

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 76, L.D. 107, Bill, "An Act to Amend the Real Estate Lien Discharge Law"

Amend the bill by inserting at the beginning of the first line after the enacting clause (page 1, line 3 in L.D.) the following: 'Sec. 1.'

Further amend the bill in the 6th line after the amending clause (page 1, line 11 in L.D.) by striking the words "representative or trustee" and inserting in their place the following: 'representative or trustee or surviving joint tenant'

Further amend the bill by inserting before the statement of fact the following:

'Sec. 2. 36 MRSA §4072, as amended by PL 1987, c. 772, §33, is further amended to read:

**§4072. Lien for taxes**

All property subject to taxes under this chapter, in whatever form of investment it may happen to be, is charged with a lien for all taxes, interest and penalties which are or may become due on that property. The lien does not attach to any real or personal property after the property has been sold or disposed of for value by the personal representative or trustee or surviving joint tenant. Upon payment of those taxes, interest and penalties due under this chapter, or upon determination that no tax is due, the State Tax Assessor shall upon request execute a discharge of the tax lien for recording in the appropriate registry or registries of deeds.'

**STATEMENT OF FACT**

For the purpose of clarification and correction, this statement of fact replaces the statement of fact on the original

COMMITTEE AMENDMENT "A" to H.P. 76, L.D. 107

1 bill, and explains the changes contained in this amendment.

3 The original bill restores language deleted by the 113th  
Legislature pertaining to estate tax liens. Current state law  
5 provides that a lien for estate tax attaches to any real property  
in a decedent's estate; the lien still attaches to the real  
7 property even after the personal representative or trustee sells  
the real property, unless the personal representative or trustee  
9 obtains an estate tax lien discharge. Buyers of property will  
not close on the purchase of the real property until the lien is  
11 discharged. In contrast, estate tax liens on personal property  
attach to the property, but, when the property is sold, the lien  
13 attaches to the proceeds of the sale of the personal property. A  
lien discharge is not needed to sell personal property.

15 The original bill and this amendment restore the equal  
17 treatment of real and personal property. The estate tax lien  
will attach to the proceeds of the sale of real property, rather  
19 than the property itself, after the property is sold.

21 The personal representative is responsible for payment of  
any taxes due by reason of the death of the decedent. The lien,  
23 whether attached to the property in the estate or to the proceeds  
of the sale of the property, ensures that the personal  
25 representative will pay the taxes.

27 This amendment also allows a surviving joint tenant to sell  
real or personal property without first obtaining a lien  
29 discharge and the estate tax lien will attach to the proceeds of  
the sale after the sale.

Reported by the Committee on Taxation  
Reproduced and distributed under the direction of the Clerk of the  
House  
3/22/89 (Filing No. H-13)