

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

RS

L.D. 1932

DATE: 4-4-06

(Filing No. S-557)

JUDICIARY

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 732, L.D. 1932, Bill, "An Act To Implement Model Time-share Foreclosure Procedures"

Amend the bill in section 1 in subsection 1 by striking out all of the 1st underlined sentence (page 1, lines 6 to 10 in L.D.) and inserting in its place the following: 'A managing entity has a lien on a time share for any assessment for expenses of the time share or taxes or fines levied against that time share in accordance with the project instrument or municipal or state law from the time the assessment, tax or fine becomes due.'

Further amend the bill in section 1 in subsection 1 in the last line (page 1, line 24 in L.D.) by inserting after the following: "filing," the following: 'A copy of the notice of a lien on a time-share estate or time-share license must be sent by first class mail to the last known address of the time-share owner. A notice of a lien on a time-share estate or time-share license must include a statement that the federal Servicemembers' Civil Relief Act of 2003 applies to enforcement of liens when the owner of the time-share estate or time-share license is or was recently in military service.'

Further amend the bill in section 2 in §595 in subsection 1 in the first paragraph in the last 2 lines (page 1, lines 36 and 37 in L.D.) by striking out the following: "sections 6201 to 6209" and inserting in its place the following: 'chapter 713'

COMMITTEE AMENDMENT

R.O.S.

COMMITTEE AMENDMENT "A" to S.P. 732, L.D. 1932

2 Further amend the bill in section 2 in §595 in subsection 1  
in paragraph A in the 2nd line (page 1, line 45 in L.D.) by  
striking out the following: "party" and inserting in its place  
4 the following: 'person'

6 Further amend the bill in section 2 in §595 in subsection 1  
in paragraph A in the 5th line (page 1, line 48 in L.D.) by  
8 inserting after the following: "requested" the following: ', and  
by first class mail'

10 Further amend the bill in section 2 in §595 in subsection 1  
12 in paragraph B in the 3rd line (page 2, line 4 in L.D.) by  
striking out the following: "party" and inserting in its place  
14 the following: 'person'

16 Further amend the bill in section 2 in §595 in subsection 1  
in paragraph B in subparagraph (1) by striking out all of  
18 division (a) (page 2, lines 11 to 17 in L.D.) and inserting in  
its place the following:

20 '(a) Notice of the sale must be published once in  
22 each of 3 successive weeks in a newspaper with a  
24 general circulation in the town in which the  
26 time-share property is situated. The first  
28 publication must be not later than 30 days before  
the date of the sale, calculated by excluding the  
date of publication of the first notice and the  
date of sale.'

30 Further amend the bill in section 2 in §595 in subsection 1  
in paragraph B in subparagraph (1) in division (b) in the 4th  
32 line (page 2, line 22 in L.D.) by inserting after the following:  
"requested" the following: ', and by first class mail'

34 Further amend the bill in section 2 in §595 in subsection 1  
36 in paragraph B in subparagraph (1) in division (b) in the 5th  
line (page 2, line 23 in L.D.) by inserting after the following:  
38 "sale." the following: 'The notice to the time-share owner must  
40 include the following language: "You are hereby notified that you  
42 have a right to petition the Superior Court or District Court for  
the county or district in which the time-share estate is located,  
with service on the foreclosing person, and upon such bond as the  
court may require, to enjoin the scheduled foreclosure sale."'

44 Further amend the bill in section 2 in §595 in subsection 1  
46 in paragraph B in subparagraph (1) in division (d) in the 4th  
paragraph by striking out all of the last underlined sentence  
48 (page 3, lines 23 to 25 in L.D.) and inserting in its place the  
following: 'The time-share estates, if more than one, must be

# COMMITTEE AMENDMENT

2 sold in individual lots unless there are no individual bidders,  
3 in which case they may be sold as a group.'

4 Further amend the bill in section 2 in §595 in subsection 1  
5 in paragraph B in subparagraph (1) in division (e) in the 4th  
6 paragraph by striking out all of the last underlined sentence  
7 (page 4, lines 11 to 13 in L.D.) and inserting in its place the  
8 following: 'The time-share estates, if more than one, must be  
9 sold in individual lots unless there are no individual bidders,  
10 in which case they may be sold as a group.'

12 Further amend the bill in section 2 in §595 in subsection 1  
13 in paragraph B in subparagraph (2) (page 4, lines 29 to 31 in  
14 L.D.) by striking out all of division (a) and inserting in its  
15 place the following:

16  
17 '(a) The foreclosure sale must take place on the  
18 time-share property or some other location within  
19 the same town as the time-share property.'

20  
21 Further amend the bill in section 2 in §595 in subsection 1  
22 in paragraph B in subparagraph (2) in division (d) by striking  
23 out all of the 2nd underlined sentence (page 4, lines 49 and 50  
24 and page 5 lines 1 to 6 in L.D.) and inserting in its place the  
25 following: 'The successful buyer at the foreclosure sale takes  
26 title to the time-share estate free and clear of any outstanding  
27 assessments owed by the prior time-share owner to the managing  
28 entity.'

30 Further amend the bill in section 2 in §595 in subsection 3  
31 in the 14th line (page 6, line 24 in L.D.) by inserting after the  
32 following: "foreclosure" the following: 'conducted pursuant to  
33 Title 14, chapter 713'

34  
35 Further amend the bill in section 2 in §595 in subsection 3  
36 in the last line (page 6, line 29 in L.D.) by inserting after the  
37 following: "foreclosure" the following: 'pursuant to Title 14,  
38 chapter 713, which may include judicial foreclosure by way of  
39 court action'

40  
41 Further amend the bill in section 2 in §595 by inserting  
42 after subsection 3 the following:

43 '4. Forfeiture of deficiency claim. If the holder of the  
44 mortgage conducts a nonjudicial foreclosure pursuant to this  
45 section, the holder forfeits the holder's right to pursue a claim  
46 for any deficiency in the payment of the time-share owner's  
47 obligations resulting from the application of the proceeds of the  
48 sale to such obligations.

2 If the holder of a security interest in a time-share license  
3 conducts a nonjudicial foreclosure pursuant to this section, the  
4 holder forfeits the holder's right to pursue a claim for any  
5 deficiency in the payment of the time-share owner's obligations  
6 resulting from the application of the proceeds of the sale to  
7 such obligations.'

8  
9  
10 **SUMMARY**

11 This amendment makes various changes to the bill, including:

12 1. Specifying that a lien on a time share may be created  
13 for taxes levied against that time share;

14 2. Changing the notice provisions regarding sale due to  
15 default, including the content, method of delivery and frequency  
16 with which the notices must appear in a newspaper. The notice  
17 filed must specifically mention the federal Servicemembers' Civil  
18 Relief Act;

19 3. Requiring that the time-share estates, if more than one,  
20 must be sold in individual lots unless there are no individual  
21 bidders; and

22 4. Specifying that a holder of a mortgage who conducts a  
23 nonjudicial foreclosure forfeits any right to pursue a claim for  
24 deficiency in payment of the time-share owner's obligations  
25 resulting from the application of the proceeds of the sale to  
26 those obligations. The right to a deficiency is also  
27 extinguished when the holder of a security interest in a  
28 time-share license conducts a nonjudicial foreclosure under this  
29 section.

30  
31  
32  
33  
34  
35  
36 **FISCAL NOTE REQUIRED**  
(See attached)



Approved: 03/23/06 *MAC*

# 122nd MAINE LEGISLATURE

LD 1932

LR 2960(02)

**An Act To Implement Model Time-share Foreclosure Procedures**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Judiciary**

**Fiscal Note Required: Yes**

---

---

## Fiscal Note

Minor savings - General Fund  
Minor revenue decrease - General Fund

### Correctional and Judicial Impact Statements

This bill may decrease the number of civil suits filed in the court system.

Reductions in the collection of filing fees may decrease General Fund revenue by minor amounts.