

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1552

House of Representatives, May 3, 1963
Reported by the Committee on Judiciary and printed pursuant to House Rule
36.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

COMMITTEE AMENDMENT "A" to H. P. 79, L. D. 95, Bill, 'An Act Estab-
lishing the Uniform Commercial Code.'

Amend said Bill in that part designated "**Article 1.**" of section 1 by striking
out all of subsection (30) of section 1-201 and inserting in place thereof the
following:

'(30) "Person" includes an individual or an organization.'

Further amend said Bill in that part designated "**Article 2.**" of section 1 by
striking out all of the first underlined sentence of subsection (3) of section 2-702
and inserting in place thereof the following:

**'The seller's right to reclaim under subsection (2) is subject to the rights of a
buyer in ordinary course or other good faith purchaser under this article (sec-
tion 2-403).'**

Further amend said Bill in that part designated "**Article 7.**" of section 1 by
striking out all of subsection (1) of section 7-210 and inserting in place thereof
the following:

**'(1) Except as provided in subsection (2), a warehouseman's lien may be en-
forced by public or private sale of the goods in bloc or in parcels, at any time
or place and on any terms which are commercially reasonable, after notifying
all persons known to claim an interest in the goods. Such notification must in-
clude a statement of the amount due, the nature of the proposed sale and the
time and place of any public sale. The fact that a better price could have been
obtained by a sale at a different time or in a different method from that selected
by the warehouseman is not of itself sufficient to establish that the sale was not
made in a commercially reasonable manner. If the warehouseman either sells
the goods in the usual manner in any recognized market therefor, or if he sells**

at the price current in such market at the time of his sale, or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to insure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.'

Further amend said Bill in that part designated "Article 7." of section 1 by striking out all of subsection (1) of section 7-308 and inserting in place thereof the following:

'(1) A carrier's lien may be enforced by public or private sale of the goods, in bloc or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the carrier either sells the goods in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.'

Further amend said Bill in that part designated "Article 8." of section 1 by striking out all of section 8-101 and inserting in place thereof the following:

'Sec. 8-101. Short title; inconsistency with Uniform Act for Simplification of Fiduciary Security Transfers.

(1) This article shall be known and may be cited as "Uniform Commercial Code—Investment Securities."

(2) If in any respect there is any inconsistency between this article and the Uniform Act for Simplification of Fiduciary Security Transfers, chapter 53, sections 72-A to 72-K, the provisions of chapter 53, sections 72-A to 72-K shall control.'

Further amend said Bill in that part designated "Article 9." of section 1 by striking out all of the underlined paragraph (d) of subsection (1) of section 9-302 and by renumbering paragraphs (e) and (f) of subsection (1) to be paragraphs (d) and (e) of subsection (1).

Further amend said Bill in that part designated "Article 9." of section 1 by striking out all of subsection (1) of section 9-401 and inserting in place thereof the following:

'(1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, then in the office of the clerk of the municipality in which the debtor resides, unless the debtor (I) is a corporation, or (II) is not a resident of this State or (III) resides in an unorganized place, then in the office of the Secretary of State. When the collateral is crops, then an additional filing in the office of the register of deeds in the registry district in which a mortgage on the land on which the crops are growing or are to be grown would be recorded;

(b) When the collateral is consumer goods, then in the office of the clerk of the municipality in which the debtor resides, or if the debtor (I) is not a resident of this State, or (II) resides in an unorganized place, then in the office of the Secretary of State;

(c) When the collateral is goods which, at the time the security interest attaches are or are to become fixtures, then in the office of the register of deeds in the registry district in which a mortgage on the real estate concerned would be recorded;

(d) In all other cases, in the office of the Secretary of State, and, in addition, (I) if the debtor is not a corporation and has a place of business in only one municipality of this State, in the office of the clerk of such municipality, and (II) if the debtor is not a corporation and has no place of business in this State, but resides in the State, also in the office of the clerk of the municipality in which he resides.'

Further amend said Bill in that part designated "Article 9." of section 1 by striking out all of subsections (4) and (5) of section 9-403 and inserting in place thereof the following:

'(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. The filing officer may, in lieu of holding the statement itself, hold a microfilm copy of the statement for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement. The index may be made up of the statements themselves, copies thereof, separate cards or otherwise.

(5) The fee for filing, indexing and furnishing filing data for an original or a continuation statement or any amendment thereof shall be \$3, unless on a form conforming to standards prescribed by the Secretary of State in which case the fee shall be \$2.'

Further amend said Bill in that part designated "Article 9." of section 1 by striking out all of the underlined next to the last sentence of subsection (1) of section 9-404 and inserting in place thereof the following underlined sentence:

'The fee for filing and indexing such an assignment or statement thereof shall be \$3, unless on a form conforming to standards prescribed by the Secretary of State in which case the fee shall be \$2.'

Further amend said Bill in that part designated "Article 9." of section 1 by

striking out all of subsection (2) of section 9-404 and inserting in place thereof the following:

'(2) On presentation to the filing officer of such a termination statement, he must note it in the index. Unless the filing officer has used the optional method of using microfilm provided for in section 9-403, subsection (4), the filing officer shall remove from the files, mark "Terminated," and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto. If the filing officer has used the optional method of using microfilm provided for in section 9-403, subsection (4) he shall make copies from his microfilm record, mark the copies "Terminated," and send or deliver to the secured party copies of the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.'

Further amend said Bill in that part designated "**Article 9.**" of section 1 by striking out the underlined figure "**\$1**" in subsection (3) of section 9-404 and inserting in place thereof the following underlined figure and words "**\$2, unless on a form conforming to standards prescribed by the Secretary of State in which case the fee shall be \$1.**"

Further amend said Bill in that part designated "**Article 9.**" of section 1 by striking out all of the last underlined sentence of subsection (1) of section 9-405 and inserting in place thereof the following sentence:

'The uniform fee for filing, indexing and furnishing filing data for a financing statement, or any amendment thereof, so indicating an assignment shall be \$3, unless on a form conforming to standards prescribed by the Secretary of State in which case the fee shall be \$2.'

Further amend said Bill in that part designated "**Article 9.**" of section 1 by striking out the underlined figure "**\$2**" at the end of subsection (2) of section 9-405 and inserting in place thereof the following underlined figure and words "**\$3, unless on a form conforming to standards prescribed by the Secretary of State in which case the fee shall be \$2'**

Further amend said Bill in that part designated "**Article 9.**" of section 1 by striking out all of the first 2 underlined sentences of subsection (2) of section 9-407.

Further amend said Bill by striking out everything after the amending clause of section 16 and inserting in place thereof the following:

" "Motor vehicle" means any device propelled or drawn by any power other than muscular power upon or by which any person or property may be transported or drawn upon a highway, excepting agricultural machinery, house trailers and any such devices which do not constitute consumer goods, as defined in chapter 190, section 9-109 (1)."

Further amend said Bill by striking out all of section 27 and inserting in place thereof the following:

'Sec. 27. R. S., c. 119, §§ 4, 5 and 6, repealed. Sections 4, 5 and 6 of chapter 119 of the Revised Statutes are repealed.'

Further amend said Bill by striking out all of section 33.

Further amend said Bill by adding after section 34 the following new section:

“Sec. 34-A. R. S., c. 182, § 4, additional. Chapter 182 of the Revised Statutes is amended by adding a new section 14 to read as follows:

‘Sec. 14. Limitation. Nothing contained in this chapter shall control the manner of obtaining a security interest in a trademark or the necessity for filing or recording to protect or perfect any such security interest, whether it is obtained by an assignment or otherwise.’”

Further amend said Bill by renumbering said sections to read consecutively.

Further amend said Bill in that part designated **“Article 9.”** of section 1 by striking out the underlined figure **“\$2”** in the last sentence of section 9-406 and inserting in place thereof the following underlined figure and words **‘\$3, unless on a form conforming to standards prescribed by the Secretary of State in which case the fee shall be \$2.’**

Further amend said Bill by striking out all of section 43 and inserting in place thereof the following:

‘Sec. 43. Appropriation. There is appropriated from the Unappropriated Surplus of the General Fund to the Secretary of State the sum of \$10,500 for the fiscal year ending June 30, 1965 to carry out the purposes of this act. The breakdown shall be as follows:

	1963-64	1964-65
SECRETARY OF STATE		
Personal Services	—	(2) \$ 4,000
All Other	—	1,500
Capital Expenditures	—	5,000
		<hr/> \$10,500’

Further amend said Bill by striking out in the 2nd line of the Statement of Facts the figure **“\$250,000”** and inserting in place thereof the figure **“\$52,000’**.