

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2077

H.P. 1524 House of Representatives, January 15, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Taxation suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative CONLEY of Portland.
Cosponsored by Senator BRANNIGAN of Cumberland and
Representative MacBRIDE of Presque Isle.

STATE OF MAINE

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

An Act to Implement Uniform Federal Lien
Registration.

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

4 Whereas, the recent enactment of federal lien
5 authority concerning environmental and pension matters
6 and the absence of a centralized and uniform system
7 for the filing of federal liens may seriously impair
8 proper and adequate notice to affected real and
9 personal property transferees; and

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

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

9 Sec. 1. 5 MRSA §86, as amended by PL 1979, c.
10 572, §1, is further amended by adding at the end a new
11 paragraph to read:

12 For filing and recording a federal tax lien or
13 other federal liens, notices of which under any Act of
14 Congress or any federal regulation are required or
15 permitted to be filed, \$5.

16 Sec. 2. 33 MRSA §664, as amended by PL 1981, c.
17 279, §22, is repealed.

18 Sec. 3. 33 MRSA §751, sub-§8, as amended by PL
19 1981, c. 279, §27, is repealed and the following
20 enacted in its place:

21 8. Federal liens. Recording and indexing notices
22 and discharges of federal tax liens and other federal
23 liens, notices of which under any Act of Congress or
24 any federal regulation are required or permitted to be
25 filed, \$5;

26 Sec. 4. 33 MRSA c. 37 is enacted to read:

27 CHAPTER 37

28 UNIFORM FEDERAL LIEN REGISTRATION ACT

29 §1801. Short title

30 This chapter shall be known and may be cited as
31 the Uniform Federal Lien Registration Act.

1 §1802. Scope

2 This chapter applies only to federal tax liens and
3 to other federal lien notices which, under any Act of
4 Congress or any federal regulation, are required or
5 permitted to be filed in the same manner as notices of
6 federal tax liens.

7 §1803. Place of filing

8 1. Applicability. Notices of liens, certificates
9 and other notices affecting federal tax liens or other
10 federal liens must be filed in accordance with this
11 chapter.

12 2. Real property liens. Notices of liens upon
13 real property for obligations payable to the United
14 States and certificates and notices affecting the
15 liens shall be filed in the registry of deeds in that
16 county or counties within which the affected property
17 is situated.

18 3. Personal property liens. Notices of federal
19 liens upon personal property, whether tangible or
20 intangible, for obligations payable to the United
21 States and certificates and notices affecting the
22 liens shall be filed as follows:

23 A. If the entity against whose interest the lien
24 applies is a corporation or a partnership whose
25 principal executive office is in this State, as
26 these entities are defined in the internal revenue
27 laws of the United States, in the office of the
28 Secretary of State;

29 B. If the entity against whose interest the lien
30 applies is a trust that is not covered by
31 paragraph A, in the office of the Secretary of
32 State;

33 C. If the entity against whose interest the lien
34 applies is the estate of a decedent, in the office
35 of the Secretary of State; or

1 D. In all other cases, in the registry of deeds
2 in the county where the person against whose
3 interest the lien applies resides at the time of
4 filing of the notice of lien.

5 §1804. Execution of notices and certificates

6 Certification of notices of liens, certificates or
7 other notices affecting federal liens by the Secretary
8 of the Treasury of the United States or his delegate
9 or by any official or entity of the United States
10 responsible for filing or certifying of notice of any
11 other lien is sufficient for filing purposes and no
12 other attestation, certification or acknowledgment is
13 necessary.

14 §1805. Duties of filing officer

15 1. Notices. If a notice of federal lien, a
16 refiling of a notice of federal lien, or a notice of
17 revocation of any certificate described in subsection
18 2 is presented to a filing officer who is:

19 A. The Secretary of State, the filing officer
20 shall cause the notice to be marked, held and
21 indexed in accordance with Title 11, section
22 9-403, subsection 4, as if the notice were a
23 financing statement within the meaning of that
24 Code; or

25 B. A register of deeds, the filing officer shall
26 receive, record and index the notice in the same
27 manner as similar instruments are recorded and
28 indexed.

29 2. Certificates. If a certificate of release,
30 nonattachment, discharge or subordination of any lien
31 is presented to the Secretary of State for filing, the
32 filing officer shall:

33 A. Cause a certificate of release or
34 nonattachment to be marked, held and indexed as if
35 the certificate were a termination statement
36 within the meaning of the Uniform Commercial Code,

1 but the notice of lien to which the certificate
2 relates may not be removed from the files; and

3 B. Cause a certificate of discharge or
4 subordination to be marked, held and indexed as if
5 the certificate were a release of collateral
6 within the meaning of the Uniform Commercial Code.

7 3. Refiled notices; register of deeds. If a
8 refiled notice of federal lien as referred to in
9 subsection 1 or any of the certificates of notices
10 referred to in subsection 2 are presented for filing
11 to a register of deeds, the register of deeds shall
12 receive, record and index that instrument in the same
13 manner as similar instruments are recorded and indexed.

14 4. Filing; fees. Upon request of any person, the
15 Secretary of State shall issue a certificate showing
16 whether there is on file, on the date and hour stated
17 in the request, any notice of lien or certificate or
18 notice affecting any lien filed under this chapter
19 naming a particular person and, if a notice or
20 certificate is on file, giving the date and hour of
21 filing of each notice or certificate. The fee for a
22 certificate is \$5. Upon request, the Secretary of
23 State shall furnish a copy of any notice of federal
24 lien, or notice or certificate affecting a federal
25 lien, for a fee of \$1 a page.

26 §1806. Fees

27 Applicable fees shall be governed by section 751,
28 subsection 8.

29 §1807. Uniformity of application and construction

30 This chapter shall be applied and construed to
31 effectuate its general purpose to make uniform the law
32 with respect to the subject of this chapter among
33 states enacting it.

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

1 STATEMENT OF FACT

2 This bill allows all federal liens to be filed for
3 record in the registry of deeds of the county in which
4 the real property is located. The bill also provides
5 for the centralization of federal personal property
6 liens in the Secretary of State's office or in the
7 registries in certain cases.

8 When state law is silent, federal law requires
9 filing of federal liens in the office of the
10 appropriate Federal District Court. Current Maine law
11 only addresses federal tax liens. This means that
12 recently authorized federal liens affecting land
13 titles do not appear in the normal title records,
14 increasing exposure to defective titles on the part of
15 subsequent purchasers and holders of land, higher
16 costs for title insurance or exclusion of the risks of
17 liens from the terms of title insurance.

18 Difficulties also arise with the dual filing
19 systems for personal property as well. By using a
20 single recording system, the risk of injury to
21 subsequent creditors and purchasers will be
22 substantially reduced.

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