

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by inserting after the enacting clause and before section 1 the following:

‘**Sec. 1. 5 MRSA §90-F** is enacted to read:

**§ 90-F. Refusal of records for filing or recording; removal of filed or recorded records**

**1. Refusal.** Notwithstanding any other provision of law, if a person presents a record to the Secretary of State for filing or recording, the Secretary of State may refuse to accept the record for filing or recording if the record is not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe the record is materially false or fraudulent. This subsection does not create a duty upon the Secretary of State to inspect, evaluate or investigate a record that is presented for filing or recording.

**2. Removal.** The Secretary of State may remove a record that has been filed or recorded with the Secretary of State if the Secretary of State determines that the record was filed or recorded erroneously because the record was not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe that the record is materially false or fraudulent. If the Secretary of State removes a record that was filed or recorded, the Secretary of State shall immediately notify the person who presented the record for filing or recording.

**3. Action after refusal or removal.** If the Secretary of State, pursuant to subsection 1, refuses to accept a record for filing or recording, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to accept the record for filing or recording. If the Secretary of State, pursuant to subsection 2, removes a record that was filed or recorded, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to reinstate the filing or recording from the original date of filing or recording. If the court determines that the record is appropriate for filing or recording, it shall order the Secretary of State to accept the record for that purpose or require the Secretary of State to reinstate the record from the original date of filing or recording.’

Amend the bill in section 1 in paragraph (g) in the last line (page 1, line 9 in L.D.) by inserting after the following: “;” the following: ‘or’

Amend the bill by striking out all of sections 2 and 3 and inserting the following:

‘**Sec. 2. 11 MRSA §9-1516, sub-§(2), ¶(h)** is enacted to read:

(h). In the case of a record submitted for filing or recording with the Secretary of State, the Secretary of State refuses to accept the record in compliance with Title 5, section 90-F.’

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## **SUMMARY**

This amendment gives the Secretary of State the authority to refuse to file or record a record that is not required or authorized to be filed or recorded with the Secretary of State. The Secretary of State may also refuse to file or record a record if the Secretary of State has reasonable cause to believe the record is materially false or fraudulent.

The amendment gives the Secretary of State the authority to remove a record that was filed or recorded erroneously because the record was not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe that the record is materially false or fraudulent.

The amendment gives the person who presented the refused or removed record the option of asking the Superior Court to require the Secretary of State to file or record the refused record, or reinstate the filing or recording of the removed record from the original date of the filing or recording.