

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 936

H. P. 766

House of Representatives, February 18, 1981

Referred to the Committee on Local and County Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative LaPlante of Sabattus, By Request.

STATE OF MAINE

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

AN ACT to Clarify the Duties of the Register of Deeds.

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

Sec. 1. 11 MRSA § 9-403, sub-§ (5), as repealed and replaced by PL 1969, c. 582, § 2, is amended to read:

(5) The fee for filing, indexing and furnishing filing data for an original financing statement shall be \$5, **except that a register of deeds shall receive a filing fee of \$6 for the first record page and \$2 for each additional record page.** The fee for filing, indexing and furnishing filing data for a continuation statement or any amendment to a financing statement or to a continuation statement shall be \$3, **except that a register of deeds shall receive a filing fee of \$6 for the first record page and \$2 for each additional record page.**

Sec. 2. 11 MRSA § 9-404, sub-§ (3), as repealed and replaced by PL 1969, c. 582, § 4, is amended by adding at the end a new paragraph to read:

Notwithstanding this subsection, a register of deeds shall receive a fee for filing and indexing a termination statement with relation to a financing statement of \$6 for the first record page and \$2 for each additional record page.

Sec. 3. 11 MRSA § 9-405, sub-§ 1, 3rd sentence, as amended by PL 1971, c. 11, is further amended to read:

The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$5, **except that a register of deeds**

shall receive a filing fee of \$6 for the first record page and \$2 for each additional record page.

Sec. 4. 11 MRSA § 9-407, sub-§ (2), 2nd ¶, as enacted by PL 1977, c. 702, § 2, is amended to read:

Notwithstanding ~~the above~~ this subsection, if the filing officer is a municipal clerk or a register of deeds, his issuance of the certificate of information is discretionary.

Sec. 5. 13 MRSA § 903, as last amended by PL 1977, c. 522, §§ 1 and 2, is repealed and the following enacted in its place:

§ 903. Recording certificate

They shall prepare, sign and make oath to a certificate setting forth the name, location, officers and directors, trustees or managing board and purposes of the corporation. The certificate shall clearly state that the corporation is not organized for profit and that no property or profit of the corporation shall inure to the benefit of any person, partnership or corporation except in furtherance of the benevolent or nonprofit-making purposes of the corporation. After it has been examined by the Secretary of State and been by him certified to be properly drawn and signed and to be conformable to the Constitution and laws, a copy shall be made and filed in the Department of the Secretary of State, who shall enter the date of filing thereon and on the original certificate to be kept by the corporation and shall record the copy in a book kept for that purpose and the corporation may commence business. The Secretary of State shall receive for filing the certificate, or amendment thereto, a fee of \$5 in advance.

Sec. 6. 13 MRSA § 931, 6th and 7th sentences, are repealed as follows:

~~A certificate of the change of the name of such corporation shall be filed by the clerk or secretary of the corporation in the registry of deeds in the county in which the corporation has its location, within 20 days after the proceedings of the meeting are returned to the office of the Secretary of State. No fee shall be required therefor by the Secretary of State but the registry of deeds shall receive for recording such certificate the fee of 50¢~~

Sec. 7. 13 MRSA § 1824, 3rd and 4th sentences, as amended by PL 1977, c. 522, § 8, are further amended to read:

After ~~said~~ the certificate has been examined by the Secretary of State, and been by him certified to be properly drawn and signed and to be conformable to the Constitution and laws, ~~it shall be recorded in the registry of deeds in the county where said corporation is located, in a book kept for that purpose, and within 60 days after the day of the meeting at which such corporation is organized a copy thereof certified by such register shall be made and filed in the office of the Secretary of State, who shall enter the date of filing thereon, and on the original certificate to be kept by the corporation and shall record said the copy in a book kept for that purpose. A fee of \$5 shall be paid to the Secretary of State and a fee of~~

~~§8 shall be paid to registers of deeds for recording such certificate and certifying copies thereof for filing with the Secretary of State.~~

Sec. 8. 13 MRSA § 1825, sub-§ 2, 2nd sentence, as amended by PL 1977, c. 522, § 9, is further amended to read:

For filing or recording an amendment to the articles, the association shall pay ~~to the registers of deeds a fee of \$5, and~~ a fee of \$5 shall be paid to the Secretary of State.

Sec. 9. 14 MRSA § 4154, as amended by PL 1965, c. 306, § 30-A, is further amended to read:

§ 4154. Record of attachment of bulky personal property

When any personal property is attached which by reason of its bulk or other special cause cannot be immediately removed, the officer may within 5 days thereafter file in the office of the municipal clerk or the Secretary of State or in the registry of deeds, as the case may be, where filing is required to perfect a security interest in such goods under Title 11, section 9-401, an attested copy of so much of his return on the writ of attachment as relates to the attachment, with the value of the defendant's property which he is thereby commanded to attach, the names of the parties, the date of the writ of attachment and the court to which it is returnable, and such attachment is as effectual and valid as if the property had remained in his possession and custody. ~~The municipal clerk or Secretary of State or register of deeds, as the case may be shall receive the copy thereof with a fee of \$2, noting thereon the time, enter it in a suitable book or file and keep it on file for the inspection of those interested therein. The register of deeds shall receive a copy with a fee of \$6, noting thereon the time, and record it under the provisions of Title 33, section 651.~~

Sec. 10. 14 MRSA § 4601, last sentence, is amended to read:

The register shall be entitled to the same fee for bringing forward such attachment upon the ~~said~~ the book of attachments as for the original entry thereof, and shall be entitled to ~~a fee of \$2~~ the fee set in Title 33, section 751 for recording an order for such extension.

Sec. 11. 14 MRSA § 6201, sub-§ 3, 2nd sentence, is amended to read:

A certificate of the fact and time of such entry shall be made, signed and sworn to by such witnesses before a justice of the peace, ~~a notary public or an attorney-at-law.~~

Sec. 12. 14 MRSA § 6704, 2nd ¶, first sentence, is amended to read:

Within 30 days after ~~said~~ the judgment is recovered, the clerk of the court from which ~~said~~ the judgment issues shall forward to the registry of deeds in the county where the real estate is situated a true copy of the property described in ~~said~~ the judgment, together with the names of the parties, the date of judgment and the term of court in which ~~said~~ the judgment was rendered, and ~~said~~ the register of

deeds receiving such copy shall forthwith file the same, minuting thereon the time of the reception thereof, and record in the same manner as a deed of real estate, and the fee of the clerk of ~~said~~ the court for preparing ~~said~~ the copy shall be \$1 and the register of deeds shall be paid ~~\$1~~ the fee set in Title 33, section 751 for entering and recording the same.

Sec. 13. 17 MRSA c. 91, sub-c. II as amended, is repealed.

Sec. 14. 18-A MRSA § 1-602, sub-§ (1), 3rd sentence, as amended by PL 1979, c. 719, § 1, is repealed and the following enacted in its place:

The register of deeds shall receive the fee set in Title 33, section 751 when the certified copy is furnished to him.

Sec. 15. 30 MRSA § 65, sub-§ 1, first sentence, as enacted by PL 1977, c. 67, § 5, is amended to read:

The county commissioners shall set the amount to be charged by the register of probate ~~and the register of deeds~~ for the publication of notices required by law.

Sec. 16. 30 MRSA § 253, 3rd ¶, 2nd sentence, as repealed and replaced by PL 1979, c. 351, § 1, is amended to read:

These records shall be a public record at the office of the ~~clerk of courts~~ county commissioners in the county which transmitted them.

Sec. 17. 30 MRSA § 303, 2nd sentence, as enacted by PL 1969, c. 219, is amended to read:

Copies of the inventory shall be filed in the office of the ~~clerk of courts~~ county commissioners of the county on or before January 1st of each year.

Sec. 18. 30 MRSA § 1051, sub-§ 4 is amended to read:

4. **Attachment of real estate.** For attachment of real estate at registry of deeds, ~~which includes fee of 50¢ to registry~~ \$4;

Sec. 19. 30 MRSA § 1051, sub-§ 17, first sentence, is amended to read:

The fees of the register of deeds for recording a levy upon real estate or the deed of the officer for the sale of real estate on execution and all sums paid by the officer for ~~internal revenue stamps to be affixed to such deeds~~ the state transfer tax shall be taxed by the officer in his return.

Sec. 20. 30 MRSA § 1151 is amended to read:

§ 1151. Meridian line; record

The county commissioners, at the expense of their several counties, shall erect and forever maintain therein, at such place or places remote from electrical disturbances as the public convenience requires, a true meridian line to be perpetuated by stone pillars with brass or copper points firmly fixed on the tops thereof, indicating the true range of such meridian; and shall protect the same

and provide a book of records to be kept by the ~~clerk of courts county commissioners~~ or by a person appointed by them nearer to such structure and accessible to all persons wishing to refer thereto.

Sec. 21. 30 MRSA § 1152, first sentence, is amended to read:

The structures referred to in section 1151 shall be under the care and custody of ~~such clerk the county commissioners~~.

Sec. 22. 30 MRSA § 1154, 4th sentence, is amended to read:

They shall be under the care and custody of the ~~clerk of courts county commissioners~~, who shall keep a suitable book for the record of comparisons, and they shall be accessible to any person for comparing any tape, chain or other linear measure.

Sec. 23. 30 MRSA § 1155, 3rd sentence, is amended to read:

All such reports shall be full and accurate and be deposited in the ~~office~~ Department of the Secretary of State and a certified copy shall be filed and recorded in the office of the ~~clerk of courts county commissioners~~ in the county where such structure is situated.

Sec. 24. 33 MRSA § 605, first ¶, first sentence, as repealed and replaced by PL 1977, c. 67, § 9, is amended to read:

Each register ~~may~~ shall appoint a deputy register of deeds with the approval of the county commissioners; the deputy register shall be sworn.

Sec. 25. 33 MRSA § 606, as repealed and replaced by PL 1975, c. 445, § 3, is repealed.

Sec. 26. 33 MRSA § 651-A is enacted to read:

§ 651-A. Signatures

No instrument shall be accepted by a registry of deeds for recording unless underneath every signature on the instrument the name of the signer is typed or printed.

Sec. 27. 33 MRSA § 653, 3rd sentence, is amended to read:

Within ~~one hour~~ 24 hours after its delivery to him, the register shall enter such time, the names of the grantor and grantee and their places of residence, the nature of the instrument, the amount of the consideration named therein and the name of the town or unincorporated place as shown by the instrument in which the property conveyed is located, in a book kept for that purpose and open to inspection in business hours.

Sec. 28. 33 MRSA § 665, 2nd sentence is repealed and the following enacted in its place:

The name together with the description of the lands shall be recorded by the register of deeds under section 651.

Sec. 28-A. 33 MRSA § 665 is amended by adding, after the 2nd sentence, 2 new sentences to read:

The register of deeds shall be paid the fee set in section 751. No 2 names so designated and recorded may be alike in the same county.

Sec. 29. 33 MRSA § 751, sub-§ 1, first sentence, as last amended by PL 1975, c. 198, § 1, is further amended to read:

Receiving, recording and indexing any deed or mortgage or any other instrument which is entitled to be recorded and for which a specific fee is not set forth in this section or in any other section, the sum of ~~\$5~~ \$6 for the first record page and ~~\$1~~ \$2 for each additional record page or portion thereof.

Sec. 30. 33 MRSA § 751, sub-§ 1-A, as enacted by PL 1979, c. 72, § 3, is amended to read:

1-A. Divorce decrees or abstracts. Receiving, recording and indexing a divorce decree or abstract thereof, the sum of ~~\$5~~ \$6.

Sec. 31. 33 MRSA § 751, sub-§ 2, as last amended by PL 1977, c. 145, § 2, is repealed.

Sec. 32. 33 MRSA § 751, sub-§ 8, as last amended by PL 1977, c. 145, § 7, is further amended to read:

8. Liens for internal revenue taxes. Recording and indexing notices and discharges of liens for internal revenue taxes of the United States of America under section 664, ~~\$3~~ \$5;

Sec. 33. 33 MRSA § 751, sub-§ 9, as repealed and replaced by PL 1971, c. 321, is repealed and the following enacted in its place:

9. Plans. Recording, indexing and preserving plans, the sum of \$10;

Sec. 34. 33 MRSA § 751, sub-§ 10, as last amended by PL 1979, c. 666, § 4, is further amended to read:

10. Municipal and unorganized territory tax liens. Recording and indexing a municipal or unorganized territory tax lien filed in accordance with Title 36, section 942 or 1281, the sum of ~~\$3~~ \$5, together with an additional ~~\$3~~ \$5 for recording and indexing each discharge of a municipal or unorganized territory tax lien;

Sec. 35. 33 MRSA § 751, sub-§ 12, as last amended by PL 1977, c. 145, § 10, is further amended to read:

12. District liens. Receiving, recording and indexing any sewer or water district lien or discharge thereof, the sum of ~~\$3~~ \$5 each;

Sec. 36. 33 MRSA § 751, sub-§ 13, as last amended by PL 1977, c. 422, § 1, is repealed and the following enacted in its place:

13. Secured transactions. For receiving, indexing and filing original,

assignment, continuation, termination or other statements in secured transactions the sum of \$6 for the first record page and \$2 for each additional record page;

Sec. 37. 36 MRSA § 4641-B, 5th ¶, as amended by P&SL 1975, c. 78, § 21, is further amended to read:

Each register of deeds shall, on or before the 10th day of each month, pay over to the State Tax Assessor ~~85%~~ 65% of the tax collected during the previous month. The remaining ~~15%~~ 35% shall be retained for the county by the register of deeds and accounted for to the county treasurer as reimbursement for services rendered by the county in collecting the tax.

STATEMENT OF FACT

The purpose of this bill is to clarify and change some of the provisions relating to registers of deeds and certain other county officers involved with public documents.

Sections 1-3, 9, 10, 12, 14, 18, and 18-A-36 increase the fees registers of deeds receive for recording various instruments.

Section 4 provides that registers of deeds need not issue certificates of information regarding the existence of financing statements filed at their offices. It should not be too difficult for those interested to check the records at a registry themselves.

Sections 5-8 remove the involvement of registers of deeds with the filing of certificates of incorporation for certain nonprofit corporations.

Section 11 permits an attorney or a notary public, as well as a justice of the peace, to attend the witnessing of a certificate of foreclosure.

Section 13 repeals the subchapter describing and setting penalties for the keeping of a common nuisance, e.g., houses of ill fame, places involved in the illegal sale of liquor or narcotic drugs, etc. . An injunction against such nuisances is currently to be filed with the register of deeds in the county where the nuisance exists.

Section 15 removes the authority of county commissioners to set fees for the publication of notices by registers of deeds.

Sections 16, 17, 20, and 23 change the place of the keeping of certain public records from the office of the clerk of courts to the office of the county commissioners.

Section 19 inserts the proper term for the real property title transfer tax in place of an old term.

Sections 21 and 22 provide that the care of certain structures shall be a responsibility of the county commissioners rather than the clerk of courts.

Section 24 requires the appointment of a deputy register of deeds rather than leaving this appointment discretionary.

Section 25 repeals the provision which required a clerk of courts to act as a deputy register of deeds in the register's absence.

Section 26 requires that every signature on an instrument filed with the register of deeds be accompanied by the printed or typewritten name of the signer.

Section 27 allows 24 hours for the recording of an instrument rather than the current one hour.

Section 37 permits the register of deeds to keep a larger percentage of the real property title transfer tax. The State will receive a smaller share of these taxes than it currently does.