

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 961

H.P. 663

House of Representatives, March 10, 2009

### An Act To Amend the Maine Condominium Act Regarding Liens

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative DILL of Cape Elizabeth.  
Cosponsored by Representatives: CEBRA of Naples, MacDONALD of Boothbay, Senator  
ALFOND of Cumberland.

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

2 **Sec. 1. 33 MRSA §1601-103, sub-§(19-A)** is enacted to read:

3 (19-A) "Priority amounts" means the amount of the association's regular assessments  
4 established under a periodic budget that would have become due during the 6-month  
5 period immediately prior to initiating a lawsuit to enforce a lien under section 1603-116,  
6 the expenses of heat and utilities paid by the association in order to preserve the unit  
7 during the 6-month period and the association's costs and reasonable attorney's fees  
8 incurred in enforcing the lien. "Priority amounts" does not include amounts attributable to  
9 special assessments, late charges, fines, penalties and interest assessed by the association.

10 **Sec. 2. 33 MRSA §1603-116, sub-§(i)** is enacted to read:

11 (i) Notwithstanding subsection (b), paragraph (2), a lien under this section securing  
12 priority amounts is prior to a first mortgage. The association's failure to send notice to  
13 the first mortgagee either that the owner of the unit is 60 days delinquent in the payment  
14 of common expenses or that the association intends to file an action to enforce the lien  
15 within 30 days does not affect the priority of the lien securing the 6 months of regular  
16 assessments and heat and utility components of the priority amounts, but failure to send at  
17 least one notice means that the association is not entitled to receive any costs or attorney's  
18 fees incurred in an action to enforce the lien. The full payment of the priority amounts  
19 discharges the lien under this section.

20 **SUMMARY**

21 This bill creates the definition in the Maine Condominium Act of "priority amounts,"  
22 which includes heat, utility and regular condominium association assessments for a 6-  
23 month period before filing a lawsuit to enforce a lien and the costs and attorney's fees to  
24 enforce the lien. This bill also gives a lien based upon priority amounts priority over a  
25 first mortgage and establishes that, if the association fails to send the first mortgagee  
26 notice of a lien action, the association cannot collect costs or attorney's fees.