

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND THIRTEENTH LEGISLATURE
4

5 Legislative Document

NO. 48
6

7 H.P. 45 House of Representatives, January 26, 1987
8 Reference to the Committee on Labor suggested and ordered
printed.

9 EDWIN H. PERT, Clerk
10 Presented by Representative Marsano of Belfast.
Cosponsored by Representative Hanley of Paris.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SEVEN
16

17 AN ACT to Repeal the Requirement that
18 Unemployment Tax Liens and Warrants be
19 Filed in the Offices of Municipal
20 Clerks.
21

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

24 Sec. 1. 26 MRSA §1227, sub-§1, as amended by PL
25 1983, C. 351, §31, is further amended to read:

26 1. Form and effect. Upon the failure of an em-
27 ployer to pay the amount assessed pursuant to section
28 1225, the commissioner may file in the registry of
29 deeds of any county ~~or with any town or city clerk~~ a
30 certificate under his official seal, stating the name
31 of the employer; his address; the amount of the con-
32 tributions and interest or penalties assessed and in
33 default; and that the time in which an appeal is per-

mitted pursuant to section 1226 has expired without the appeal having been taken or that delay will jeopardize collection. When the certificate is duly filed and recorded, the amount of the assessment shall be a lien upon the entire interest of the employer, legal or equitable, in any real or tangible personal property situated within the jurisdiction of the office in which that certificate was filed. A lien obtained in this manner is a lien for taxes and the priority of the lien shall be governed by the laws of this State. The liens shall be subordinate to any real estate mortgage previously recorded as required by law. No lien for contributions or interest shall be valid against one who purchases personal property from the employer in the usual course of his business, in good faith and without actual notice of the lien. The lien may be enforced against any real or personal property by a civil action in the name of the commissioner. The commissioner shall discharge any such lien upon receiving, from any such employer against whose property a lien certificate has been filed, a good and sufficient bond with sureties conditioned upon the payment of the amount of contributions and interest as finally determined, together with any additional amount which may have become due or may have accrued under this chapter and costs of court, if any.

The foregoing remedies shall be in addition to all other remedies.

Sec. 2. 26 MRSA §1227, sub-§2, as amended by PL 1983, c. 351, §32, is further amended to read:

2. Filing lien. Certificates of liens for contributions or interest, or certificates discharging the liens prepared in accordance with this section, shall be received, recorded and indexed by registrars of deeds or town or city clerks in the same manner as similar instruments are recorded and indexed. The fee to be paid by the commissioner for recording each such certificate is \$5, which need not be prepaid.

Sec. 3. 26 MRSA §1230, sub-§3, as enacted by PL 1975, c. 462, §9, is amended to read:

3. Warrant effective as lien. An abstract or copy of the warrant may be filed for record in the

1 register of deeds of any county or with any town or
2 city clerk. From the time of said the filing, the
3 amount specified in the warrant shall constitute a
4 lien upon all real property and other tangible assets
5 in the county or town owned by the liable employer or
6 acquired by him during the period of the lien. The
7 lien shall have the force, effect and priority of a
8 judgment lien and shall continue for 5 years from the
9 date of recording, unless sooner released or other-
10 wise discharged or extended as prescribed herein. The
11 lien may be extended for an additional 5-year period
12 by filing, for record in the registry of deeds or
13 with the town or city clerk, an abstract or copy of
14 the warrant within the original 5-year period or
15 within 5 years from the date of the last extension of
16 the lien.

17

STATEMENT OF FACT

18 The Employment Security Commission is presently
19 authorized to record its liens both in registries of
20 deeds and in municipal offices. As a practical mat-
21 ter, municipal offices are seldom used for recording
22 those liens. The registries of deeds of the several
23 counties are designed to serve as the sole location
24 for recording all instruments which affect title to
25 real estate. Eliminating municipal offices as alter-
26 native recording sites will not impair the commis-
27 sion's ability to collect from delinquent taxpayers
28 and will avoid the additional title examination
29 costs, to sellers and buyers of real estate, of
30 checking the records in municipal offices.

1 The existing law also contains a provision which
2 allows employment security liens to attach to proper-
3 ty acquired by the delinquent taxpayer for a period
4 of up to 5 years after the lien is filed. The result
5 is, again, that in the examination of titles to real
6 estate, one must always search each owner back 5
7 years to make sure that the lien was not attached.
8 Repealing this after-acquired feature will reduce the
9 time spent in title examinations without seriously
10 impairing the ability of the State to collect from
11 delinquent taxpayers.

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