

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2004

H. P. 1929

Office of the Clerk of the House.

The Committee on Business Legislation suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Tierney of Lisbon Falls.

Cosponsors: Mr. Carey of Waterville, Mr. Sprowl of Hope, Mrs. Boudreau of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT Relating to the Place of Filing Under the Uniform Commercial Code.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the first regular session of the 108th Legislature enacted PL 1977, chapter 526, which provides numerous revisions to Article 9 of the Uniform Commercial Code; and

Whereas, that Act provides that effective January 1, 1978, security agreements previously filed with the office of clerk in each municipality shall be filed in the Office of the Secretary of State and that all fees that are received from such filing accrue to the General Fund of the State; and

Whereas, this particular provision was not discussed or debated at public hearing or on the floor of either body of the Legislature; and

Whereas, the loss of revenue could seriously disrupt the continuity of municipal functions in the smaller municipalities of the State and substantially impact budgets in the larger communities, unless the previous law is immediately reenacted; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 11 MRSA § 9-401-A, sub-§ (1), as enacted by PL 1977, c. 526, § 77, is repealed and the following enacted in its place:

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

(a) When the collateral is consumer goods, in the office of the clerk of the municipality of the debtor's residence unless the debtor:

(i) Is not a resident of this State; or

(ii) Is a resident of an unorganized place, then in the Office of the Secretary of State;

(b) When the collateral is timber to be cut or is minerals or the like, including oil and gas, or accounts subject to section 9-103-A, subsection (5), or is crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313, and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded; and

(c) In all other cases, in the Office of the Secretary of State.

Sec. 2. Transition. Within 15 days after the effective date of this Act, the ooriginal copy of all agreements relating to security interests in consumers goods filed in the Office of the Secretary of State between December 31, 1977, and the effective date of this Act shall be transmitted by the Secretary of State to the office of the clerk of the municipality of the debtor's residence unless the debtor is not a resident of this State or a resident of an unorganized place.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

One provision enacted last session was in a comprehensive revision to the Uniform Commercial Code, changing the place of filing security agreements on consumer goods from the municipality where the debtor resides to the Office of the Secretary of State. This change which was effective January 1, 1978, went unnoticed by nearly everyone. The projected revenue loss of \$350,000 to municipal clerks and the municipalities they represent was not reflected in the bill's fiscal note.

Many town clerks in Maine do not receive compensation directly from municipal appropriations but rather from license and filing fees. Most of these fees are received for filing security agreements under the Uniform Commercial Code. The purpose of this bill is to maintain the filing of these agreements at the local level.