

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1377

S. P. 429

In Senate, March 20, 1979

Referred to the Committee on Business Legislation. Sent down for concurrence and 2,500 ordered printed.

Presented by Senator Clark of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

AN ACT to Amend the Unit Ownership Act.

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

**Sec. 1. 33 MRSA § 560**, as enacted by PL 1965, c. 357, is amended to read:

**§ 560. Short title**

This chapter shall be known as the "~~Unit Ownership~~ **Condominium Act**."

**Sec. 2. 33 MRSA § 561, sub-§ 2**, as amended by PL 1971, c. 73, § 1, is repealed.

**Sec. 3. 33 MRSA § 561, sub-§ 3, ¶¶ A and B**, as enacted by PL 1965, c. 357, are amended to read:

**A. The land on which the building is located and any improvements thereon;**

**B. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exists of the building condominium or improvements;**

**Sec. 4. 33 MRSA § 561, sub-§§ 5-A, 5-B and 5-C** are enacted to read:

**5-A. Condominium. "Condominium" means real property and any interest therein, which is created pursuant to this chapter and which is comprised of units that may be owned by one or more persons. No project shall be deemed a**

condominium within the meaning of this chapter unless the undivided interests in the common area and facilities are vested in the unit owners.

**5-B. Condominium property.** "Condominium property" means and includes the land and all improvements and structures thereon, all owned in fee simple absolute or leased as provided in section 579 and all easements, rights and appurtenances belonging thereto, intended for use in connection with the condominium.

**5-C. Condominium unit.** "Condominium unit" means a unit, together with the undivided share in the common area appertaining to that unit.

**Sec. 5.** 33 MRSA § 561, sub-§ 6, as enacted by PL 1965, c. 357, is amended to read:

**6. Declaration.** "Declaration" means the instrument or instruments by which the property is recorded, in the manner provided for the recording of deeds a condominium is created, as they are from time to time amended.

**Sec. 6.** 33 MRSA § 561, sub-§ 6-A is enacted to read:

**6-A. Developer.** "Developer" means a person who creates a condominium or offers units or condominium property for sale or lease in the ordinary course of business, but does not include an owner or lessee of a unit who has acquired his unit for his own occupancy.

**Sec. 7.** 33 MRSA § 561, sub-§ 10, as enacted by PL 1965, c. 357, is repealed.

**Sec. 8.** 33 MRSA § 561, sub-§§ 10-A and 10-B are enacted to read:

**10-A. Time-share estate.** "Time-share estate" means any interest in a unit under which the exclusive right of use, possession or occupancy of the unit circulates among the various owners of time-share estates in the unit in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by the schedule. "Time-share estates," shall include "interval" ownership interest, "vacation license" or any other similar term.

**10-B. Time-share unit.** "Time-share unit" means a unit in which time-share estates have been created.

**Sec. 9.** 33 MRSA § 561, sub-§ 11, as enacted by PL 1965, c. 357, is amended to read:

**11. Unit.** "Unit" means a part of the condominium property including one or more rooms or enclosed spaces located on one or more floors or a part or parts thereof in a building, intended for any type of independent use ~~and with a direct exit to a public street or highway or to a common area leading to such street or highway or subject to exclusive ownership.~~ A unit may be in improvements, land or land and improvements together, as specified in the declaration.

**Sec. 10.** 33 MRSA § 562, as amended by PL 1977, c. 696, § 259, is repealed and the following enacted in its place:

**§ 562. Application**

Every condominium created and existing in this State shall be subject to this chapter. Every condominium property offered for sale by the developer to residents of this State shall comply with the disclosure and contract requirements in section 589.

Sec. 11. 33 MRSA § 563, as enacted by PL 1965, c. 357, is repealed.

Sec. 12. 33 MRSA § 567, as enacted by PL 1965, c. 357, is amended to read:

**§ 567. Certain work prohibited**

No unit owner shall do any work which may jeopardize the soundness or safety of the **condominium** property, reduce the value thereof or impair any easement, right, appurtenance or other hereditament constituting a common area and facility without the unanimous consent of all the other unit owners.

Sec. 13. 33 MRSA § 568, as enacted by PL 1965, c. 357, is amended to read:

**§ 568. Common profits and expenses**

The common profits of the **condominium** property shall be distributed among, and the common expenses shall be charged to, the unit owners according to the percentage of the undivided interest in the common areas and facilities.

Sec. 14. 33 MRSA § 569, sub-§ 1, as enacted by PL 1965, c. 357, is amended to read:

**1. Description of land.** Description of the land on which the buildings and improvements are, or are to be, located **and a plot plan of the land and improvements** together with the title of and reference to a survey of such land prepared and certified substantially correct by a licensed surveyor or engineer and recorded simultaneously with such declaration and attached to the floor plans as provided;

Sec. 15. 33 MRSA § 569, sub-§ 2, as enacted by PL 1965, c. 357, is amended to read:

**2. Description of building.** **Description A graphic description of the building, stating condominium, a written statement of the number of stories and basements, the number of units and the principal materials of which it is, or is to be, constructed, and a floor plan thereof that meets the requirements of section 571, subsection 3, and that, together with the other sections of the declaration, are in sufficient detail to identify the common and limited common areas and facilities, their relative locations, approximate dimensions and their relationship to each unit;**

Sec. 16. 33 MRSA § 569, sub-§ 3, as enacted by PL 1965, c. 357, is repealed and the following enacted in its place:

**3. Identification number of units.** The identification number of each unit by letter, name or number or combination thereof, so that no unit bears the same designation as any other unit. Each unit shall be further identified by a statement of its location, approximate area and dimensions, number of rooms and immediate common area to which it has access and any other data necessary for its proper identification;

**Sec. 17.** 33 MRSA § 569, sub-§ 6, first sentence, as enacted by PL 1965, c. 357, is amended to read:

Indication of the percentage of undivided interest in the all common areas and facilities appertaining to each unit and its owner.

**Sec. 18.** 33 MRSA § 569, sub-§ 11, as enacted by PL 1965, c. 357, is amended by adding at the end a new sentence to read:

**Unless otherwise provided in the declaration as originally recorded, no amendment to the declaration may permit time-share estates to be created in any unit of the condominium unless the record owner of each unit of the condominium and the record owners of liens on each unit of the condominium join the execution of the amendment;**

**Sec. 19.** 33 MRSA § 569, sub-§ 12, as enacted by PL 1965, c. 357, is amended to read:

**12. Name.** The name of by which the building condominium is to be identified. The name shall include the word "condominium or be followed by the words "a condominium;"

**Sec. 20.** 33 MRSA § 569, sub-§ 13 is enacted to read:

**13. Time-share estates.** If time-share estates will or may be created with respect to any unit in the condominium, the declaration shall contain a statement in conspicuous type declaring that time-share estates will or may be created with respect to the units in the condominium. In addition, the degree, quantity, nature and extent of the time-share estates that will or may be created shall be defined and described in detail in the declaration, with a specific statement as to the minimum duration of the recurring periods of rights of use, possession or occupancy that may be created with respect to any unit.

**Sec. 21.** 33 MRSA § 570, sub-§ 3, as enacted by PL 1965, c. 357, is amended to read:

**3. Identification number.** The identification number of the unit in the declaration and title of and reference to the floor plans describing the unit, a statement of whether it is a time-share unit or condominium unit and any other data necessary for its proper identification;

**Sec. 22.** 33 MRSA § 571, sub-§ 1, as enacted by PL 1965, c. 357, is amended to read:

**1. Recording.** A condominium is created by recording a declaration in the registry of deeds of the county where the property is located. The declaration, any amendment or amendments thereto, and any instrument by which the provisions of this chapter may be waived shall be acknowledged and recorded and shall not be of legal effect until duly recorded in the registry of deeds of the proper county in which the units lie. Such instruments shall be indexed in the grantor volume under the name of the building condominium and shall contain a reference to the file number of the floor plans of the building affected thereby.

**Sec. 23.** 33 MRSA § 571, sub-§ 3, as amended by PL 1971, c. 73, § 2, is further amended to read:

**3. Floor plans.** Simultaneously with the recording of the original declaration there shall be filed in the registry of deeds of the county in which the units lie a set of the floor plans of the building condominium showing the layout, location, unit numbers and dimensions of the units, stating the name of the building condominium, containing a reference to the original declaration, the date thereof and volume and page of recording and bearing the verified statement of a registered architect or licensed professional engineer certifying that the floor plans are an accurate copy of portions of the plans of the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings. Attached to the floor plans shall be a survey of the land upon which the buildings and improvements are located. Such plans shall be kept by the register of deeds in a separate file for each building, numbered serially in the order of receipt and designated "~~unit ownership~~" "**condominium**". In the event the floor plans are modified, new floor plans shall be prepared and recorded, containing all the identifications and references of the original floor plans, numbered identically as the original floor plans, filed therewith and designated "~~unit ownership~~" "**condominium**- floor plans modified (indicate date)." A floor plan need not be prepared or recorded of any building condominium which contains only one unit.

**Sec. 34.** 33 MRSA § 572, as enacted by PL 1965, c. 357, is amended to read:

**§ 572. Mortgage and liens affecting a unit at time of first conveyance**

At the time of the first conveyance of each unit or of any subsequent conveyance by a developer, every mortgage and other lien affecting such unit, including the percentage of undivided interest of the unit in the common areas and facilities, shall be paid and satisfied of record, or the apartment unit being conveyed and its percentage of undivided interest in the common areas and facilities shall be released therefrom by partial release duly recorded.

**Sec. 35.** 33 MRSA § 573, as enacted by PL 1965, c. 357, is amended to read:

**§ 573. Withdrawal**

The unit owners may remove a condominium property from the provisions of this chapter by an instrument to that effect, duly recorded, containing the

signatures of ~~90%~~ **all** of the unit owners, provided the holders of all liens affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to an undivided interest in the property. Upon removal of the **condominium** property from this chapter, the unit owners shall be deemed to own the property as tenants in common with undivided interests in the percentage of undivided interests previously owned by such owner in the common areas and facilities.

**Sec. 36. 33 MRSA § 580, sub-§ 1, first sentence**, as enacted by PL 1965, c. 357, is amended to read:

Subsequent to recording the declaration as provided in this chapter, and while the **condominium** property remains subject to this chapter, liens or encumbrances shall arise or be created only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership, provided no labor performed or materials furnished with the consent or at the request of a unit owner or his agent shall be the basis for the filing of a mechanics lien against the unit or any other property of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs thereto.

**Sec. 37. 33 MRSA § 583**, as enacted by PL 1965, c. 357, is amended to read:

#### **§ 583. Insurance**

The manager or board of directors shall, to the extent required by the declaration, bylaws or direction of a majority of the unit owners, insure the ~~building~~ **condominium property** against loss or damage by fire and other hazards, without prejudice to the right of each unit owner to insure his own unit for his own benefit. Such insurance coverage shall be written on the **condominium** property in the name of such manager or the board of directors of the association of unit owners, as trustee for each of the unit owners in the percentages established in the declaration. Premiums shall be common expenses. **A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.**

**Sec. 38. 33 MRSA § 584**, as enacted by PL 1965, c. 357, is amended to read:

#### **§ 584. Repair and reconstruction**

Except as otherwise provided, damage to or destruction of the ~~building~~ **condominium property** shall be promptly repaired and restored by the manager or board of directors, using the proceeds of insurance, if any, on the ~~building~~ **condominium property** for that purpose and the unit owners shall be liable for assessment for any deficiency, provided if there is substantially total destruction of the **condominium** property and  $\frac{3}{4}$  of the unit owners vote not to proceed with

repair or restoration, the property remaining shall be deemed to be owned in common by the unit owners, and each unit owner shall own that percentage of the undivided interest in common as he previously owned in the common areas and facilities. Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the **condominium** property; and the **condominium** property shall be subject to an action for partition at the action of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the **condominium** property, if any, shall be considered as one fund and shall be divided among all the unit owners in accordance with their interests therein, after first paying all liens out of each of the respective interests.

Sec. 39. 33 MRSA §§ 588 - 590 are enacted to read:

**§ 588. Restraint upon partition of time-share units**

**No action for partition of any time-share unit shall lie.**

**§ 589. Written disclosures prior to sale**

**1. Exemption. The written disclosures required in this section do not apply to offers or sales of any interest in a unit:**

**A. If 10 or less units are included in the condominium. This exemption shall not apply to a condominium in which time-share estates are sold; or**

**B. If all of the units are restricted to commercial or industrial use.**

**2. Copy of written statement. Every developer of a condominium subject to this section shall furnish each buyer with a copy of a written statement in booklet form containing the following information.**

**A. The front cover or first page shall contain only:**

**(1) The name and address of the condominium;**

**(2) The following statements in conspicuous type:**

**(a) THIS CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM. STATE OF MAINE LAW REQUIRES THAT THESE DISCLOSURES BE MADE BUT NO STATE AGENCY OR OFFICIAL HAS REVIEWED THE INFORMATION CONTAINED IN THIS BOOKLET.**

**(b) THE STATEMENTS CONTAINED INSIDE ARE ONLY SUMMARY IN NATURE. IF YOU ARE THINKING OF BUYING A UNIT, YOU SHOULD TALK TO YOUR ATTORNEY AND LOOK AT ALL EXHIBITS, INCLUDING THE DECLARATION, FLOOR PLAN, PLOT PLAN, BYLAWS, AND CONTRACTS.**

**(c) YOU SHOULD ASK YOUR ATTORNEY AND THE DEVELOPER TO TELL YOU WHAT WILL HAPPEN TO YOUR DEPOSIT, INTEREST**



**IN THE UNIT OR COSTS AND EXPENSES IF THE DEVELOPER OR OWNER IS DECLARED BANKRUPT. OBTAIN THE ANSWER FROM THE DEVELOPER IN WRITING.**

**B. The following pages shall contain in the following order:**

- (1) The form of the developer's legal entity; for example, individual, corporation, trust, partnership or other legal entity;**
- (2) The name and principal address of the holder of legal title to the condominium property;**
- (3) If time-share estates are or may be created with respect to any unit, a statement in conspicuous type stating that time-share estates are created or may be created and sold in units in this building and that "a time-share is an arrangement where a large number of different people may each live in or use a unit for a specific limited period of time;"**
- (4) A summary of the restrictions, if any, to be imposed on units concerning the use of any of the property, including statements as to whether there are restrictions upon children and pets and reference to the documents in which the restrictions are found;**
- (5) An itemized statement of each and every fee, expense or charge assessed against a unit owner, including a schedule of the cost of purchase and estimated closing costs and the amount of each charge for the current year, followed by a conspicuous notice that expenses may increase;**
- (6) A statement of the amount and type of insurance coverage on the condominium property, the name or description of the beneficiary and the amount of money to be paid to each beneficiary.**
- (7) The number of condominiums built or to be built in the area and the date of completion, the number of units in each condominium, the number of bathrooms and bedrooms in each unit, the total number of units and the total number of units that may be included in the condominium property by reason of future construction, expansion or merger. If there is no guarantee that the additional buildings will be constructed or completed, a statement that there is no assurance that the buildings will be constructed or completed;**
- (8) A statement of the zoning, subdivision and other governmental approvals, if any, affecting the condominium, including building permits and their status and any existing or proposed taxes or assessments that affect the property;**
- (9) A statement of the existing provisions for access, sewage disposal, water and other public utilities in the property; and a statement of any improvements or amenities which may be constructed, an estimate of their cost and the schedule for their completion. If the developer will give no assurances as to the construction or completion of the improvements or**

amenities, a statement that no assurance will be given shall be included; and a statement of the plan for financing the construction of the improvements or amenities and the maintenance of the property;

(10) Copies of the instruments that will be delivered to a purchaser to evidence his interest in the unit and of the contracts and other agreements that a purchaser will be required to sign or to agree to;

(11) Copies of the declaration and bylaws of any management contracts or other contracts, including leases affecting the use, maintenance or administration of, or access to, all or a part of the property; and

(12) A copy of the plot plan showing the location of the buildings and the recreation and other common areas.

3. **Terms of contract.** Any contract for the sale or lease of a unit shall contain:

A. The following statement in conspicuous type:

**THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER UNDER THE MAINE REVISED STATUTES ANNOTATED, TITLE 33, SECTION 589, WITHIN 10 DAYS OF THE DELIVERY OF THE WRITTEN NOTICE OF BUYER'S INTENT TO CANCEL, THE DEVELOPER SHALL RETURN ALL OF THE BUYER'S DEPOSIT TO THE BUYER; and**

B. The name and address of the person to whom the buyer shall deliver the notice of intent to cancel.

#### § 590. Violations

Any violation of section 589 shall be a violation of Title 5, chapter 10.

#### STATEMENT OF FACT

The purpose of this bill is to amend to the Unit Ownership Act to include time-shares and to require developers to make certain disclosures to prospective purchasers.