to said period of 20 days, it shall be valid against mortgages, assignments and bills of sale executed and delivered subsequent to the making of said record, and also against attachments made subsequent thereto, based upon causes of action arising subsequent thereto, and also against trustees in bankruptcy and common law assignees, so far as relates to claims accruing subsequent thereto.

V. Memorandum. A statement signed by the party to be bound, describing the parties and the personal property mortgaged and stating the date of the mortgage, the amount remaining unpaid, the terms of payment, whether it is to

secure future advances, whether it is to cover after-acquired property and that it is a memorandum of a mortgage of personal property shall constitute a memorandum within the meaning of this section. The recording of such a memorandum shall make effective all the terms of the mortgage as effectively as if said mortgage had been recorded in full.'