

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1429

H. P. 1203

House of Representatives, April 4, 1977

On motion of Mr. Spencer of Standish, referred to Committee on Judiciary.
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tarbell of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Establish Procedures to Record Judgment in Registry of Deeds
to Create a Lien on Debtor's Real Estate.**

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

14 MRSA § 3138 is enacted to read:

§ 3138. Judgment liens; notices

1. Recorded in registry of deeds. A judgment for money damages, now or hereafter entered by a court of this State of by a federal district court residing in this State, shall constitute, upon the recording of a notice of judgment lien as hereinafter provided, a lien in the amount of the judgment debt outstanding upon all that real estate of the judgment debtor which is not exempt from attachment and execution and which is situated in the county in which such notice of judgment lien is recorded. A notice of judgment lien shall include a sworn affidavit of the judgment creditor stating that a copy of such notice has been furnished to the judgment debtor as hereinafter provided, and shall be accompanied by a copy of the judgment, certified by the clerk of the court which entered the same. Such notice of judgment lien shall be recorded in the registry of deeds of any county in which the judgment debtor's real estate is sought to be liened within 60 days following the date of entry of judgment, provided that if there is an appeal from such judgment, such time limit for recording shall be extended until 60 days following the final determination on any such appeal. A copy of the notice of judgment lien shall be sent to the judgment debtor at his last known address by certified or registered mail, return receipt requested, or by such other means as reasonably assures that the judgment debtor will receive actual notice thereof.

2. Amount of monetary damages included. The judgment debt secured by a judgment lien established pursuant to subsection 1 shall be deemed to include the amount of any monetary damages, together with any costs and interest, ordered by the court as part of the judgment entered, to be paid by the judgment debtor to the judgment creditor.

3. Effective. A judgment lien established pursuant to subsection 1 shall be effective, and its priority shall be established, from the date the notice of judgment lien is recorded and shall continue, unless sooner discharged, for a period of 10 years from such date.

4. Discharge of judgment lien; notice recorded. A judgment lien established pursuant to subsection 1 shall be deemed automatically discharged at such time as the full amount of the judgment debt is satisfied or the judgment is otherwise discharged. Within 30 days following the date on which such judgment debt is satisfied or the judgment is otherwise discharged, the judgment creditor shall cause a notice of discharge of judgment lien to be sent to the judgment debtor or recording in the registry of deeds of each county in which any real estate is situated which was subjected to such judgment lien pursuant to subsection 1. Such notice of discharge of judgment lien shall evidence the satisfaction or discharge of such judgment debt and judgment lien.

5. Failure to record notice. If the judgment creditor fails to send a notice of discharge of judgment lien to the judgment debtor, as required pursuant to subsection 4 after being requested to do so, the judgment debtor, or any person having an interest in the real estate subject to such judgment lien, may bring an action, in any District or Superior Court in the county in which any part of such real estate is situated or in which any party to such action resides, against the judgment creditor for:

A. A decree stating that the judgment lien is discharged, which decree may be recorded in the registry of deeds as a notice of discharge of judgment lien pursuant to subsection 4; and

B. The amount of any damages, costs and expenses, including reasonable attorneys' fees, incurred by the party bringing such action by reason of the failure of the judgment creditor to send a notice of discharge of judgment lien in accordance with subsection 4.

6. Assignment of judgment debt to another. In the event that the judgment creditor assigns the judgment debt to another, he shall nevertheless remain liable under subsection 5 unless, prior to the satisfaction or other discharge of the judgment debt, the judgment debtor receives written notice of the assignment and of the assignee's identity and address; provided that nothing herein shall relieve or limit the liability or duty, established pursuant to subsection 4 and 5, of the creditor who is the holder of a judgment debt at the time such debt is satisfied or the judgment is otherwise discharged.

7. Right of judgment creditor. The rights afforded to a judgment creditor by subsection 1 shall be in addition to, and not in derogation or limitation of, those afforded by section 3132.

8. **Fee.** The registers of deeds in each county shall accept for recording any notice of judgment lien and notice of discharge of judgment lien described in this section, the forms of which shall, except as in this section otherwise provides, comply with all laws and procedures relating to the forms of recordable documents. The registers of deeds shall collect a fee of \$4 for the recording of such notices.

9. **Enforcement of judgment lien.** A judgment lien may be enforced by the judgment creditor in the same manner as an attachment of real estate.

STATEMENT OF FACT

The purpose of this bill is to establish a system to allow judgment creditors to record liens upon the real estate of judgment debtors. It is intended to relieve the judgment debtor of additional court costs presently assessed in supplementary suits necessary to obtain past judgment attachments and disclosure liens on real estate.

It will also relieve already congested court dockets.