

MAINE STATE LEGISLATURE

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EIGHTY - THIRD LEGISLATURE

Senate Document

No. 95

S. P. 253

In Senate, Feb. 17, 1927.

Referred to Committee on Legal Affairs and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Oakes of Cumberland.

STATE OF MAINE

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

AN ACT to Amend Chapter One Hundred Thirty-five of
Section Fourteen of the Revised Statutes of Maine.

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

Section fourteen of chapter one hundred thirty-five of the
2 revised statutes of nineteen hundred sixteen is hereby
3 amended by striking out the word "may" after the word
4 "court" in the eighth line thereof and inserting in lieu
5 thereof the word 'shall' and by adding to said section the
6 following. 'Said certificate shall be filed in the office of the
7 registry of deeds in the county in which said real estate
8 is located within five days from the date of its execution,
9 by said trial justice, judge of a police or municipal court,
10 or bail commissioner, or by any other person having au-

11 thority to take bail as provided for in this section, and shall
12 be recorded in said registry of deeds in a book kept for
13 that purpose. The register of deeds shall receive fifty cents
14 for recording said certificate, which sum shall be collected
15 by the trial justice, police or municipal court judge, or com-
16 missioner, or any other person having authority to take said
17 bail, from the respondent at the time said bail is taken,
18 and shall be transmitted to said register of deeds with said
19 certificate. The real estate described in said certificate shall
20 be charged with a lien in favor of the state for the amount
21 of bail given by said surety, which shall take precedence
22 of all conveyances, mortgages, attachments or liens, made,
23 given or accruing subsequent to the date of said certificate,
24 and shall continue until said surety has been exonerated
25 from liability on said bail by the appearance of his princi-
26 pal, or otherwise discharged by law. Upon the discharge
27 of any surety, either by the appearance of the respondent,
28 as provided in the recognizance, surrender of the respond-
29 ent into court by said surety, or otherwise as provided by
30 law, the clerk, recorder or judge of the court in which the
31 prosecution was commenced, or is pending, shall give to said
32 surety a certificate of his discharge from liability on said
33 recognizance, which shall be recorded in the registry of
34 deeds in which the certificate of the trial justice, police or
35 municipal court judge, or commissioner, or other persons
36 having authority to take said bail, was recorded, and shall
37 be a discharge of the lien on said real estate created by
38 this act. The register of deeds shall receive the sum of

39 fifty cents for recording said certificate, to be paid by said
40 surety at the time of filing said certificate. Suits to en-
41 force the lien created by this section may be maintained
42 although the surety is dead and his estate has been repre-
43 sented insolvent; and his executor or administrator may
44 be summoned and held to answer to an action to enforce
45 the lien, and may be commenced by an action of debt or
46 scire facias and, in either case, the declaration shall show
47 that it is brought to enforce the lien created by this section,
48 but all other forms and proceedings therein shall be the
49 same as now prescribed in said actions.'

So that said section, as amended, shall read as follows:

'Sect. 14. Any person offering to recognize before any
2 trial justice, judge of a police or municipal court, or bail
3 commissioner, as surety for the appearance before the su-
4 preme judicial court or a superior court of any respondent
5 in a criminal prosecution, whether such respondent be an
6 appellant from the finding of a trial justice or judge of a
7 police or municipal court, or be ordered to recognize to
8 await the action of the grand jury, or be arrested in vaca-
9 tion on *capias* issued on an indictment pending in such su-
10 preme judicial or superior court, shall be required to file
11 with said trial justice, judge or bail commissioner, a writ-
12 ten statement signed and sworn to by said surety, describ-
13 ing all real estate owned by him within the state with suffi-
14 cient accuracy to identify it, and giving in detail all incum-
15 brances thereon and the value thereof, such valuation to
16 be based on the judgment of said surety. Said certificate

17 shall remain on file with the original papers in said case and
18 a certified copy thereof shall be transmitted by the magis-
19 trate taking such bail to the clerk of the court before which
20 said respondent so recognizes for his appearance. Said cer-
21 tificate shall be filed in the office of the registry of deeds
22 in the county in which said real estate is located within five
23 days from the date of its execution, by said trial justice,
24 judge of a police or municipal court, or bail commissioner,
25 or by any other person having authority to take bail as
26 provided for in this section, and shall be recorded in said
27 registry of deeds in a book kept for that purpose. The
28 register of deeds shall receive fifty cents for recording said
29 certificate, which sum shall be collected by the trial justice,
30 police or municipal court judge, or commissioner, or any
31 other person having authority to take said bail, from the
32 respondent at the time said bail is taken, and shall be trans-
33 mitted to said register of deeds with said certificate. The
34 real estate described in said certificate shall be charged
35 with a lien in favor of the state for the amount of bail
36 given by said surety, which shall take precedence of all
37 conveyances, mortgages, attachments or liens, made, given
38 or accruing subsequent to the date of said certificate, and
39 shall continue until said surety has been exonerated from
40 liability on said bail by the appearance of his principal, or
41 otherwise discharged by law. Upon the discharge of any
42 surety, either by the appearance of the respondent, as pro-
43 vided in the recognizance, surrender of the respondent into
44 court by said surety, or otherwise as provided by law, the

45 clerk, recorder or judge of the court in which the prose-
46 cution was commenced, or is pending, shall give to said
47 surety a certificate of his discharge from liability on said
48 recognizance, which shall be recorded in the registry of
49 deeds in which the certificate of the trial justice, police or
50 municipal court judge, or commissioner, or other persons
51 having authority to take said bail, was recorded, and shall
52 be a discharge of the lien on said real estate created by
53 this act. The register of deeds shall receive the sum of
54 fifty cents for recording said certificate, to be paid of said
55 surety at the time of filing said certificate. Suits to en-
56 force the lien created by this section may be maintained
57 although the surety is dead and his estate has been repre-
58 sented insolvent; and his executor or administrator may be
59 summoned and held to answer to an action to enforce the
60 lien, and may be commenced by an action of debt or scire
61 facias and, in either case, the declaration shall show that
62 it is brought to enforce the lien created by this section, but
63 all other forms and proceedings therein shall be the same
64 as now prescribed in said actions.'