

# MAINE STATE LEGISLATURE

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NEW DRAFT

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EIGHTY-SECOND LEGISLATURE

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H. P. 1256

H. D. 491

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House of Representatives, March 30, 1925.

Reported by Mr. Hamilton of Caribou from Committee on  
Judiciary, and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND TWENTY-FIVE

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AN ACT Authorizing the Recording of Marketing Agreements  
of Co-operative Agricultural Associations, and Requiring that  
Liens Hereby Attached to Crops Before Delivery to the  
Association, and to the Member's Interest in the Association  
After Such Delivery be Collected Through the Association.

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EMERGENCY CLAUSE. *Whereas*, it is imperative that  
the rights and obligations of lienholders, debtors and co-opera-  
tive marketing associations in crops covered by marketing agree-  
ments be clearly defined.

*Whereas*, crops covered by such agreements are from day  
to day being subjected to liens; and confusion and litigation is  
arising over the rights of the respective parties thereto, and

*Whereas*, in the judgment of the legislature these facts create

an emergency within the meaning of section sixteen of article thirty-one of the constitution of the State of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, Be it enacted by the People of the State of Maine, as follows:

Section 1. *Declaration of Policy.* Lienholders, on one  
2 hand, and co-operative agricultural associations on the other  
3 are prime factors in the commercial and agricultural life of  
4 this state. The interest of the former in the collection of  
5 the debt owed him, and the interest of the latter in market-  
6 ing through its organization all the products contracted to it  
7 must be adjusted.

The legislature has in the past repeatedly exercised its  
2 power in the regulation and collection of liens by authoriz-  
3 ing and establishing time limits, filing of notices, methods  
4 of foreclosure, and the like, in order to secure stable and  
5 equitable business transactions. It now seeks by this act  
6 to harmonize the interests of lienholders and co-operative  
7 associations, by requiring the marketing of products through  
8 the association and by establishing through that agency a  
9 sure and ready means of collecting liens.

Sect. 2. *Definitions.* The word "liens," as used in this  
2 act, shall include all liens on, security interests in, or claims  
3 upon crops or other farm products arising at law or in  
4 equity, by statute or otherwise, and including the following  
5 in so far as they attach to crops or other farm products;  
6 crop liens, vendors' liens, labor, money, material and supply

7 liens, landlord and owners' liens, pledges, chattel mortgages,  
8 attachments, judgment liens and garnishments. It shall also  
9 include the lien attaching to proceeds arising from such  
10 commodities, under the terms of this act.

The word "lienholder," as used in this act, shall include all  
2 persons, firms, partnerships, corporations and associations  
3 in whom an above described lien is vested, or who have  
4 contracted for such a lien.

The word "association," as used in this act, shall include  
2 all co-operative agricultural and horticultural associations  
3 not conducted for profit, created or operating under the Co-  
4 operative Marketing Act, Chapter 88, Public Laws of Maine,  
5 1923. It shall also include all similar associations, foreign,  
6 or domestic operating within this state either de jure or de  
7 facto.

The words "marketing agreement," as used in this act,  
2 shall include any proper contracts for the sale or delivery  
3 of farm commodities to such associations.

The word "member," as used in this act, shall signify a  
2 member of an above described association, his agent or  
3 privy.

The word "crop," as used in this act, shall signify any or  
2 all commodities which an association may legally contract  
3 for in a marketing agreement.

Sect. 3. *Filing and Recording of Marketing Agreement.*  
2 The association may file for record an original or an au-  
3 thenticated copy of an executed marketing agreement in the

4 office of the register of deeds in the county, where the  
5 property is produced, or if there be several registry districts  
6 in a county, then in the registry district where the property  
7 is produced. The register shall record such agreement in  
8 a book kept for that purpose, noting therein, and on the  
9 agreement, the time when it was received; and it shall be  
10 considered as recorded when received. After the filing of  
11 such agreement, the association may, in lieu of filing all  
12 other agreements obtained from its members, cause to be  
13 prepared and signed by its secretary or other officer an affi-  
14 davit reciting that the association has executed other mar-  
15 keting agreements similar thereto giving the names and ad-  
16 dresses of the members party thereto, the date on which the  
17 contracts were executed by the members, and the date of  
18 expiration if different from those of the recorded agree-  
19 ment; and such affidavit, when filed by the association with  
20 the register shall be recorded along with the marketing  
21 agreement. Such association may from time to time file for  
22 record supplemental affidavits covering additional marketing  
23 agreements.

Sect. 4. *Effect of Filing and Recording to Give Notice.*

2 The filing and recording of such agreements or affidavits  
3 shall convey full notice of the existence of the various agree-  
4 ments and of the rights, claims and interest of such associa-  
5 tion in the crops covered thereby.

Sect. 5. *Lien on Crops Before Delivery.* Whenever a  
2 crop has not yet been delivered by the members to such

3 association under the terms of such recorded marketing  
4 agreement, and a decree of court has not been issued requir-  
5 ing delivery of the crop to the association, a lien shall attach  
6 to such crop in favor of any person, firm, partnership or  
7 association who under the laws of this state would be en-  
8 titled to such a lien in case no such marketing agreement  
9 concerning such crop existed. But such a lien shall be  
10 subject to the limitation that it shall not entitle such lien-  
11 holder to possession, use, enjoyment or disposition of such  
12 crop as against such member, or association, or one holding  
13 under them; nor shall it entitle such lienholder to the inci-  
14 dents and remedies of such lien whereby the member would  
15 be deprived of full possession, use, enjoyment and disposi-  
16 tion of such crop so far as is necessary to the further pro-  
17 duction and delivery of such crop in prospective fulfillment  
18 or in performance of his marketing agreement; nor shall it  
19 deprive such association of its rights under the marketing  
20 agreements to demand possession and enforce through court  
21 action or otherwise its right to possession of such crop.

Provided, however, that whenever such crop shall not be  
2 so far produced as to entitle such association to delivery by  
3 the member under the terms of the marketing agreement,  
4 and on failure of such member to continue producing after  
5 reasonable opportunity and written notice given by the lien-  
6 holder to such member, such lienholder may exercise any  
7 incident or remedy against such crop under its lien in the  
8 same manner and with the same force and effect as if such

9 marketing agreement did not exist. But when such crop  
10 thereafter is produced, it must be delivered to the associa-  
11 tion for marketing, regardless of the rights accrued thereto.

And provided further, whenever such crop shall be so far  
2 produced as to entitle such association to delivery under its  
3 marketing agreement, and whenever such member in viola-  
4 tion fails to deliver such crop under the terms thereof, such  
5 association must within a reasonable time take steps to com-  
6 mence an appropriate action for delivery of the crop in  
7 specie; else, after written demand on such association at its  
9 main office by such lienholder, if the association fails to act,  
9 such lienholder may exercise any incident or remedy under  
10 its lien in the same manner and with the same force and  
11 effect as if such marketing agreement did not exist.

And provided further, that, if said association is united  
2 with other association organized under a similar agreement  
3 for similar purposes and the business of said association is  
4 transacted through a central agency, in that event such writ-  
5 ten demand shall be made on said central agency at its  
6 main office instead of on said association.

Sect. 6. *Lien on Member's Claim Against Association after*  
2 *Delivery.* Whenever such crop shall be delivered to the  
3 association under its marketing agreement, or a decree of  
4 court shall be issued requiring delivery of the crop to the  
5 association, then and thereafter, a lienholder who has ac-  
6 quired a lien subsequent to the filing and recording of the  
7 marketing agreement or affidavit covering such crop and  
8 prior to the date of the expiration thereof, shall be no longer

9 entitled to any lien, interest in, or claim against such crop,  
10 but he shall instead acquire a lien on the claim of the mem-  
11 ber against the association for the net proceeds of sales by  
12 the association, whether specific proceeds or prorated pro-  
13 ceeds of graded or other pools, or against the member's net  
14 interest in the association through his delivery of the com-  
15 modity under the marketing agreement. The rights of the  
16 lienholder shall be subject to all the limitations and restric-  
17 tions as to the sale, disposal, or use of such crop or the net  
18 proceeds thereof as are imposed on the member by the re-  
19 corded marketing agreement.

Sect. 7. *Filing of Lien.* Any person entitled to a lien  
2 under this act, shall, so far as is consistent with this act,  
3 within the time and in the manner prescribed elsewhere by  
4 the law of this state, file a verified statement or other evi-  
5 dence and perform all acts such as are required by law for  
6 perfecting and enforcing the respective lien which would  
7 arise under similar facts in the absence of this statute.

Sect. 8. *Notice to the Association.* When a lien or con-  
2 tract for a lien arises by the will or mutual agreement of  
3 the member and the lienholder, the lienholder, in order to  
4 effect a lien under this act, must give written notice to the  
5 association at its main office of the agreement at the time  
6 of entering into it and of the lien at the time of its arising.  
7 When a lien arises other than by the will of the parties or by  
8 mutual agreement, the lienholder must give notice to the  
9 association at its main office of the lien at the time of the



10 default of the member giving rise thereto. Provided, how-  
11 ever, that, if the affairs of said association are being con-  
12 ducted through such central agency as set forth in section  
13 five of this act, all notices hereunder shall be given to said  
14 central agency at its main office.

Sect. 9. *Association Must Sell and Deliver Proceeds*  
2 *Within Ten Months.* The association must within ten  
3 months of the delivery of a crop, sell such crop or a similar  
4 crop, and make payment to the lienholders out of the pro-  
5 ceeds of such sale after deductions therefrom as provided  
6 by the marketing agreement. During such period and up  
7 to the time of such sale, advance payments due the member  
8 must be paid to the lienholder up to the amount of his lien.  
9 If such advance payments exceed the final net distribution,  
10 the association may recover from such member the amount  
11 of the excess. Nothing herein shall cause an association to  
12 be liable to any person in case a crop is not delivered to it,  
13 or obligate it to sell any greater amount of any crop than  
14 is required to pay off such lien; nor shall any association in  
15 any case be liable for a greater amount than the net pro-  
16 ceeds of the sale of any crop less deductions as provided by  
17 the marketing agreement.

Sect. 10. *Enforcement.* In case of refusal of such asso-  
2 ciation to pay over the proceeds of the sale of such crop  
3 under the conditions prescribed above, such lienholder may  
4 by appropriate civil action joining the member and associa-  
5 tion bring suit for the recovery of the value of his lien. Any

6 judgment in such action shall run solely against the associa-  
7 tion, and satisfaction thereof by the association shall acquit  
8 and discharge it from any claims of or liability to the mem-  
9 ber up to the amount of the judgment. In such action the  
10 association may interpose any defense available to itself or  
11 to the member. Provided, however, that nothing in this  
12 act shall operate so as to deprive such lienholder of any ac-  
13 tion allowed him by law against such member for recovery  
14 of the debt secured by the lien; and provided further that  
15 any right of action arising under this act or otherwise shall  
16 be limited by statutes of limitation prescribed by law for  
17 the enforcement of liens which would arise under similar  
18 facts in the absence of this act.

The member may deliver any crop covered by a marketing  
2 agreement to the association for the purposes of marketing,  
3 storing, or handling with complete civil and criminal im-  
4 munity, any law to the contrary notwithstanding.

Sect. 11. *Fees.* Every association shall, before any mar-  
2 keting agreement or affidavit is filed and recorded as pre-  
3 scribed in this act, pay the fees specified in this section for  
4 such filing and recording.

To the register in the county or registry district in which  
2 filed and recorded, as follows:

Original or authenticated copy of marketing agreement,  
2 fifty cents.

Affidavit, mentioned in section three, fifty cents, plus one  
2 additional cent for each member listed therein.

Sect. 12. *Bond of Association.* No association shall come  
2 under the terms of this act unless and until the association  
3 shall have deposited with the secretary of state annually,  
4 to be payable to and approved by him and subject to increase  
5 on his demand in case of depletion thereof, a good and  
6 sufficient bond with sureties or a surety company author-  
7 ized to do business in this state in the following amounts:  
8 When the total gross value of business done by the asso-  
9 ciation in the next previous calendar year shall have been  
10 less than one million dollars (\$1,000,000), the bond shall  
11 be fifty thousand dollars (\$50,000); when greater than one  
12 million dollars (\$1,000,000) but less than two and one-half  
13 million dollars (\$2,500,000), the bond shall be seventy-five  
14 thousand dollars (\$75,000); when two and one-half million  
15 dollars (\$2,500,000) or over, the bond shall be one hun-  
16 dred thousand dollars (\$100,000). Such bond shall be con-  
17 ditioned that the association will fulfill all of its obligations  
18 as provided for by this act, and it shall serve as security  
19 for the payment of judgments obtained by lienholders  
20 against the association under the terms of this act. The  
21 bond for the first year in which any co-operative shall con-  
22 duct any business shall be in the amount of fifty thousand  
23 dollars (\$50,000). Provided, however, that, if the affairs  
24 of the association are being conducted through such cen-  
25 tral agency as set forth in section five of this act, the bond  
26 provided for by this section shall be given by said central  
27 agency for and in behalf of itself and all associations whose

28 affairs are conducted through such central agency so that  
29 said central agency shall annually be required to furnish  
30 but one bond for itself and all such associations. Such  
31 bond so given by said central agency shall be binding on  
32 all such associations and contain the same conditions, serve  
33 as security for the same payments, and the amounts of said  
34 bond shall be in the same amounts, as above set forth, as  
35 determined by the total gross value of business done through  
36 said central agency in the next previous calendar year.

Sect. 13. *Misdemeanor and Penalty.* Any lienholder who,  
2 in violation of this act, shall knowingly and wilfully seize or  
3 receive or cause to be seized or received any crop, or who  
4 shall knowingly and wilfully enforce or attempt to enforce  
5 a lien against such crop contrary to this act shall be guilty  
6 of a misdemeanor and shall be subject to a fine of not less  
7 than one hundred dollars (\$100) and not more than one  
8 thousand dollars (\$1,000) for each offense; and shall be  
9 liable to the association aggrieved in a civil suit in the penal  
10 sum of five hundred dollars (\$500) for each offense.

Sect. 14. *Constitutionality.* If any clause, sentence, para-  
2 graph, or part of this act shall for any reason be adjudged  
3 by any court of competent jurisdiction to be invalid, such  
4 judgment shall not affect, impair or invalidate the remainder  
5 thereof, but shall be confined in its operation to the clause,  
6 sentence, paragraph, or part thereof directly involved in the  
7 controversy in which such judgment shall have been ren-  
8 dered.

Sect. 15. *Repeal.* All acts or parts of acts in conflict  
2 with the provisions of this act are hereby repealed. All  
3 provisions of law relating to liens shall apply to crops cov-  
4 ered by marketing agreements, except where such provisions  
5 are inconsistent with the provisions of this act, in which  
6 case any such provisions shall be construed as not applying  
7 to the liens herein provided for.

Sect. 16. *Emergency Clause.* In view of the emergency  
2 cited in the preamble this act shall take effect when ap-  
3 proved.