

MAINE STATE LEGISLATURE

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Rolls

L.D. 586

DATE: 4-30-03

(Filing No. H-221)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 449, L.D. 586, Bill, "An Act To Clarify and Improve the Fairness of the Law of Trustee Process"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 5 MRSA §90-C is enacted to read:

§90-C. Voluntary filing system for designation of office for trustee process

The Secretary of State shall establish and operate a central filing system to record and provide notice of offices designated by financial institutions authorized to do business in this State and credit unions authorized to do business in this State for service of trustee process under Title 14, section 2608-A, subsection 1. For this purpose, the Secretary of State may adopt rules, establish procedures and adopt a schedule of fees in conjunction with filing, registering, providing notices and other services performed by the Secretary of State in carrying out this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A.'

Further amend the bill by striking out all of section 3 and inserting in its place the following:

'Sec. 3. 14 MRSA §2604 is amended to read:

COMMITTEE AMENDMENT

R. O. S.

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§2604. County where action brought; divorce; financial institution as trustee; counterclaim

If all the trustees live in the same county, the action shall must be brought there; if they reside in different counties, in any county in which one of them resides; and in a trustee process against a corporation, its residence shall ~~be~~ is deemed to be in the county in which it has its established or usual place of business, held its last annual meeting or usually holds its meetings; except that an action in which a railroad corporation is named and alleged as trustee may be brought in any county in which ~~said~~ the railroad corporation runs and operates its road; and except that an action in which a banking financial institution authorized to do business in this State or credit union authorized to do business in this State is named and alleged as trustee may be brought in any county in which ~~said~~ banking the financial institution or credit union maintains a place of business. ~~Service may be made on the manager of such banking institution in the county having jurisdiction over the parties named in the action.~~

When trustee process is used in connection with the commencement of an action for divorce, the action must be brought in the county in which the court has jurisdiction over the parties named in the action, and the alleged trustee, although residing in another county, may be summoned to appear in the county in which ~~said~~ the court has jurisdiction over the parties named in the action and must answer and make disclosure in ~~such~~ that county. The court sitting therein shall have full power and authority to award from the funds found to be held by the alleged trustee and belonging to the defendant such sum or sums as it may deem proper as an award for alimony or in lieu thereof.

When trustee process is used in connection with a counterclaim arising out of the transaction or occurrence that is the subject matter of the opposing party's claim, the alleged trustee may be summoned to appear in the county in which the action is pending, even though he that trustee does not reside or maintain a usual place of business in that county.'

Further amend the bill by striking out all of section 5 and inserting in its place the following:

'Sec. 5. 14 MRSA §2608-A is enacted to read:

§2608-A. Service on financial institution as trustee

Service of trustee process on a financial institution authorized to do business in this State or credit union

R.O.S.

COMMITTEE AMENDMENT "A" to H.P. 449, L.D. 586

2 authorized to do business in this State, as defined in Title 9-B,
section 131, is effected by one of the following means:

4 1. Designated office. Personal service by any lawful means
upon the office designated by the financial institution or credit
6 union for service of trustee process in a registry maintained for
this purpose by the Secretary of State; or

8
10 2. Acceptance by designated officer or employee.
Acceptance of service in writing by an officer or employee of the
12 financial institution or credit union expressly authorized to
accept service of trustee process.'

14 Further amend the bill by relettering or renumbering any
16 nonconsecutive Part letter or section number to read
consecutively.

18 **SUMMARY**

20 This amendment clarifies the provision of the bill providing
22 for a voluntary registry where financial institutions may
designate a specific office for filing of trustee process. The
24 Secretary of State is authorized to adopt rules to govern the
registry.

26 The amendment also adds references to include credit unions
28 to the portions of the bill that address financial institutions.

30 **FISCAL NOTE REQUIRED**
32 **(See attached)**

**121st Maine Legislature
Office of Fiscal and Program Review**



LD 586

**An Act To Clarify and Improve the Fairness of the Law of Trustee
Process**

LR1156(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Fiscal Detail and Notes

The Secretary of State proposes to establish a nominal fee to offset the cost of creating a registry for service of trustee process.