

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

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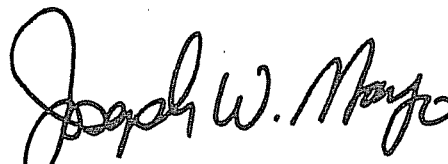
H.P. 481

House of Representatives, February 23, 1993

**An Act Regarding Vessels Stored at Marinas.**

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Reference to the Committee on Business Legislation suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative RYDELL of Brunswick.  
Cosponsored by Representatives: COLES of Harpswell, HOLT of Bath, MITCHELL of  
Freeport, PFEIFFER of Brunswick, Senator: HARRIMAN of Cumberland.

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

4 Sec. 1. 10 MRSA c. 212-A is enacted to read:

6 CHAPTER 212-A

8 MAINE MARINA AND BOATYARD STORAGE ACT

10 §1381. Short title

12 This Act may be known and cited as the "Maine Marina and Boatyard Storage Act."

14 §1382. Definitions

16 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

18 1. Default. "Default" means the failure to pay obligations incurred by the storage of a boat, boat motor or boat trailer.

22 2. Facility. "Facility" means a marina, boatyard or marine repair facility that provides, as part of its commercial operation, for the storage of boats, boat motors or boat trailers.

26 3. Property. "Property" means a boat, boat motor or boat trailer in storage at a facility.

28 §1383. Lien

30 1. Lien created. A facility owner has a lien on any property stored at that facility for rent, labor or other charges and for expenses reasonably incurred in the sale of that property under the provisions of this chapter.

36 §1384. Notice of lien

38 A property owner must be notified of the lien created by this chapter prior to enforcement of the lien by a facility owner. Notification of the lien created by this chapter is satisfied by:

42 1. Written storage agreement. A written storage agreement, signed by the property owner, that includes a notice of the lien created by this chapter; or

46 2. Written notice of lien. Written notification of the lien sent by the facility owner by registered mail, returned receipt requested, to the property owner at the property owner's last known address.

2 A facility owner who does not have a written storage  
4 agreement that includes a notice of the lien created by this  
6 chapter may not initiate any enforcement actions under section  
8 1385 until 30 days after the written notice of a lien required by  
10 subsection 2 is delivered to the property owner.

12 **§1385. Enforcement of lien**

14 A facility owner may enforce a lien created in this chapter  
16 only if the property owner has been notified of the lien as  
18 required by section 1384.

20 1. Sale; use of proceeds. If a property owner is in  
22 default for a period of more than 90 days, a facility owner may  
24 enforce a lien by selling the stored property at a public sale  
26 for cash. The facility owner shall use the proceeds from the  
28 sale to satisfy the lien and shall hold any balance remaining for  
30 delivery on demand to the property owner or any other recorded  
32 lienholders. If proceeds of the sale are not sufficient to  
34 satisfy the property owner's outstanding obligations to the  
36 facility owner, the property owner remains liable to the facility  
38 owner for such deficiency.

40 2. Advertisement; notice of default. Prior to conducting a  
42 sale under this section, the facility owner shall:

44 A. Send a notice of default by certified mail, return  
46 receipt requested, to the property owner at the property  
48 owner's last known address or other address set forth by the  
50 property owner in a storage agreement. The notice must  
include:

(1) A statement that the property is subject to a lien  
held by the facility owner;

(2) A statement of the facility owner's claim,  
indicating the charges due on the date of the notice,  
the amount of any additional charges that will become  
due before the date of sale and the date those  
additional charges will become due;

(3) A demand for payment of the charges due within a  
specified time, not less than 30 days after the date  
the notice is delivered;

(4) A statement that, unless the claim is paid within  
the time stated, the property will be sold, specifying  
the time and place; and

(5) The name, street address and telephone number of  
the facility owner, or the facility owner's designated

2                   agent, whom the property owner may contact to respond  
3                   to the notice; and

4                   B. After the expiration of the 30-day period set forth in  
5                   paragraph A, publish an advertisement of the sale once a  
6                   week for 2 consecutive weeks in a newspaper of general  
7                   circulation in the area where the sale is to be held. The  
8                   advertisement must include a general description of the  
9                   property, the name of the property owner and the time and  
10                   place of the sale. The date of the sale must be more than 15  
11                   days after the date the first advertisement of the sale is  
12                   published.

13                   3. Location of sale. A sale under this chapter must be  
14                   held at the facility or at the nearest suitable location.

15                   4. Purchasers. A purchaser of property sold under this Act  
16                   takes the property free and clear of any rights of persons  
17                   against whom the lien was valid and all other lienholders.

18                   5. Facility owner liability. If the facility owner  
19                   complies with the provisions of this Act, the facility owner's  
20                   liability:

21                   A. To the property owner is limited to the net proceeds  
22                   received from the sale of the property; and

23                   B. To other lienholders is limited to the net proceeds  
24                   received from the sale of the property covered by that other  
25                   lien.

26                   6. Denying access to storage facility. A facility owner  
27                   may deny a property owner who has been notified under subsection  
28                   2 access to the storage facility, except that the property owner  
29                   is entitled to access to the facility during normal business  
30                   hours for the purpose of satisfying the lien or viewing and  
31                   verifying the condition of the property.

32                   7. Notices by registered mail, return receipt requested.  
33                   Except as otherwise provided, all notices required by this  
34                   chapter must be sent by registered mail, return receipt  
35                   requested. Notices sent to a facility owner must be sent to the  
36                   storage facility where the property owner's boat, boat motor or  
37                   boat trailer is stored. Notices to a property owner must be sent  
38                   to the property owner at the property owner's last known  
39                   address. Notices are deemed to be delivered when deposited with  
40                   the United States Postal Service, properly addressed as provided  
41                   in subsection 2, with postage paid.

42                   §1386. Cessation of enforcement actions

43                   A facility owner shall cease enforcement actions immediately  
44                   if:

2           1. Payment by owner. The property owner pays the facility  
4           owner the full amount necessary to satisfy the lien. At any time  
6           before the conclusion of a sale conducted under this chapter, the  
            property owner may redeem the property by paying the full amount  
            necessary to satisfy the lien; or

8           2. Payment by other lienholders. A person other than the  
10           facility owner who has a lien on property pays the facility owner  
12           the full amount necessary to satisfy the lien held by the  
            facility owner.

14           **Sec. 2. Application.** The following provisions apply to  
16           property in storage at a facility on the effective date of this  
            Act.

18           1. Nothing in this Act may be construed to limit or  
20           otherwise affect the terms and conditions of a written storage  
            contract valid on the effective date of this Act.

22           2. Notwithstanding any provision of this Act, and unless  
24           otherwise provided in a valid written contract, the 90-day  
26           default period required by the Maine Revised Statutes, Title 10,  
            section 1384 begins 120 days after the effective date of this Act  
            for any boat, boat motor or boat trailer in storage on the  
            effective date of this Act.

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#### STATEMENT OF FACT

32           This bill allows marinas, boatyards and other facilities  
34           used to store boats, motors and trailers to sell those items if  
36           the owners are in default for payment of fees for more than 90  
38           days. The bill includes notification requirements and procedures  
40           of sale similar to those in existing law governing property  
            stored at self-service storage facilities and provides for the  
            property rights of owners of items presently in storage by  
            starting the 90-day default period for those items 120 days after  
            the effective date of this legislation.