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Legislative Document

No. 206

H.P. 167

House of Representatives, February 5, 2013

An Act To Protect Title to Real and Personal Property of Public Employees

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GRAHAM of North Yarmouth.
Cosponsored by Senator BURNS of Washington and
Senator: COLLINS of York.

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

2 **Sec. 1. 14 MRSA c. 755** is enacted to read:

3 **CHAPTER 755**

4 **CIVIL RECOVERY FOR FALSE FILING AGAINST PUBLIC EMPLOYEES**

5 **§8601. Civil recovery by public employees for falsely filed recordable instrument**

6 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Public employee" means a person employed by the State, a county, a
9 municipality or any entity identified in statute as a public instrumentality.

10 B. "Recordable instrument" means any lien or encumbrance, the false filing of which
11 is identified as a crime under Title 17-A, section 706-A.

12 **2. Liability.** Any person who unlawfully files, attempts to file or causes to be filed a
13 recordable instrument against the real or personal property of a public employee knowing
14 or believing that the instrument is false or without legal authority is liable to the public
15 employee in accordance with the provisions of this section.

16 **3. Civil recovery.** Any person who unlawfully files, attempts to file or causes to be
17 filed a recordable instrument against the real or personal property of a public employee
18 knowing or believing that the instrument is false or without legal authority is civilly liable
19 to the public employee for:

20 A. Damages equal to the amount of the recordable instrument that was falsely filed,
21 attempted to be filed or caused to be filed; and

22 B. The costs attributable to any legal action required to remove or invalidate the
23 recordable instrument in excess of any amount recovered under Title 5, section 90-E.

24 **4. Other actions.** A criminal prosecution under Title 17-A, section 706-A is not a
25 prerequisite to an action under this section and such a criminal prosecution does not bar
26 civil action. An action under this chapter does not bar a criminal prosecution under Title
27 17-A, section 706-A or an action for determination of authority to file a financing
28 statement or other recovery under Title 5, section 90-E.

29 **SUMMARY**

30 This bill permits a civil action by a public employee to recover damages from a
31 person who files a lien or encumbrance against the real or personal property of the public
32 employee knowing or believing the lien or encumbrance to be false or without legal
33 authority. The public employee is authorized to recover damages in the amount of the
34 value of the lien or encumbrance and legal costs attributable to bringing legal action.