

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)

ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Third Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with
the Revised Statutes of 1964, Title 3, Section 164, Subsection 6.

KENNEBEC JOURNAL

AUGUSTA, MAINE

1967

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Third Legislature
1967

Chapter 212

AN ACT Relating to Licenses Under Harness Racing Law.

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

R. S., T. 8, § 279-A, additional. Title 8 of the Revised Statutes is amended by adding a new section 279-A, to read as follows:

§ 279-A. Licenses; revocation

For the purpose of enabling the Harness Racing Commission to exercise and maintain a proper control over racing conducted under this chapter, the rules, regulations and conditions prescribed by the commission shall provide for the licensing or registering, with or without fee in the discretion of the commission, of owners, trainers, drivers, grooms and all other persons participating in harness horse racing including pari-mutuel employees and race officials. The fee for any such license or registration, if imposed, shall not in any case exceed \$10 per annual license to be credited to the General Fund. The Administrative Hearing Commissioner shall have power to suspend or revoke any license or registration issued under such regulation for good cause. The commission may temporarily suspend a license for good cause pending a hearing.

Effective October 7, 1967

Chapter 213

AN ACT to Correct Errors and Inconsistencies in Uniform Commercial Code and to Amend Certain Statutes to Conform Thereto.

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

Sec. 1. R. S., T. 11, § 5-114, sub-§ (1), amended. The second sentence of subsection (1) of section 5-114 of Title 11 of the Revised Statutes is amended to read as follows:

The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified ~~particular~~ documents must be satisfactory to it.

Sec. 2. R. S., T. 11, § 8-203, sub-§ (1), amended. The first paragraph of subsection (1) of section 8-203 of Title 11 of the Revised Statutes is amended to read as follows:

After an act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer,

Sec. 3. R. S., T. 11, § 8-301, sub-§ (2), amended. Subsection (2) of section 8-301 of Title 11 of the Revised Statutes is amended to read as follows:

(2) A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim. "Adverse claim" includes a claim that a transfer was or would be ~~unauthorized or~~ wrongful or that a particular adverse person is the owner or has an interest in the security.

Sec. 4. R. S., T. 11, § 9-403, sub-§ (4), amended. Subsection (4) of section 9-403 of Title 11 of the Revised Statutes is amended by inserting before the last sentence a new sentence to read as follows :

In addition, if the financing statement is filed in the office of a register of deeds and contains the name of a record owner of real estate, the filing officer shall also index the statement according to the name of the record owner of the real estate.

Sec. 5. R. S., T. 14, § 4251, amended. Section 4251 of Title 14 of the Revised Statutes is amended to read as follows :

§ 4251. Attachment of encumbered personal property

Personal property not exempt from attachment, **which is subject to a security interest or which has been** mortgaged, pledged or subject to any lien created by law and of which the debtor has the right of redemption, may be attached, held and sold as if unencumbered, subject to sections 4159 and 4252 to 4256.

Sec. 6. R. S., T. 14, § 4252, amended. Section 4252 of Title 14 of the Revised Statutes is amended to read as follows :

§ 4252. Liability of officer attaching encumbered property

When personal property, attached on a writ or seized on execution, is claimed by virtue of a **security interest, such** mortgage, pledge or lien, the claimant shall not bring an action against the attaching officer therefor :

1. **Notice.** Until he has given him at least 48 hours' written notice of his claim and the true amount thereof ; or

2. **Payment.** If the officer or creditor within that time discharges the claim by paying same or tendering the amount due thereon ; or

3. **Property restored.** If the officer within that time restores the property ; or

4. **Claimant to answer.** Where the property was attached on a writ or seized on execution while in the hands or possession of the ~~mortgagor~~ claimant, the attaching creditor within that time summons the claimant to answer in the same action such questions as may be put to him relative to the consideration, validity and amount due secured by such ~~mortgage security interest, mortgage or lien.~~

Such summons may be in substantially the following form :

Summons to Claimant

State of Maine

Superior Court

....., SS.

Civil Action, File Number

A.B., Plaintiff
v.
C.D., Defendant
E.F., Claimant

Summons

You are hereby summoned and required to appear at our Court, to be held at, on the day of in an action between, plaintiff, and, defendant, in which the following described property, claimed by you as mortgagee secured party, was attached as the property of said defendant; viz.,, and there to answer in such action, such questions as may be put to you relative to the consideration, validity and amount justly due secured by such mortgage security, and abide the judgment of the court thereon.

If you fail to appear and answer, you will thereby waive the right to hold said property under the claimed mortgage security.

(Signed)
Clerk of said Superior Court

(Seal of the Court)

Dated

Such summons, when property is attached on the writ, shall be returnable to the court to which the writ is returnable not less than 10 days nor more than 60 days after service thereof, and when property is seized on execution such summons shall be made returnable to the court issuing such execution on any day fixed by the court not less than 10 days nor more than 60 days thereafter. Service in either case shall be by copy of such summons. If in either case the mortgagee secured party or claimant fails to appear and answer, or after hearing fails to establish his claim under such mortgage security interest, pledge or lien, he thereby waives the right to hold the property thereon.

Sec. 7. R. S., T. 14, § 4253, amended. Section 4253 of Title 14 of the Revised Statutes is amended to read as follows :

§ 4253. Claimant to account within 10 days after notice; false account

The officer may give the claimant written notice of his attachment. If he does not within 10 days thereafter deliver to the officer a true account of the amount due on his claim, he thereby waives the right to hold the property thereon as against the attaching creditor. If his account is false, he forfeits to the creditor double the amount of the excess, to be recovered in a civil action.

Sec. 8. R. S., T. 14, § 4254, amended. Section 4254 of Title 14 of the Revised Statutes is amended to read as follows :

§ 4254. Validity of claim established

If, upon examination held under section 4252 ~~or upon the verdict of a jury as provided~~, it appears that the ~~mortgage security interest, mortgage, pledge or lien~~ is valid, the court, having first ascertained the amount justly due upon it, may direct the attaching creditor to pay the same to the ~~mortgagee claimant~~ or his assigns within such time as it orders. If he does not pay or tender the amount within the time prescribed, the attachment shall be vacated and the property shall be restored. If the attaching creditor pays or tenders the amount directed to be paid within such time and the ~~mortgagee claimant~~ or his assigns fail to immediately assign such ~~mortgage security interest, mortgage, pledge or lien~~ to the attaching creditor, the ~~mortgagee claimant~~ or his assigns shall be estopped from claiming any interest in such attached goods by virtue of his ~~mortgage security interest, mortgage, pledge or lien~~.

Sec. 9. R. S., T. 14, § 4255, repealed. Section 4255 of Title 14 of the Revised Statutes is repealed.

Sec. 10. R. S., T. 14, § 4256, amended. Section 4256 of Title 14 of the Revised Statutes is amended to read as follows:

§ 4256. Disposition of proceeds of sale

When the attaching creditor has paid to the ~~mortgagee claimant~~ or his assigns the amount ordered by the court, the sheriff after making the sale shall pay to the creditor, and the creditor may retain out of the proceeds of the property attached, when sold, the amount so paid with interest, and the balance shall be applied to the payment of his debt.

Sec. 11. R. S., T. 11, § 7-103, amended. Section 7-103 of Title 11 of the Revised Statutes is amended to read as follows:

§ 7-103. Relation of Article to treaty, statute, tariff, classification or regulation

To the extent that any treaty or statute of the United States, regulatory statutes of ~~the this~~ State or tariff, classification or regulation filed or issued pursuant thereto is applicable, the provisions of this Article are subject thereto.

Sec. 12. R. S., T. 11, § 9-103, sub-§ (3), amended. The 2nd sentence of subsection (3) of section 9-103 of Title 11 of the Revised Statutes is amended to read as follows:

However, if the parties to the transaction understood at the time that the security interest attached that the property would be kept in this State and it was brought into this State within 30 days after the security interest attached for purposes other than transportation through ~~the this~~ State, then the validity of the security interest in this State is to be determined by the law of this State.

Sec. 13. R. S., T. 11, § 9-112, sub-§ (5), amended. Subsection (5) of section 9-112 of Title 11 of the Revised Statutes is amended to read as follows:

- (5) To recover losses **caused** to him under section 9-208, subsection (2).