

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 448

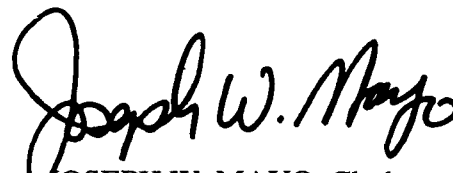
H.P. 327

House of Representatives, February 8, 1995

**An Act to Permit Condominium Associations to Obtain Reimbursement  
for Common Expenses Pending a Mortgage Foreclosure.**

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Received by the Clerk of the House on February 6, 1995. Referred to the Committee on  
Legal and Veterans Affairs and ordered printed pursuant to Joint Rule 14.

  
JOSEPH W. MAYO, Clerk

Presented by Representative REED of Falmouth.

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

**Sec. 1. 33 MRSA §1603-116, sub-§(b),** as repealed and replaced by PL 1983, c. 816, Pt. A, §40, is amended to read:

(b) A lien under this section is prior to all other liens and encumbrances on a unit except: (1) Liens and encumbrances recorded before the recordation of the declaration; (2) A first mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent; and (3) Liens for real estate taxes and other governmental assessments or charges against the unit. The association's lien is prior to a mortgage described in (2) to the extent of common expense assessments based on the periodic budget adopted by the association that would have normally become due in the absence of any acceleration during the 6 months immediately preceding action to enforce the association's lien, whether by foreclosure or otherwise. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. The lien under this section is not subject to the provisions of Title 14, section 4651 and Title 18-A, Part 2, as they or their equivalents may be amended or modified from time to time.

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**STATEMENT OF FACT**

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This bill brings Maine into conformity with the provisions of the Uniform Condominium Act, as approved by the major secondary mortgage market lenders. As stated in the original official comments of the Commissioners on Uniform State Laws: "the 6 months priority for the assessment lien strikes an equitable balance between the need to enforce collection of unpaid assessments and the obvious necessity for protecting the priority of the security interests of mortgage lenders." Condominium associations must continue to provide exterior building and common area maintenance, insurance and other services pending a mortgage foreclosure, which benefits the mortgage lender. Currently, they do so even though the foreclosure sale proceeds are inadequate to pay the association.