

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-second Legislature

OF THE

STATE OF MAINE

1925

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Published by the Secretary of State, in accordance with the Resolves of the Legislature  
approved June 28, 1820, March 18, 1840, and March 16, 1842.

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KENNEBEC JOURNAL PRINT SHOP  
AUGUSTA, MAINE

1925

**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

As Passed by the Eighty-second Legislature

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[supplied from page 1 of volume]

**Sec. 11. Provision for refund of two-thirds of tax collected in certain instances; procedure for obtaining refund; time limit for filing application for refund.** Any person, firm or corporation who shall buy and use any internal combustion engine fuel as defined in this act for the purpose of operating or propelling motor boats, tractors used for agricultural purposes not operating on public ways or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, or for any other commercial use except in motor vehicles operated or intended to be operated upon any of the public highways of the state of Maine, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this act, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of two-thirds of the amount of such tax paid by him upon presenting to the state auditor an affidavit accompanied by the original invoices showing such purchases, which affidavit shall be verified by the oath of such affiant, and shall state the total amount of such fuel so purchased and used by such consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the state, and the governor and council, upon the presentation of such affidavit and such vouchers, approved by the state auditor, shall cause to be repaid to such consumer from the taxes collected on internal combustion engine fuels two-thirds of the said taxes so paid by such consumer on fuels purchased and used, other than for motor vehicles as aforesaid; provided, that applications for refunds as provided herein must be filed with the state auditor within ninety days from the date of purchase of invoice.

Approved April 11, 1925.

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## Chapter 213.

An Act to Authorize 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.

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

**Sec. 1. Definition of terms used in the act.** The word "liens," as used in this act, shall include all liens on, security interests in, or claims upon crops or other farm products arising at law or in equity, by statute or otherwise, and including the following in so far as they attach to crops or other farm products; crop liens, vendors' liens, labor, money, material and supply liens, landlord and owners' liens, pledges, chattel mortgages, attachments,

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judgment liens and trustee process. It shall also include the lien attaching to proceeds arising from such commodities, under the terms of this act.

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

The word "association," as used in this act, shall include all co-operative agricultural and horticultural associations, not conducted for profit, created or operating under the co-operative marketing act, chapter eighty-eight of the public laws of nineteen hundred and twenty-three. It shall also include all similar associations, foreign, or domestic operating within this state either de jure or de facto.

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

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

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

**Sec. 2. Filing and recording of marketing agreements.** The association may file for record an original or an authenticated copy of an executed marketing agreement in the office of the register of deeds in the county, where the property is produced, or if there be several registry districts in a county, then in the registry district where the property is produced. The register shall record such agreement in a book kept for that purpose, noting therein, and on the agreement, the time when it was received; and it shall be considered as recorded when received. After the filing of such agreement, the association may, in lieu of filing all other agreements obtained from its members, cause to be filed an affidavit prepared and signed by its secretary or other officer reciting that the association has executed other marketing agreements similar thereto giving the names and addresses of the members party thereto, the date on which the contracts were executed by the members, and the date of expiration if different from those of the recorded agreement; and such affidavit, when filed by the association with the register shall be recorded along with the marketing agreement. Such association may from time to time file for record supplemental affidavits covering additional marketing agreements.

**Sec. 3. Effect of filing and recording is to convey notice.** The filing and recording of such agreements or affidavits shall convey full notice of the existence of the various agreements and of the rights, claims and interest of such association in the crops covered thereby.

**Sec. 4. Liens on crops before delivery, rights of lienholders; duties of members in relation to delivery to association.** Whenever a crop has not yet been delivered by the members to such association under the terms of such recorded marketing agreement, and a decree of court has not been issued requiring delivery of the crop to the association, a lien shall attach to such crop in favor of any person, firm, partnership or association who under the laws of this state would be entitled to such a lien in case no such marketing agreement concerning such crop existed. But such a lien shall be subject to the limitation that it shall not entitle such lienholder to possession, use, enjoyment or disposition of such crop as against such member, or association, or one holding under them; nor shall it entitle such lienholder to the incidents and remedies of such lien whereby the member would be deprived of full possession, use, enjoyment and disposition of such crop so far as is necessary to the further production and delivery of such crop in prospective fulfillment or in performance of his marketing agreement; nor shall it deprive such association of its rights under the marketing agreements to demand possession and enforce by appropriate legal procedure its right to possession of such crop.

Provided, however, that whenever such crop shall not be so far produced as to entitle such association to delivery by the member under the terms of the marketing agreement, and on failure of such member to continue producing after reasonable opportunity and written notice given by the lienholder to such member, such lienholder may exercise any right or remedy against such crop under its lien in the same manner and with the same force and effect as if such marketing agreement did not exist. But when such crop thereafter is produced, it must be delivered to the association for marketing, regardless of the rights accrued thereto.

And provided further, whenever such crop shall be so far produced as to entitle such association to delivery under its marketing agreement, and whenever such member in violation fails to deliver such crop under the terms thereof, such association must within a reasonable time take steps to commence an appropriate action for delivery of the crop in specie; else, after written demand on such association at its main office by such lienholder, if the association fails to act, such lienholder may exercise any right or remedy under its lien in the same manner and with the same force and effect as if such marketing agreement did not exist.

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

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**Sec. 5. Lien attaches to members claim against association after delivery of crop.** Whenever such crop shall be delivered to the association under its marketing agreement, or a decree of court shall be issued requiring delivery of the crop to the association, then and thereafter, a lienholder who has acquired a lien subsequent to the filing and recording of the marketing agreement or affidavit covering such crop and prior to the date of the expiration thereof, shall be no longer entitled to any lien, interest in, or claim against such crop, but he shall instead acquire a lien on the claim of the member against the association for the net proceeds of sales by the association, whether specific proceeds or prorated proceeds of graded or other pools, or against the member's net interest in the association through his delivery of the commodity under the marketing agreement. The rights of the lienholder shall be subject to all the limitations and restrictions as to the sale, disposal, or use of such crop or the net proceeds thereof as are imposed on the member by the recorded marketing agreement.

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

**Sec. 7. Lienholder must give notice to association of existence of lien claim.** When a lien or contract for a lien arises by the will or mutual agreement of the member and the lienholder, the lienholder, in order to effect a lien under this act, must give written notice to the association at its main office of the agreement at the time of entering into it and of the lien at the time of its arising. When a lien arises other than by the will of the parties or by mutual agreement, the lienholder must give notice to the association at its main office of the lien at the time of the default of the member giving rise thereto. Provided, however, that, if the affairs of said association are being conducted through such central agency as set forth in section five of this act, all notices hereunder shall be given to said central agency at its main office.

**Sec. 8. Association must sell and deliver proceeds within ten months; advance payments must be paid to lienholder.** The association must within ten months of the delivery of a crop, sell such crop or a similar crop, and make payment to the lienholders out of the proceeds of such sale after deductions therefrom as provided by the marketing agreement. During such period and up to the time of such sale, advance payments due the member must be paid to the lienholder up to the amount of his lien. If

such advance payments exceed the final net distribution, the association may recover from such member the amount of the excess. Nothing herein shall cause an association to be liable to any person in case a crop is not delivered to it, or obligate it to sell any greater amount of any crop than is required to pay off such lien; nor shall any association in any case be liable for a greater amount than the net proceeds of the sale of any crop less deductions as provided by the marketing agreement.

**Sec. 9. Enforcement of lienholder's claim; procedure; defences available to association; limitation of action.** In case of refusal of such association to pay over the proceeds of the sale of such crop under the conditions prescribed above, such lienholder may by appropriate civil action joining the member and association bring suit for the recovery of the value of his lien. Any judgment in such action shall run solely against the association, and satisfaction thereof by the association shall acquit and discharge it from any claims of or liability to the member up to the amount of the judgment. In such action the association may interpose any defense available to itself or to the member. Provided, however, that nothing in this act shall operate so as to deprive such lienholder of any action allowed him by law against such member for recovery of the debt secured by the lien; and provided further that any right of action arising under this act or otherwise shall be limited by statutes of limitation prescribed by law for the enforcement of liens which would arise under similar facts in the absence of this act.

**Sec. 10. Fees payable to registers of deeds for recording and filing.** Every association shall, before any marketing agreement or affidavit is filed and recorded as prescribed in this act, pay the fees specified in this section for such filing and recording.

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

Original or authenticated copy of marketing agreement, fifty cents.

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

**Sec. 11. Association to file bond with secretary of state in order to come under provisions of act; amounts of bonds how fixed.** No association shall come under the terms of this act unless and until the association shall have deposited with the secretary of state annually, to be payable to and approved by him and subject to increase on his demand in case of depletion thereof, a good and sufficient bond with sureties or a surety company authorized to do business in the state, in the following amounts: When the total gross value of business done by the association



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in the next previous calendar year shall have been less than one million dollars, the bond shall be fifty thousand dollars; when greater than one million dollars but less than two and one-half million dollars, the bond shall be seventy-five thousand dollars; when two and one-half million dollars or over, the bond shall be one hundred thousand dollars. Such bond shall be conditioned that the association will fulfill all of its obligations as provided for by this act, and it shall serve as security for the payment of judgments obtained by lienholders against the association under the terms of this act. The bond for the first year in which any co-operative shall conduct any business shall be in the amount of fifty thousand dollars. Provided, however, that, if the affairs of the association are being conducted through such central agency as set forth in section five of this act, the bond provided for by this section shall be given by said central agency for and in behalf of itself and all associations whose affairs are conducted through such central agency so that said central agency shall annually be required to furnish but one bond for itself and all such associations. Such bond so given by said central agency shall be binding on all such associations and contain the same conditions, serve as security for the same payments, and the amounts of said bond shall be in the same amounts, as above set forth, as determined by the total gross value of business done through said central agency in the next previous calendar year.

**Sec. 12. Penalty for enforcing lien in violation of this act; lienholder liable in civil damages.** Any lienholder who, in violation of this act, shall knowingly and wilfully seize or receive or cause to be seized or received any crop, or who shall knowingly and wilfully enforce or attempt to enforce except by appropriate civil process a lien against such crop contrary to this act shall be guilty of a misdemeanor and shall be subject to a fine of not less than one hundred dollars and not more than one thousand dollars for each offense; and shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred dollars for each offense.

**Sec. 13. Unconstitutionality of part of act not to invalidate remainder.** If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Sec. 14. Inconsistent acts repealed; applicable provisions of law relating to liens to apply.** All acts or parts of acts in conflict with the provisions of this act are hereby repealed. All provisions of law relating to liens

shall apply to crops covered by marketing agreements, except where such provisions are inconsistent with the provisions of this act, in which case any such provisions shall be construed as not applying to the liens herein provided for.

Approved April 11, 1925.

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## Chapter 214.

An Act Relating to Registration of Motor Vehicles by Non-Residents.

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

P. L., 1921, c. 211, sec. 34; relating to rights of non-residents to operate motor vehicles on highways of state, amended. Section thirty-four of chapter two hundred and eleven of the public laws of nineteen hundred and twenty-one is hereby amended to read as follows:

'Sec. 34. Provisions of act relative to registration of motor vehicles and granting of operators' licenses not to apply to non-residents; exceptions; operation of provisions of this act limited to extent like exemptions granted to residents of Maine; non-resident owned vehicles used for hire to be registered. The provisions of this act relative to the registration of motor vehicles, tractors and trailers, and the granting of operators' licenses shall not apply to a motor vehicle, tractor or trailer owned by a non-resident, other than a foreign corporation doing business in this state, or to a non-resident operator other than the operator of any such vehicle belonging to a foreign corporation doing business in this state, provided that the owner of such vehicle and its operator have complied with the provisions of law of the state or country of his residence relative to the registration of such vehicles, and the granting of operators' licenses. The provisions of this section shall, however, be operative as to an owner and operator of such vehicle only to the extent that under the laws of the state or country of his residence, like exemptions and privileges are granted to owners and operators of like vehicles registered under the laws of this state; and the secretary of state shall determine what states and countries grant similar privileges and the extent of the privileges so granted; and his determination shall be final. Nothing in this act shall be construed to permit a non-resident vehicle having a weight in excess of or equipped contrary to that allowed a similar resident vehicle, to be operated on the ways of this state.

But no vehicle owned or operated by a non-resident shall be operated on the public ways of this state as a vehicle engaged in the business of livery or for hire, or as a jitney, within this state, except and until it has been registered under the laws of this state and made to comply with the by-laws and ordinances of municipalities wherein it is operated, in the