

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of S.P. 182, L.D. 509)
(New Title)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1729

S.P. 583

In Senate, June 3, 1987

Reported by Senator Twitchell of Oxford for the Committee on Taxation and printed under Joint Rule 2. Original Bill sponsored by Senator Twitchell of Oxford.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT Concerning Tax Liens on Time-share
Units Owned by One Person.

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Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

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Whereas, time-share units are assessed and taxed separately; and

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Whereas, persons who own more than one time-share unit in the same project receive separate notices and demands for payment for each time-share unit; and

1 Whereas, if a person who owns more than one time-
2 share unit in the same project does not pay the taxes
3 due, the tax collector may file a separate tax lien
4 for the delinquent taxes against each time-share
5 unit; and

6 Whereas, in discharging the tax liens, the owner
7 of more than one time-share unit may be required to
8 pay much more in costs for recording and discharging
9 the liens than the actual taxes due; and

10 Whereas, such disproportionate costs are unfair,
11 burdensome and unnecessary; and

12 Whereas, the current system also places great ad-
13 ministrative burdens on municipal tax collectors in
14 areas where such time-share projects exist; and

15 Whereas, such unfairness will again occur if mu-
16 nicipalities cannot adjust the tax lien process as
17 soon as possible; and

18 Whereas, in the judgment of the Legislature,
19 these facts create an emergency within the meaning of
20 the Constitution of Maine and require the following
21 legislation as immediately necessary for the preser-
22 vation of the public peace, health and safety; now,
23 therefore,

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

26 **Sec. 1. 33 MRSA §593, sub-§2, as enacted by PL**
27 **1983, c. 407, §1, is amended to read:**

28 **2. Time-share estates as separate estates. Each**
29 **time-share estate constitutes for all purposes a sep-**
30 **arate estate in real property. Each time-share es-**
31 **tate shall be separately assessed and taxed. The**
32 **filing and discharge of tax liens on more than one**
33 **time-share estate owned by the same person are gov-**
34 **erned by Title 36, section 942-A.**

35 **Sec. 2. 33 MRSA §593, sub-§5, as enacted by PL**
36 **1983, c. 407, §1, is amended to read:**

1 5. Escrow Account. If the managing entity col-
2 lects money for taxes, it shall maintain an escrow
3 account with a financial institution licensed by the
4 State, and deposit any moneys collected or received
5 for taxes in the escrow account within 10 days after
6 collection or receipt. The escrow account shall be
7 established in the names of both the managing entity
8 and the municipality in which the time-share estates
9 are located. No withdrawal may be made from the es-
10 crow account without the written agreement of the mu-
11 nicipality.

12 Prior to the delinquency date established by the mu-
13 nicipality in which the time-share estates are lo-
14 cated, the managing entity shall pay to the municipal
15 tax collector all money deposited in the escrow ac-
16 count for the purpose of tax payment. If the amount
17 paid from the escrow account is not sufficient to
18 discharge all taxes and tax-related costs, due and
19 owing, the managing entity may either pay the differ-
20 ence and place a lien on those time-share estates
21 whose owners have not contributed to the escrow ac-
22 count as provided in section 594, or the managing en-
23 tity may provide a list identifying those owners and
24 their interests to the municipal tax collector who
25 may then proceed to collect the taxes on those inter-
26 ests as allowed by law.

27 If the tax collector and treasurer use the lien pro-
28 cedure, described in Title 36, sections 942, 942-A
29 and 943, to collect delinquent taxes on time-share
30 estates, whenever a notice called for by Title 36,
31 section 942, 942-A or 943 is sent to a time-share es-
32 tate owner, the tax collector and treasurer shall
33 give to the managing entity or leave at the managing
34 entity's last and usual place of abode or send to the
35 managing entity by certified mail, return receipt re-
36 quested, either a copy of the notice sent to the
37 time-share estate owner or a notice which lists all
38 time-share estate owners to whom notices have been
39 delivered. For sending the notice or notices to the
40 managing entity, the tax collector or treasurer shall
41 be entitled to receive \$5 plus all certified mail,
42 return receipt requested fees, plus the cost of any
43 photocopying.

44 Sec. 3. 36 M RSA §942, first ¶ is amended to
45 read:

1 Liens Except as provided in section 942-A, liens
2 on real estate created by section 552, in addition to
3 other methods established by law, may be enforced in
4 the following manner.

5 Sec. 4. 36 MRSA §942-A is enacted to read:

6 §942-A. Aggregate tax lien certificate for time-
7 share units; procedure

8 Liens created by section 552 on time-share units,
9 owned by the same person and in the same time-share
10 project in addition to other methods established by
11 law, may be enforced in the following manner if re-
12 quested by the taxpayer prior to notification of fil-
13 ing of a tax lien certificate.

14 1. Aggregate notice. If a taxpayer owns more
15 than one time-share unit in the same project, the tax
16 collector may send the notice required by section 942
17 to be sent before filing the tax lien certificate as
18 one aggregate notice covering all time-share units
19 owned by that taxpayer. The tax collector must spe-
20 cifically describe all units on which the taxes are
21 due and which will be covered by the tax lien certifi-
22 cate by listing each unit in the notice or by ap-
23 pending to the notice a list or computer printout de-
24 scribing the units. The notice must state if a list
25 or printout is appended.

26 2. Aggregate tax lien certificate. If a taxpay-
27 er owns more than one time-share unit in the same
28 project, the tax collector shall specifically de-
29 scribe all units covered by the aggregate tax lien
30 certificate by listing each unit on the certificate
31 or by appending to the certificate a list or computer
32 printout describing the units. The certificate must
33 state if a list or printout is appended.

34 3. Total or partial discharge. The taxpayer may
35 discharge all the liens included in the aggregate tax
36 lien certificate by payment of all the taxes due on
37 all the tax liens, plus the fees required by subsec-
38 tion 4. The taxpayer may discharge less than all the
39 liens included in the aggregate tax lien certificate
40 by payment of all the taxes due on one or more of the
41 time-share units, plus the fees required by subsec-
42 tion 5 for each partial discharge.

1 4. Total discharge. The taxpayer shall pay the
2 following fees for the total discharge of liens cov-
3 ered by the aggregate tax lien certificate:

4 A. Thirty-five cents per time-share unit listed
5 for the tax collector, for making one aggregate
6 notice and demand for payment of all the assessed
7 taxes on all time-share units owned by the tax-
8 payer together with the certified mail, return
9 receipt requested, fee;

10 B. Five dollars for the register of deeds for
11 recording one aggregate tax lien certificate;

12 C. Five dollars for the register of deeds for
13 recording one aggregate discharge of the tax lien
14 mortgage;

15 D. Ten dollars; and

16 E. Three dollars established by section 943 for
17 sending one aggregate notice 30 to 45 days prior
18 to the foreclosing date of the tax lien mortgage
19 if that notice is actually sent and all the cer-
20 tified mail, return receipt requested, fees.

21 5. Partial discharge. The taxpayer shall pay
22 the following fees for the partial discharge of liens
23 covered by the aggregate tax lien certificate:

24 A. Thirty-five cents per time-share unit listed
25 for the tax collector for making one aggregate
26 notice and demand for payment of all the assessed
27 taxes on all time-share units owned by the tax-
28 payer together with the certified mail, return
29 receipt requested, fee;

30 B. Five dollars for the register of deeds for
31 recording one aggregate tax lien certificate;

32 C. Five dollars for the register of deeds for
33 recording the discharge of the tax lien mortgage
34 on the first 4 time-share units and \$0.25 for
35 each additional time-share unit;

36 D. Ten dollars; and

1 E. Three dollars established by section 943 for
2 sending one aggregate notice 30 to 45 days prior
3 to the foreclosing date of the tax lien mortgage
4 if that notice is actually sent and all the cer-
5 tified mail, return receipt requested, fees.

6 6. Application. This section applies to all
7 taxes assessed on time-share units on or after April
8 1, 1986.

9 7. Effect on foreclosure procedure. A partial
10 discharge does not affect the foreclosure date for
11 any liens not discharged.

12 **Emergency clause.** In view of the emergency cited
13 in the preamble, this Act shall take effect when ap-
14 proved.

15 STATEMENT OF FACT

16 This new draft sets up a separate procedure for
17 the attachment and discharge of tax liens on time-
18 share units when one person owns more than one time-
19 share unit in the same project. Rather than record-
20 ing and discharging the tax liens separately, and
21 thus charging the required fees on each time-share
22 unit, this new draft requires the tax collector to
23 send one aggregate notice and aggregate all the liens
24 into one tax lien certificate. The notice and tax
25 lien certificate must specifically describe the time-
26 share units. The tax collector can either list all
27 the units covered in the notice and certificate or
28 can append a list or computer printout of the units
29 to the notice or certificate. If a list or printout
30 is appended, the notice or certificate must state
31 that a list or printout is attached. This is to en-
32 sure that no confusion exists as to which units are
33 subject to a tax lien included in the aggregate tax
34 lien certificate.

35 The taxpayer may discharge the tax liens included
36 in the tax lien certificate either all at once or
37 partially over time. If the taxpayer discharges all
38 the liens at once, the taxpayer must pay all the
39 taxes due on all the liens, plus the charges for mak-

1 ing the aggregate notice and demand for payment, the
2 charges for recording and discharging the liens, the
3 fee for the notice of foreclosure, if the notice is
4 sent, plus all fees for certified mail, return re-
5 ceipt requested.

6 If the taxpayer chooses to discharge part and not
7 all of the tax liens included in the tax lien certif-
8 icate, the taxpayer must pay all the taxes due on the
9 tax liens to be discharged, plus the fees for making
10 the aggregate notice and demand for payment, the
11 charges for recording and discharging the lien or
12 liens, the fee for the notice of foreclosure, if the
13 notice is sent, plus all fees for certified mail, re-
14 turn receipt requested. The taxpayer shall pay the
15 fees each time a partial discharge is made.

16 The Maine Revised Statutes, Title 36, section
17 942-A, subsection 6, clarifies that the foreclosure
18 procedures are not affected by the fact that the tax
19 lien certificate includes more than one time-share
20 unit.

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