

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

A municipality shall not enact any ordinance which requires employees to reside within the boundaries of the municipality as a condition of employment, nor shall collective bargaining agreements contain these strict requirements. A municipality may, however, negotiate collective bargaining agreements or, if the municipality does not engage in collective bargaining, enact ordinances that require employees to reside within a specified distance or a specific response time of a facility where those provisions represent a legitimate job requirement, and providing that the provisions of the ordinances shall not apply to employees already employed at the time the provisions become effective.

This section applies only to public employees, as defined in Title 26, section 962, subsection 6.

Effective September 23, 1983.

CHAPTER 407

S.P. 292 - L.D. 880

AN ACT to Clarify the Tax Status of Time-sharing Condominiums.

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

Sec. 1. 33 MRSA c. 10, sub-c. II is enacted to read:

SUBCHAPTER II

TIME-SHARE CONDOMINIUMS

§593. Taxation of time-share estates

Notwithstanding the provisions of sections 579 and 580, taxation of time-share estates shall be determined according to this section.

1. Creation of estates. Notwithstanding any contrary rule of common law, a grant of an estate in a unit conferring the right of possession during a potentially infinite number of separated time periods creates an estate in fee simple having the character and incidents of such an estate at common law, and a grant of an estate in a unit conferring the right of

possession during 3 or more separated time periods over a finite number of years equal to 3 or more, including renewal options, creates an estate for years having the character and incidents of such an estate at common law.

2. Time-share estates as separate estates. Each time-share estate constitutes for all purposes a separate estate in real property. Each time-share estate shall be separately assessed and taxed.

3. Recordation. A document transferring or encumbering a time-share estate may not be rejected for recordation because of the nature or duration of that estate.

4. Collection and receipt of money for taxes. The managing entity may collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates.

5. Escrow Account. If the managing entity collects money for taxes, it shall maintain an escrow account with a financial institution licensed by the State, and deposit any moneys collected or received for taxes in the escrow account within 10 days after collection or receipt. The escrow account shall be established in the names of both the managing entity and the municipality in which the time-share estates are located. No withdrawal may be made from the escrow account without the written agreement of the municipality.

Prior to the delinquency date established by the municipality in which the time-share estates are located, the managing entity shall pay to the municipal tax collector all money deposited in the escrow account for the purpose of tax payment. If the amount paid from the escrow account is not sufficient to discharge all taxes and tax-related costs, due and owing, the managing entity may either pay the difference and place a lien on those time-share estates whose owners have not contributed to the escrow account as provided in section 594, or the managing entity may provide a list identifying those owners and their interests to the municipal tax collector who may then proceed to collect the taxes on those interests as allowed by law.

If the tax collector and treasurer use the lien procedure, described in Title 36, sections 942 and 943, to collect delinquent taxes on time-share estates, whenever a notice called for by Title 36, section 942 or 943 is sent to a time-share estate owner, the tax collector and treasurer shall give to the managing entity or leave at the managing entity's last and usual place of abode or send to the managing

entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice which lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the tax collector or treasurer shall be entitled to receive \$5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

6. Unorganized territory. Time-share estates in the unorganized territory shall be taxed according to the provisions of this section, and the State Tax Assessor shall have all the rights and obligations applicable to a municipality or municipal officers.

§594. Liens for assessment

1. Lien created. A person who has a duty to make assessments for time-share expenses or taxes has a lien on a time share for any assessment levied against that time share or fines imposed against its owner from the time the assessment or fine becomes due. The lien may be foreclosed in like manner as a mortgage on real estate, or, in the case of a time-share license, under the Uniform Commercial Code. Unless the time-share instrument otherwise provides, fees, charges, late charges, fines and interest charged in accordance with the project instrument are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. Priority. A lien under this section is prior to all other liens and encumbrances on a time share, except:

A. Liens and encumbrances recorded before the recordation of the time-share instrument;

B. Mortgages and deeds of trust on the time share securing first mortgage holders and recorded before the due date of the assessment or the due date of the first installment payable on the assessment;

C. Liens for real estate taxes and other governmental assessments or charges against the time share; and

D. Liens securing assessments or charges made by a person managing a project of which the time-share property is a part. This subsection does not affect the priority or mechanics or materialmen's liens.

3. Perfection. The lien is perfected upon recording of a notice of lien in the registry of deeds of the county in which the time-share unit is situated.

4. Extinguishing lien. A lien for unpaid assessments is extinguished, unless proceedings to enforce the lien are instituted within 3 years after the assessments become payable.

5. Other remedies. This section does not prohibit actions or suits to recover sums for which subsection 1 creates a lien or preclude resort to any contractual or other remedy permitted by law.

6. Statement furnished. A person who has a duty to make assessments for time-share expenses shall furnish to a time-share owner upon written request a recordable statement setting forth the amount of unpaid assessments currently levied against his time share. The statement shall be furnished within 10 business days after receipt of the request and is binding in favor of persons reasonably relying thereon.

Sec. 2. 36 MRSA §942, 2nd ¶, as amended by PL 1979, c. 613, §1, is further amended to read:

The tax collector may, after the expiration of 8 months and within one year after the date of original commitment of a tax, give to the person against whom the tax is assessed, or leave at his last and usual place of abode, or send by certified mail, return receipt requested, to his last known address, a notice in writing signed by the tax collector or bearing his facsimile signature, stating the amount of the tax, describing the real estate on which the tax is assessed, alleging that a lien is claimed on the real estate to secure the payment of the tax, and demanding the payment of the tax within 30 days after service or mailing of the notice with ~~§1~~ §3 for the tax collector for making the demand together with the certified mail, return receipt requested, fee. In the case of taxes supplementally assessed, ~~said~~ the tax collector may give ~~such~~ that notice after the expiration of 8 months and within one year after the date of commitment of ~~such~~ the supplementally assessed taxes. If an owner or occupant of real estate to whom ~~said~~ the real estate is taxed ~~shall die~~ dies before ~~such~~ that demand is made on him, ~~such~~ the demand may be made upon the ~~executor or administrator~~ personal representative of his estate or upon any of his heirs or devisees.

Sec. 3. 36 MRSA §942, 5th ¶, as amended by PL 1979, c. 114, is further amended to read:

The costs to be paid by the taxpayer shall be the sum of the fees for recording and discharge of the lien as established by Title 33, section 751, subsection 10, plus ~~the fee~~ \$13, plus the fee established by section 943 for sending a notice 30 to 45 days prior to the foreclosing date of the tax lien mortgage if that notice is actually sent and all certified mail, return receipt requested, fees. Upon redemption, the municipality shall prepare and record a discharge of the tax lien mortgage.

Sec. 4. 36 MRSA §943, 5th ¶, as repealed and replaced by PL 1981, c. 29, is amended to read:

The municipal treasurer shall notify the party named on the tax lien mortgage and each record holder of a mortgage on the real estate not more than 45 days nor less than 30 days before the foreclosing date of the tax lien mortgage, in a writing left at his last and usual place of abode or sent by certified mail, return receipt requested, to his last known address of the impending automatic foreclosure and indicating the exact date of foreclosure. For sending this notice, the municipality shall be entitled to receive \$3 plus all certified mail, return receipt requested, fees. These costs shall be added to and become a part of the tax. If notice is not given in the time period specified in this section to the party named on the tax lien mortgage or to any record holder of a mortgage, the person not receiving timely notice shall have the right to redeem the tax lien mortgage until 30 days after the treasurer does provide notice in the manner specified in this section.

Effective September 23, 1983.

CHAPTER 408

H.P. 483 - L.D. 580

AN ACT Regarding Multiple Sentences of Imprisonment.

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

Sec. 1. 17-A MRSA §752-A, sub-§1, ¶B, as enacted by PL 1977, c. 656, §2, is amended to read: