

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

NEW DRAFT

---

---

E I G H T Y - S I X T H   L E G I S L A T U R E

---

---

**Legislative Document**

**No. 1019**

---

---

H. P. 1697

House of Representatives, March 23, 1933.

Reported by Mr. Farris from Committee on Judiciary and laid on table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

New Draft of H. P. 1103, L. D. 584.

---

---

**STATE OF MAINE**

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

---

AN ACT Relating to Disclosures of the Affairs of Corporations and the Place Within Counties in which Disclosures are to be Made.

---

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

**Sec. 1. R. S., c. 124, § 21, amended.** Section 21 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 21. Owner of judgment may have disclosure any time.** The owner of any judgment remaining unsatisfied in any part may have a disclosure of the business and property affairs of any judgment debtor, **including corporations**, at any time, by proceedings as hereinafter provided, but married women, **and officers of judgment debtor corporations**, and judgment debtors not liable to arrest, as provided in section 64 of chapter 14 or by virtue of proceedings under section 6 or 8, thus cited shall not be arrested except for contempt or upon capias issued to bring them before the magistrate as provided by section 33.'

**Sec. 2. R. S., c. 124, § 22, amended.** Section 22 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 22. Owner may make application for subpoena to debtor to make disclosure.** Such owner, or his attorney, may make application in writing to a disclosure commissioner, judge of probate, register of probate, judge of a municipal court in the county in which the judgment debtor resides,

or, if the judgment debtor is a non-resident of this state, in the county in which he is commorant, **or in case of a corporation, in which said corporation has an established place of business, or in which any officer of the corporation, on whom the subpoena is served, resides,** stating the amount of the debt and of the costs for which said judgment was rendered, the court and term at which it was rendered, the names of the original parties, the title of the petitioner, and praying for subpoena to issue to the debtor **or to an officer of a debtor corporation** to appear and make disclosure.'

**Sec. 3. R. S., c. 124, § 23, as amended, further amended.** Section 23 of chapter 124 of the revised statutes, as amended by chapter 194 of the public laws of 1931, is hereby further amended to read as follows:

**'Sec. 23. To appear before magistrate within said county in the town in which the debtor resides.** Such magistrate shall thereupon issue under his hand and seal a subpoena to the debtor commanding him, **or in case the debtor is a corporation commanding an officer thereof** to appear before any such disinterested magistrate within said county in the town in which the debtor, **the petitioner or his attorney** resides, **or the corporation has an established place of business, or in which any officer thereof on whom the subpoena is served, resides,** and in case there is no such magistrate in ~~the such town where the debtor resides~~ **then in the nearest town thereto in which there is such a magistrate** or in the shire town of said county, at a time and place therein named to make full and true disclosure, on oath, of all ~~his~~ **the** business and property affairs **of such debtor.** And a judge of any municipal court may hold disclosure court upon a subpoena returnable as aforesaid in any town in which the regular terms of the court of which he is judge are held. The application shall be annexed to the subpoena. Any town in which the regular sessions of the superior court are held, shall be considered a shire town for the purpose of this section. No application or subpoena shall be deemed incorrect for want of form only, or for circumstantial errors or mistakes, when the person and the case can be rightly understood. Such errors and mistakes may be amended on application of either party.'

**Sec. 4. R. S., c. 124, § 24, amended.** Section 24 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 24. Service of subpoena.** The subpoena may be served by any officer qualified to serve civil process in said county by giving to the debtor **or to an officer of a debtor corporation** in hand an attested copy of the petition and subpoena, which said service shall be at least 24 hours before the time of said disclosure for every 20 miles' travel from his home or place of abode at the time of service to the place of disclosure.'

**Sec. 5. R. S., c. 124, § 25, amended.** Section 25 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 25. Debtor to appear and submit to examination.** At such time and place, the debtor **or the officer of the debtor corporation** shall appear, and submit himself to examination on oath concerning his estate and effect **or the estate and effects of the debtor corporation**, their disposal and his ability **or the ability of the debtor corporation** to pay the judgment. Should the owner of said judgment or his attorney neglect to have the original petition and subpoena before said magistrate at the time therein designated for said disclosure, upon prayer therefor, said magistrate shall issue an execution against said judgment owner in favor of said debtor for his travel at 6 cents per mile and attendance at \$1.50, if he actually attends at said time and place, and said debtor **or the officer of the debtor corporation** shall not thereafter be compelled to disclose on said judgment until said execution has been satisfied.'

**Sec. 6. R. S., c. 124, § 26, amended.** Section 26 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 26. Proceedings at examination.** The petitioner may propose to the debtor, **or the officer of the debtor corporation** any interrogatories pertinent to the inquiry, and if either party requires it, the examination shall be in writing and signed and sworn to by the debtor, **or the officer of the debtor corporation**. If the petitioner is absent or does not propose interrogatories, the magistrate shall conduct the examination.'

**Sec. 7. R. S., c. 124, § 28, amended.** Section 28 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 28. Attachable property disclosed, which cannot be come at, how appraised and set off; debtor not to be required to assign wages.** When from such disclosure it appears that the debtor **or the officer of the debtor corporation** possesses, or has under his control, any bank-bills, notes, accounts, bonds or other contracts or property, not exempted by statute from attachment, which cannot be come at to be attached, and the petitioner and debtor, **or the officer of the debtor corporation** cannot agree to apply the same towards the debt, the magistrate hearing the disclosure shall appraise and set off enough of such property to satisfy the debt, cost and charges; and the petitioner or his attorney, if present, may select the property to be appraised. If the petitioner accepts it, it may be assigned and delivered to him by the debtor **or the officer of the debtor corporation**, and applied towards the satisfaction of his demand. The debtor shall not be required to assign any sums due him as wages for his personal labor which would be exempt from attachment on trustee process under the provisions of section 55 of chapter 100. If any particular article of such

property, necessary or convenient to be applied in satisfaction of the execution, exceeds the amount due thereon, and is not divisible in its nature, the petitioner may take it, by paying the overplus to the debtor **or the officer of the debtor corporation** or securing it to the satisfaction of the magistrate.'

**Sec. 8. R. S., c. 124, § 29, amended.** Section 29 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 29. Petitioner may demand it within 30 days; if not demanded, to be returned to debtor.** If the petitioner is absent, or does not so accept it, the debtor **or the officer of the debtor corporation** shall deposit with the magistrate a written assignment to the petitioner, of all the property thus appraised and set off; and the magistrate shall make a record of such proceedings, and cause such property to be safely kept and secured for the term of 30 days thereafter, to be delivered to the petitioner with the assignment, on demand within that time. If not so demanded, they shall be returned to the debtor **or the officer of the debtor corporation.'**

**Sec. 9. R. S., c. 124, § 30, amended.** Section 30 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 30. Preservation of petitioner's lien on real estate disclosed.** If an execution debtor **or the officer of the debtor corporation** discloses real estate liable to be seized on execution, the magistrate shall give the petitioner a certificate thereof, stating the names of the parties and the amount of the execution; and the petitioner shall have a lien thereon for 30 days thereafter, if he files the certificate with the register of deeds of the county or district where the real estate lies, within 5 days from the date of the disclosure; and the register shall enter and file it like officers' returns of attachments.'

**Sec. 10. R. S., c. 124, § 31, amended.** Section 31 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 31. Lien on personal estate disclosed; effect, if debtor or other person conceals it.** If ~~he~~ the debtor **or the officer of the debtor corporation** discloses personal estate liable to be seized on execution, the petitioner shall have a lien on it, or so much of it as the magistrate in his record judges necessary, for 30 days; and if the debtor **or the officer of the debtor corporation** transfers, conceals or otherwise disposes of it within said time or suffers it to be done, or refuses to surrender it, on demand, to any proper officer having an execution on the same judgment, the debtor shall have no benefit from the certificate described in section 37; and the petitioner may recover, in an action on the case against him, or any person fraudulently aiding in such transfer, concealment or disposal, double the amount due on said execution; and any execution on a judgment in

such action, shall run against the bodies of the debtor and other persons so aiding, but the payment thereof is a satisfaction of the original debt.'

**Sec. 11. R. S., c. 124, § 33, amended.** Section 33 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 33. Debtor or other person refusing to appear, to be adjudged in contempt.** If the debtor or the officer of the debtor corporation or any other person duly served with subpoena as above provided, refuses or neglects to appear, the magistrate shall upon the request of the petitioner issue a *capias* to bring said debtor or the officer of the debtor corporation or other person before him, and if upon hearing, said debtor or the officer of the debtor corporation or other person does not show good cause for his failure to appear, he may be ordered to pay the costs of issuing and serving said *capias*. After the question of costs of issuing and serving said *capias* has been thus determined, such debtor or the officer of the debtor corporation or other person shall submit himself to the examination required by his original subpoena.'

**Sec. 12. R. S., c. 124, § 34, amended.** Section 34 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 34. If the debtor refuses to testify, to be committed for contempt.** If the debtor or the officer of the debtor corporation or other person duly served with subpoena, refuses to testify in obedience thereto, or refuses to answer any proper questions or if the debtor or the officer of the debtor corporation refuses to make full disclosure upon all matters named in section 25, or if said debtor or the officer of the debtor corporation refuses to comply with any proper order of the magistrate, or perform the duty imposed upon him by section 29, he shall be adjudged to be in contempt and be committed to jail until he purges himself of such contempt by compliance, or is otherwise discharged by due process of law. The warrant of commitment shall state specifically the contempt of which the prisoner is guilty. **If said officer complies with the requirements of section 33 no exemption shall run against his body.'**

**Sec. 13. R. S., c. 124, § 36, amended.** Section 36 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 36. Evidence may be introduced by either party.** After the examination of the debtor or the officer of the debtor corporation other competent evidence may be introduced by either party, and the debtor or the officer of the debtor corporation may then be further examined. Depositions may be used in such disclosures and the magistrate may, at the request of either party, issue subpoenas to witnesses, who are entitled to the same fees as witnesses before a trial justice.'

**Sec. 14. R. S., c. 124, § 37, amended.** Section 37 of chapter 124 of the revised statutes is hereby amended to read as follows:

**'Sec. 37. When property disclosed is secured and debtor has complied with all orders, proceedings; body of debtor to be free from arrest.** After the oath mentioned in section 55 is administered, and the property disclosed is secured, and the debtor **or the officer of the debtor corporation** has complied with all proper orders of such magistrate, a certificate of the fact of such disclosure shall be indorsed by the magistrate under his hand and seal, on the execution issued upon the judgment upon which the disclosure is had, and a copy of said certificate shall be indorsed on every subsequent execution issued on said judgment or on any judgment founded thereon, and the body of the debtor shall thereafter be forever free from arrest on any execution so issued, except as provided in sections 31 and 76.'