

MAINE STATE LEGISLATURE

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1 (EMERGENCY)

2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 301

7
8 H.P. 251

House of Representatives, January 27, 1983

9 Received by the Clerk of the House on January 27, 1983. Referred to the
10 Committee on Business Legislation, and ordered printed pursuant to Joint
Rule 14.

11 EDWIN H. PERT, Clerk

Presented by Representative Soule of Westport.
12

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Correct Certain Errors in the
19 Maine Condominium Act.
20

21 **Emergency preamble.** Whereas, Acts of the Legis-
22 lature do not become effective until 90 days after
23 adjournment unless enacted as emergencies; and

24 Whereas, the 90-day period may not terminate
25 until substantially after the effective date of the
26 Maine Condominium Act on January 1, 1983, for passage
27 of the bulk of the real estate construction and sales
28 season; and

29 Whereas, this may substantially disrupt the
30 recovery of the real estate market; and

31 Whereas, in the judgment of the Legislature,
32 these facts create an emergency within the meaning of
33 the Constitution of Maine and require the following

1 legislation as immediately necessary for the preser-
2 vation of the public peace, health and safety; now,
3 therefore,

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

6 Sec. 1. 33 MRSA §1601-102, sub-§(b), as enacted
7 by PL 1981, c. 699, is amended to read:

8 (b) The provisions of sections 560 through 587
9 do not apply to condominiums created after the effec-
10 tive date of this Act or amended pursuant to subsec-
11 tion (a) so as to be subject to the provisions of
12 this Act and do not invalidate any amendment to dec-
13 larations, bylaws, floor plans, surveys or duly
14 adopted administrative rules and regulations relating
15 to any condominium created before the effective date
16 of this Act if the amendment would be permitted by
17 this Act. The amendment must be adopted in conform-
18 ity with the procedures and requirements specified by
19 those instruments and by sections 560 through 587.
20 If the amendment grants to any person any rights,
21 powers or privileges permitted by this Act, all cor-
22 relative obligations, liabilities and restrictions in
23 this Act also apply to that person.

24 Sec. 2. 33 MRSA §1603-103, sub-§§(d) and (f), as
25 enacted by PL 1981, c. 699, are amended to read:

26 (d) The declaration may provide for a period of
27 declarant control of the association, during which
28 period a declarant, or persons designated by him may
29 appoint and remove the officers and members of the
30 executive board. Any period of declarant control
31 extends from the date of the first conveyance of a
32 unit to a person other than a declarant for a period
33 not exceeding 7 years in the case of a condominium in
34 which the declarant has reserved development rights,
35 or 5 years in the case of any other condominium.
36 Regardless of the period provided in the declaration,
37 a period of declarant control terminates no later
38 than 60 days after conveyance of units having 75% of
39 the voting rights units to unit owners other than a
40 declarant. A declarant may voluntarily surrender the
41 right to appoint and remove officers and members of

1 the executive board before termination of that
2 period, but in that event he may require, for the
3 duration of the period of declarant control, that
4 specified actions of the association or executive
5 board, as described in a recorded instrument executed
6 by the declarant, be approved by the declarant before
7 they become effective. Within the above limits, the
8 period of declarant control shall end no earlier than
9 the later of: (1) Conveyance by the declarant of
10 units having 50% of the ~~voting rights~~ units; (2)
11 Termination of any right of declarant to appoint
12 officers or members of the executive board; or (3)
13 Termination of any right of declarant to approve or
14 veto any actions of the association or the executive
15 board.

16 (f) In determining whether the period of declarant
17 control has terminated under subsection ~~(e)~~ (d),
18 the percentage of the units conveyed is presumed to
19 be that percentage which would have been conveyed if
20 all the units the declarant has built or reserved the
21 right to build in the declaration were included in
22 the condominium.

23 Sec. 3. 33 MRSA §1603-116, sub-§(b), as enacted
24 by PL 1981, c. 699, is amended to read:

25 (b) A lien under this section is prior to all
26 other liens and encumbrances on a unit except: (1)
27 Liens and encumbrances recorded before the recorda-
28 tion of the declaration; (2) A first mortgage
29 recorded before or after the date on which the
30 assessment sought to be enforced becomes delinquent;
31 and (3) Liens for real estate taxes and other gov-
32 ernmental assessments or charges against the unit.
33 This subsection does not affect the priority of
34 mechanics' or materialmen's liens, or the priority of
35 liens for other assessments made by the association.
36 The lien under this section is not subject to the
37 provisions of Title 14, section ~~456~~ 4651 and Title
38 18-A, section 2-201 et seq., as they or their equiva-
39 lents may be amended or modified from time to time.

40 Sec. 4. 33 MRSA §1604-104, sub-§(5), as enacted
41 by PL 1981, c. 699, is amended to read:

1 (5) A statement of the maximum extent to which
2 each unit's allocated interests may be changed by the
3 exercise of any development right described in sub-
4 section {3} (4);

5 **Emergency clause.** In view of the emergency
6 cited in the preamble, this Act shall take effect
7 when approved.

8 STATEMENT OF FACT

9 The purpose of this bill is to correct several
10 errors in the Maine Condominium Act.

11 1889011983