

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 252

H. P. 214

House of Representatives, January 14, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Peterson of Caribou.

Cosponsor: Senator McBreairty of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Provide for Filing of Certain Security Interests, under the Uniform Commercial Code, in Municipalities.

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

Sec. 1. 11 MRSA § 9-401, sub-§ 1, ¶¶ (a) and (b), as reenacted by PL 1977, c. 696, § 142, are repealed and the following enacted in their place:

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

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

Sec. 2. Transition provisions

1. Generally. Transactions validly entered into after December 31, 1964 and

before January 1, 1982 remain valid after January 1, 1982, and may be terminated, completed, consummated or enforced in accordance with the provisions of the Revised Statutes, Title 11. Security interests arising out of those transactions which are perfected when this Act takes effect, remain perfected until they lapse and may be continued as permitted by Title 11, except as stated in subsection 2.

2. Change of place of filing. The following provisions apply to certain filings.

A. A financing statement or continuation statement filed prior to January 1, 1982, which has not lapsed prior to January 1, 1982, remains effective for the period provided in, Title 11, but not less than 5 years after the filing.

B. With respect to any collateral acquired by the debtor subsequent to January 1, 1982, any effective financing statement or continuation statement described in this section shall apply only if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under Title 11 as amended by this Act.

C. The effectiveness of any financing statement or continuation statement filed prior to January 1, 1982, may be continued by a continuation statement as permitted by Title 11 as amended by this Act, may be continued by a continuation statement as permitted by Title 11 as amended by this Act, except that if it requires a filing in an office where there was no previous financing statement, a new financing statement conforming to subsection 3 shall be filed in that office.

D. If the record of a mortgage of real estate would have been effective as a fixture filing of goods described therein if the provisions of this Act had been in effect on the date of recording the mortgage, the mortgage shall be deemed effective as a fixture as to those goods under section 9-402, subsection (6) of Title 11 on the effective date of this Act.

3. Required refiling. The following provisions apply to refiling.

A. If a security interest is perfected or has priority when this Act takes effect as to all persons or as to all persons or as to certain persons without any filing or recording and if the filing of a financing statement would be required for the perfection or priority of the security interest against those persons under Title 11 as amended by this Act, the perfection and priority rights of the security interest continue until January 1, 1985. The perfection shall then lapse unless a financing statement is filed as provided in paragraph C or unless the security interest otherwise than by filing.

B. If a security interest is perfected by a filing, refiling or recording under a law repealed by this Act which required further filing, refiling or recording to continue its perfection, perfection continues and shall lapse on the date provided by the law so repealed for the further filing, refiling or recording unless a financing statement is filed as provided in paragraph C or unless the security interest is perfected otherwise than by filing.

C. A financing statement may be filed within 6 months before the perfection of a security interest would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. It shall identify the security agreement, statement or notice, however denominated in any statute modified by this Act, state the office where and the date when the last filing refiling or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, or recording and further state that the security agreement, statement or notice, however denominated, in another filing office under the Uniform Commercial Code or under any statute modified by this Act, still effective. Sections 9-103 and 9-401 determine the proper place to file such a financing statement. Except as specified in this paragraph, the provisions of section 9-403, subsection 3 for continuation statements apply to such a financing statement.

Sec. 3. Effective date. This Act shall take effect January 1, 1982.

STATEMENT OF FACT

This bill changes the place of filing of security interests in consumer goods from the Secretary of State's office to the proper municipality.