

TITLE 33**PROPERTY****CHAPTER 1****CONTRACTS FOR SALE OF REAL ESTATE****§1. Termination date**

All contracts entered into for the sale or transfer of real estate and all contracts whereby a person, company or corporation becomes an agent for the sale or transfer of real estate shall become void in one year from the date such contract is entered into unless the time for the termination thereof is definitely stated.

§2. Specific performance after death of seller

If a person, who has contracted in writing to convey real estate, dies before making the conveyance, the other party may file a complaint in the Superior Court to enforce specific performance thereof against the personal representative, the successors to the decedent's property which is subject to the contract if no administration has occurred, or to the distributees of that property, if the action is commenced within 3 years from the first appointment of a personal representative or from the time when he is entitled to such conveyance, but not exceeding 4 years after the first appointment of a personal representative, provided written notice of the existence of the contract is given to the personal representative within one year after the first appointment of a personal representative. [PL 1979, c. 540, §39 (AMD).]

SECTION HISTORY

PL 1979, c. 540, §39 (AMD).

§3. -- decree

If it appears that the plaintiff is entitled to a conveyance, the court may require the personal representative, successor or distributee to convey the estate as the deceased ought to have done. The conveyance shall pass the estate as fully as if made by the contractor. [PL 1979, c. 540, §40 (AMD).]

SECTION HISTORY

PL 1979, c. 540, §40 (AMD).

§4. -- enforcement of decree

If the defendant neglects or refuses to convey according to the decree, the court may render judgment for the plaintiff for possession of the land, to hold according to the terms of the intended conveyance, and may issue a writ of seizin as in a real action, under which the plaintiff, having obtained possession, shall hold the premises as effectually as if conveyed in pursuance of the decree; or the court may enforce its decree by any other process.

§5. Specific performance after death of purchaser

If the person entitled to such conveyance dies before bringing his action, or before the conveyance is completed or such seizin and possession are obtained, his personal representative, or the successor to the property if there is no administration may bring and prosecute such action, and shall be entitled to the conveyance or seizin and possession in like manner as the obligee. [PL 1979, c. 540, §41 (AMD).]

SECTION HISTORY

PL 1979, c. 540, §41 (AMD).

§6. Action by estate representatives

(REPEALED)

SECTION HISTORY

PL 1979, c. 540, §42 (RP).

§7. Court authority to convey on death of seller

(REPEALED)

SECTION HISTORY

PL 1979, c. 540, §42 (RP).

§8. -- notice and bond

(REPEALED)

SECTION HISTORY

PL 1979, c. 540, §42 (RP).

§9. Refusal or incapacity of spouse to release interest; rights of creditors

(REPEALED)

SECTION HISTORY

PL 1979, c. 540, §42 (RP).

CHAPTER 3

STATUTE OF FRAUDS

§51. Writing required; consideration need not be expressed

No action shall be maintained in any of the following cases:

1. Executor or administrator. To charge an executor or administrator upon any special promise to answer damages out of his own estate;

2. Debt of another. To charge any person upon any special promise to answer for the debt, default or misdoings of another;

3. Agreement of marriage. To charge any person upon an agreement made in consideration of marriage;

4. Contract for sale of land. Upon any contract for the sale of lands, tenements or hereditaments, or of any interest in or concerning them;

5. Agreement not to be performed within one year. Upon any agreement that is not to be performed within one year from the making thereof;

6. Contract to pay debt discharged in bankruptcy. Upon any contract to pay a debt after a discharge therefrom under the bankrupt laws of the United States, or assignment or insolvent laws of this State;

7. Agreement to give property by will. Upon any agreement to give, bequeath or devise by will to another, any property, real, personal or mixed;

8. Agreement to refrain from carrying on any business. Upon any agreement to refrain from carrying on or engaging in any trade, business, occupation or profession for any term of years or within any defined territory or both; the provisions of this subsection shall not apply to any such agreement made prior to August 13, 1947;

unless the promise, contract or agreement on which such action is brought, or some memorandum or note thereof, is in writing and signed by the party to be charged therewith, or by some person thereunto lawfully authorized; but the consideration thereof need not be expressed therein, and may be proved otherwise.

§52. Written ratification of minor's contracts required; contracts to further higher education

No action shall be maintained on any contract made by a minor, unless he, or some person lawfully authorized, ratified it in writing after he arrived at the age of 18 years, except for necessities or real estate of which he has received the title and retains the benefit. [PL 1971, c. 598, §83 (AMD).]

Provided that any minor 16 years of age or over, who receives aid and assistance from the New England Higher Education Assistance Foundation for the purpose of furthering his higher education in professional, technical, scientific or literary fields in the form of a loan or loans made or guaranteed in full or in part by said foundation, shall have full legal capacity for such purpose to act in his own behalf in the matter of notes, contracts and other transactions, and with respect to such acts done by him, he shall have rights, powers and privileges and be subject to the obligations of persons of full age.

Provided that any minor 16 years of age or over, who for the purpose of furthering his higher education in the professional, educational, scientific or literary fields, shall have full legal capacity to act in his own behalf in the matter of making notes, contracts and other transactions, and with respect to such acts done, shall have rights, powers and privileges and be subject to the obligations of persons of full age.

SECTION HISTORY

PL 1969, c. 433, §93 (AMD). PL 1971, c. 598, §83 (AMD).

§53. Representation of another's credit

No action shall be maintained to charge any person by reason of any representation or assurance, concerning the character, conduct, credit, ability, trade or dealings of another, unless made in writing and signed by the party to be charged thereby or by some person by him legally authorized.

CHAPTER 5

RULE AGAINST PERPETUITIES

§101. Application of rule

(REPEALED)

SECTION HISTORY

PL 2017, c. 402, Pt. B, §1 (RP). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§101-A. Trusts exempt from rule against perpetuities

(REPEALED)

SECTION HISTORY

PL 1999, c. 391, §1 (NEW). PL 2017, c. 402, Pt. B, §1 (RP). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§102. Age may be reduced to 21**(REPEALED)**

SECTION HISTORY

PL 2017, c. 402, Pt. B, §1 (RP). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§103. Contingent interests**(REPEALED)**

SECTION HISTORY

PL 2017, c. 402, Pt. B, §1 (RP). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§104. Application of provisions**(REPEALED)**

SECTION HISTORY

PL 2017, c. 402, Pt. B, §1 (RP). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§105. Retroactive effect**(REPEALED)**

SECTION HISTORY

PL 2017, c. 402, Pt. B, §1 (RP). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§106. Instruments affected**(REPEALED)**

SECTION HISTORY

PL 2017, c. 402, Pt. B, §1 (RP). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

CHAPTER 5-A**RULE AGAINST PERPETUITIES****§111. Statutory rule against perpetuities**

1. Validity of nonvested property interest. A nonvested property interest is invalid unless:

A. When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The interest either vests or terminates within 90 years after its creation. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Validity of general power of appointment subject to a condition precedent. A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

A. When the power is created, the condition precedent is certain to be satisfied or becomes impossible to satisfy no later than 21 years after the death of an individual then alive; or [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Validity of nongeneral or testamentary power of appointment. A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

A. When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The power is irrevocably exercised or otherwise terminates within 90 years after its creation. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Possibility of post-death child disregarded. In determining whether a nonvested property interest or a power of appointment is valid under subsection 1, paragraph A; subsection 2, paragraph A; or subsection 3, paragraph A, the possibility that a child will be born to an individual after the individual's death is disregarded.
[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Effect of certain "later of"-type language. Language contained in a governing instrument that measures a period from the creation of a trust or other property arrangement is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives in being if the language seeks:

A. To disallow the vesting or termination of any interest or trust beyond the later of:

- (1) The expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement; and
- (2) The expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of the specified lives in being at the creation of the trust or other property arrangement; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. To postpone the vesting or termination of any interest or trust until the later of:

- (1) The expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement; and
- (2) The expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of the specified lives in being at the creation of the trust or other property arrangement; or [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. To operate in effect in any fashion similar to that described in paragraph A or B upon the later of:

- (1) The expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement; and
- (2) The expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of the specified lives in being at the creation of the trust or other property arrangement. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§112. When nonvested property interest or power of appointment created

1. General principles. Except as provided in subsections 2 and 3 and in section 115, subsection 1, the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Unqualified beneficial owner. For purposes of this chapter, if there is an individual who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of a nonvested property interest or a property interest subject to a power of appointment described in section 111, subsection 2 or 3, the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Arising out of transfer of property. For purposes of this chapter, a nonvested property interest or a power of appointment arising out of a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§113. Reformation

Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and so that the reformed disposition is within the 90 years allowed by section 111, subsection 1, paragraph B; section 111, subsection 2, paragraph B; or section 111, subsection 3, paragraph B if: [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Nonvested property interest or power of appointment. A nonvested property interest or a power of appointment becomes invalid under section 111;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Class gift. A class gift is not but might become invalid under section 111 and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Certain nonvested property interest not validated. A nonvested property interest that is not validated by section 111, subsection 1, paragraph A can vest but not within 90 years after its creation.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§114. Exclusions from statutory rule against perpetuities

Section 111 does not apply to: [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Nonvested property interest or power of appointment arising out of nondonative transfer; exceptions. A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

A. A premarital or postmarital agreement; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. A separation or divorce settlement; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. A spouse's election; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. An arrangement similar to those described in paragraphs A, B and C arising out of a prospective, existing or previous marital relationship between the parties; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. A contract to make or not to revoke a will or trust; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. A contract to exercise or not to exercise a power of appointment; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. A transfer in satisfaction of a duty of support; or [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. A reciprocal transfer; [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Fiduciary's power. A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease or mortgage property, and the power of a fiduciary to determine principal and income;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Power to appoint fiduciary. A power to appoint a fiduciary;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Discretionary power of trustee to distribute. A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Nonvested property interest held by charity, government or governmental agency or subdivision. A nonvested property interest held by a charity, government or governmental agency or subdivision if the nonvested property interest is preceded by an interest held by another charity, government or governmental agency or subdivision;

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Not subject to rule or excluded by other statute. A property interest, power of appointment or arrangement that was not subject to the common law rule against perpetuities or is excluded by another statute of this State; or

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Trusts to which rule does not apply. A trust in which the governing instrument provides that the rule against perpetuities does not apply to the trust and under which the trustee or other individual to whom the power is properly granted or delegated has the power under the governing instrument, applicable statute or common law to sell, mortgage or lease property for any period of time beyond the period that is required for an interest created under the governing instrument to vest. This subsection

applies to all trusts created by will or inter vivos instrument executed or amended on or after July 1, 2019 and to all trusts created by exercise of power of appointment granted under instruments executed or amended on or after July 1, 2019.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§115. Application

1. Nonvested property interest or a power of appointment created prior to effective date of this chapter. This subsection governs nonvested property interests and powers of appointment created prior to July 1, 2019.

A. Except as provided in section 116, subsection 1, this chapter may not be construed to invalidate or modify the terms of any limitation that would have been valid prior to August 20, 1955. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. This chapter applies only to inter vivos instruments taking effect after August 20, 1955, to wills if the testator dies after August 20, 1955 and to appointments made after August 20, 1955, including appointments by inter vivos instruments or wills under powers created before August 20, 1955. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Section 114, subsection 7 applies to all trusts created by will or inter vivos instrument executed or amended on or after July 1, 2019 and to all trusts created by exercise of power of appointment granted under instruments executed or amended on or after July 1, 2019. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. If a nonvested property interest or a power of appointment was created before July 1, 2019 and is determined in a judicial proceeding, commenced on or after July 1, 2019, to violate this State's rule against perpetuities as that rule existed before July 1, 2019, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and so that the reformed disposition is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Nonvested property interest or a power of appointment created on or after July 1, 2019. Except as provided by subsection 1, paragraph D, this chapter applies to a nonvested property interest or a power of appointment that is created on or after July 1, 2019.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Creation by exercise of a power of appointment. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§116. Contingent interests

1. Specified contingency within 30 years. Except as provided in subsection 2, a fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken becomes a

fee simple absolute if the specified contingency does not occur within 30 years from the date when the fee simple determinable or the fee simple subject to a right of entry becomes possessory. If the specified contingency occurs within the 30 years, the succeeding interest, which may be an interest in a person other than the individual creating the interest or that individual's heirs, becomes possessory or the right of entry exercisable notwithstanding the rule against perpetuities.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Contingency within period. If a fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken is so limited that the specified contingency must occur, if at all, within the period of the rule against perpetuities, the interests take effect as limited.

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Not applicable to public, charitable or religious purposes; grant to State or political subdivision. This section does not apply:

A. If both the fee simple determinable and the succeeding interest or both the fee simple and the right of entry are for public, charitable or religious purposes; or [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. To a deed, gift or grant to the State or any political subdivision of the State. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§117. Application of provisions

This chapter applies to both legal and equitable interests. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§118. Supersession

This chapter supersedes the rule of the common law known as the rule against perpetuities and it replaces chapter 5. [PL 2017, c. 402, Pt. B, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. B, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

CHAPTER 6

AFFORDABLE HOUSING COVENANTS

§121. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 373 (NEW).]

1. Affordable housing covenant. "Affordable housing covenant" means any agreement among one or more owners, one or more tenants of residential real estate and one or more qualified holders, or between one or more owners and one or more qualified holders, or between one or more tenants and

one or more qualified holders, that permits a qualified holder to control, either directly or indirectly, the purchase price of residential housing for the primary purpose of providing that the housing remains affordable to lower income and moderate-income households.

[PL 1991, c. 373 (NEW).]

2. Lower income and moderate-income households. "Lower income and moderate-income households" means very low-income, low-income and moderate-income households as defined in the Affordable Housing Partnership Act of 1989.

[PL 1991, c. 373 (NEW).]

3. Qualified holder. "Qualified holder" means a governmental entity empowered to hold an interest in real property under the laws of this State or the United States or a nonprofit organization whose purposes include the provision of affordable housing or the increasing of affordable housing opportunities for lower income or moderate-income households including governmental or quasi-governmental entities such as public housing authorities, community action agencies or other similar nonprofit or governmental entities committed to providing opportunities for lower income or moderate-income households to obtain affordable housing.

[PL 1991, c. 373 (NEW).]

SECTION HISTORY

PL 1991, c. 373 (NEW).

§122. Creation; conveyance; acceptance; duration

1. Affordable housing covenant. Except as otherwise provided in this chapter, an affordable housing covenant may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other covenants created by written instrument.

[PL 1991, c. 373 (NEW).]

2. Right or duty. A right or duty in favor of or against a qualified holder may not arise under an affordable housing covenant unless it is accepted by the qualified holder.

[PL 1991, c. 373 (NEW).]

3. Limitation. Except as provided in this chapter, an affordable housing covenant is unlimited in duration unless:

A. The instrument creating it provides otherwise; or [PL 1991, c. 373 (NEW).]

B. A change of circumstances renders the affordable housing covenant no longer in the public interest as determined in an action under section 123, subsection 3. [PL 1991, c. 373 (NEW).]

[PL 1991, c. 373 (NEW).]

4. Interest. An interest in real property in existence at the time that an affordable housing covenant is created is not impaired by the affordable housing covenant unless the owner of the interest is a party to the affordable housing covenant.

[PL 1991, c. 373 (NEW).]

5. Right to enter land. The instrument creating an affordable housing covenant must designate the manner in which and the times when representatives of the holder of an affordable housing covenant are entitled to enter the real property to assure compliance.

[PL 1991, c. 373 (NEW).]

SECTION HISTORY

PL 1991, c. 373 (NEW).

§123. Judicial actions

1. Owners; qualified holders. An action affecting an affordable housing covenant may be brought or intervened in by:

A. An owner of an interest in the real property burdened by the covenant; or [PL 1991, c. 373 (NEW).]

B. A qualified holder of the benefit of the affordable housing covenant. [PL 1991, c. 373 (NEW).]
[PL 1991, c. 373 (NEW).]

2. State; political subdivision. An action affecting an affordable housing covenant may be intervened in by the State or a political subdivision of the State in which the real property burdened by the covenant is located.

[PL 1991, c. 373 (NEW).]

3. Power of court. This chapter does not affect the power of a court to enforce an affordable housing covenant by injunction or proceeding in equity or to modify or terminate an affordable housing covenant in accordance with principles of law and equity. A court may deny equitable enforcement of an affordable housing covenant when it finds that a change of circumstances has rendered that covenant no longer in the public interest. If the court so finds, the court may allow damages as the only remedy in an action to enforce the affordable housing covenant.

A comparative economic test may not be used to determine under this subsection if an affordable housing covenant is in the public interest.

[PL 1991, c. 373 (NEW).]

SECTION HISTORY

PL 1991, c. 373 (NEW).

§124. Scope of affordable housing covenant

An affordable housing covenant may include any of the following agreements affecting residential real estate: [PL 1991, c. 373 (NEW).]

1. Resale price of residential real estate. To limit the resale price of residential real estate;
[PL 1991, c. 373 (NEW).]

2. Amount of equity appreciation. To limit the amount of equity appreciation that a landowner may derive from ownership of residential real estate;

[PL 1991, c. 373 (NEW).]

3. Improvements to residential real estate. To limit the extent or dollar value of improvements that may be made to residential real estate;

[PL 1991, c. 373 (NEW).]

4. Class of persons to whom residential real estate may be sold. To restrict the class of persons to whom residential real estate may be sold or leased, as long as that restriction does not discriminate based upon actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin or familial status and does not otherwise contravene the Constitution of Maine or the United States Constitution, except that the prohibition under this subsection regarding discrimination on the basis of familial status does not apply to housing for older persons, as defined in Title 5, section 4581, subsection 2;

[PL 2021, c. 553, §21 (AMD).]

5. Options to purchase. To grant rights of first refusal or options to purchase to qualified holders;
[PL 1991, c. 373 (NEW).]

6. Maintenance and insurance of residential real estate. To maintain and insure residential real estate;

[PL 1991, c. 373 (NEW).]

7. Right of qualified holders to enter and inspect. In accordance with section 122, subsection 5, to provide to qualified holders the right to periodic entry and inspection of residential real estate at reasonable times and after reasonable notice;
[PL 1991, c. 373 (NEW).]

8. Construction and materials. To restrict, limit or specify types of construction and materials that may be used in the construction of or improvements to residential real estate; and
[PL 1991, c. 373 (NEW).]

9. Acts that may enhance affordability of residential real estate. To prohibit, limit or require other acts that may enhance the affordability of residential real estate over time to lower income or moderate-income households.
[PL 1991, c. 373 (NEW).]

SECTION HISTORY

PL 1991, c. 373 (NEW). PL 2021, c. 348, §51 (AMD). PL 2021, c. 553, §21 (AMD).

§125. Validity

An affordable housing covenant is valid and enforceable even when any of the following apply.
[PL 1991, c. 373 (NEW).]

1. Not appurtenant to interest in real property. The affordable housing covenant is not appurtenant and does not run with an interest in real property.
[PL 1991, c. 373 (NEW).]

2. Assignable to another holder. The affordable housing covenant can be or has been assigned to another qualified holder.
[PL 1991, c. 373 (NEW).]

3. Not recognized at common law. The affordable housing covenant is not of a character traditionally recognized at common law.
[PL 1991, c. 373 (NEW).]

4. Imposes a negative burden. The affordable housing covenant imposes a negative burden.
[PL 1991, c. 373 (NEW).]

5. Imposes affirmative obligations. The affordable housing covenant imposes affirmative obligations upon the owner of an interest in the burdened property or upon the qualified holder.
[PL 1991, c. 373 (NEW).]

6. Benefit does not touch or concern real property. The benefit of the affordable housing covenant is held by a qualified holder who has not retained property that would benefit from enforcement of the affordable housing covenant against the burdened property, or the benefit does not touch or concern real property in any other way.
[PL 1991, c. 373 (NEW).]

7. No privity of estate or contract. There is no privity of estate or privity of contract.
[PL 1991, c. 373 (NEW).]

8. Does not run to successors or assigns. The affordable housing covenant does not run to the successors or assigns of the qualified holder.
[PL 1991, c. 373 (NEW).]

9. Unreasonable restraint on alienability. The affordable housing covenant may be construed by a court to be an unreasonable restraint on alienability.
[PL 1991, c. 373 (NEW).]

10. In violation of rule against perpetuities. The affordable housing covenant may be construed by a court to violate the rule against perpetuities.

[PL 1991, c. 373 (NEW).]

SECTION HISTORY

PL 1991, c. 373 (NEW).

§126. Application

1. Interest created after effective date. This chapter applies to any interest that complies with this chapter created after the effective date of this chapter, whether designated as an affordable housing covenant or an equitable servitude, restriction easement or other interest.

[PL 1991, c. 373 (NEW).]

2. Affordable housing covenant created before effective date. This chapter applies to any affordable housing covenant created before the effective date of this chapter if the affordable housing covenant would have been enforceable had it been created after the effective date of this chapter, unless retroactive application contravenes the Constitution of Maine or the United States Constitution.

[PL 1991, c. 373 (NEW).]

3. Chapter does not invalidate interest. This chapter does not invalidate any interest, whether designated as an affordable housing covenant or an equitable servitude, restriction, easement or other interest, that is enforceable under other laws of this State.

[PL 1991, c. 373 (NEW).]

SECTION HISTORY

PL 1991, c. 373 (NEW).

CHAPTER 6-A

WORKING WATERFRONT COVENANTS

§131. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 574, §1 (NEW).]

1. Commercial fisheries businesses. "Commercial fisheries businesses" means any enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Commercial fisheries businesses" includes without limitation:

A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives; [PL 2005, c. 574, §1 (NEW).]

B. Persons providing direct services to commercial fishermen and aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront real estate; and [PL 2005, c. 574, §1 (NEW).]

C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives. [PL 2005, c. 574, §1 (NEW).]

[PL 2005, c. 574, §1 (NEW).]

2. Qualified holder. "Qualified holder" or "holder" means a governmental entity authorized to hold an interest in real property or a nonprofit organization organized under state law whose purposes include the permanent protection of working waterfront or the enlargement of working waterfront opportunities for commercial fisheries businesses.

[PL 2005, c. 574, §1 (NEW).]

3. Third-party right of enforcement. "Third-party right of enforcement" means a right provided in a working waterfront covenant to enforce any of its terms granted by the grantor and holder of the covenant to a governmental body or nonprofit corporation that meets the qualifications of a holder.

[PL 2005, c. 574, §1 (NEW).]

4. Working waterfront covenant. "Working waterfront covenant" means an agreement in recordable form between the owner of working waterfront real estate and one or more qualified holders that permits a qualified holder to control, either directly or indirectly, the use, ownership and sales price of working waterfront real estate for the primary purpose of making and preserving the permanent availability and affordability of that real estate for commercial fisheries businesses. A working waterfront covenant may include a 3rd-party right of enforcement.

[PL 2005, c. 574, §1 (NEW).]

5. Working waterfront real estate. "Working waterfront real estate" or "real estate" means land, legally filled lands, piers, wharves and other improvements to lands all adjacent to the navigable coastal waters of the State.

[PL 2005, c. 574, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 574, §1 (NEW).

§132. Creation; conveyance; acceptance; duration; filing

1. Working waterfront covenant. Except as otherwise provided in this chapter, a working waterfront covenant may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other real estate covenants created by written instrument.

[PL 2005, c. 574, §1 (NEW).]

2. Right or duty. A right or duty in favor of or against a qualified holder may not arise under a working waterfront covenant unless it is accepted in writing by the qualified holder.

[PL 2005, c. 574, §1 (NEW).]

3. Limitation. Except as provided in this chapter, a working waterfront covenant is unlimited in duration unless a change of circumstances renders the working waterfront covenant no longer in the public interest as determined in an action under section 133, subsection 2.

[PL 2005, c. 574, §1 (NEW).]

4. Filing. A working waterfront covenant must be recorded in the County Registry of Deeds, and a copy of the covenant must be filed with the Department of Agriculture, Conservation and Forestry together with a map showing with specificity the location of the affected real estate on the form or forms that the department requires.

[PL 2011, c. 655, Pt. II, §6 (AMD); PL 2011, c. 655, Pt. II, §11 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

5. Other interest. An interest in real property in existence at the time a working waterfront covenant is created is not affected by the covenant unless the owner of the interest is a party to the covenant or consents to the covenant.

[PL 2005, c. 574, §1 (NEW).]

6. Right to enter land. The instrument creating a working waterfront covenant must provide for the right by the qualified holder to enter the real property to ensure compliance.

[PL 2005, c. 574, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 574, §1 (NEW). PL 2011, c. 655, Pt. II, §6 (AMD). PL 2011, c. 655, Pt. II, §11 (AFF). PL 2011, c. 657, Pt. W, §5 (REV).

§133. Judicial actions

1. Owners; qualified holders. An action affecting a working waterfront covenant may be brought or intervened in by:

A. An owner of an interest in the real property burdened by the covenant; [PL 2005, c. 574, §1 (NEW).]

B. A qualified holder of the benefit of the working waterfront covenant; [PL 2005, c. 574, §1 (NEW).]

C. The municipality in which the real property burdened by the covenant is located; or [PL 2005, c. 574, §1 (NEW).]

D. The Attorney General. [PL 2005, c. 574, §1 (NEW).]

[PL 2005, c. 574, §1 (NEW).]

2. Power of court. The court has the following powers.

A. The court may enforce a working waterfront covenant by injunction or other proceeding at law or in equity. [PL 2005, c. 574, §1 (NEW).]

B. Acting in accordance with charitable trust principles, the court may modify, terminate or deny equitable enforcement of a working waterfront covenant in an action brought by a party pursuant to subsection 1. In taking such an action, the court must find that, due to a change in circumstance, the covenant no longer serves the public interest in protecting or enhancing the commercial marine fisheries or related businesses of the State. The Attorney General must be made a party to any action under this paragraph and written notice must be provided to the Commissioner of Marine Resources. [PL 2005, c. 574, §1 (NEW).]

C. If the court modifies, terminates or denies equitable enforcement of a working waterfront covenant, the court may order payment by the landowner of money or other damages to the holder or the State, which shall apply the same in a manner consistent with the purposes of this law as approved by the court. [PL 2005, c. 574, §1 (NEW).]

[PL 2005, c. 574, §1 (NEW).]

The fact that a working waterfront property might be used for more valuable economic purposes may not be considered in determining whether a working waterfront covenant is no longer in the public interest. [PL 2005, c. 574, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 574, §1 (NEW).

§134. Scope of working waterfront covenant

A working waterfront covenant must include without limitation at least one of the following terms: [PL 2005, c. 574, §1 (NEW).]

1. Resale price of working waterfront real estate. Limitations on the resale price of working waterfront real estate;

[PL 2005, c. 574, §1 (NEW).]

2. Amount of equity appreciation. Limitations on the amount of equity appreciation that a landowner may derive from ownership of working waterfront real estate;

[PL 2005, c. 574, §1 (NEW).]

3. Improvements to working waterfront real estate. Limitations on the type, extent, use or dollar value of improvements that may be made to working waterfront real estate;

[PL 2005, c. 574, §1 (NEW).]

4. Uses to which working waterfront real estate may be devoted. Restrictions on the uses to which working waterfront real estate may be devoted, which must be consistent with the purposes of this chapter;

[PL 2005, c. 574, §1 (NEW).]

5. Options to purchase. The grant of rights of first refusal or options to purchase to qualified holders or their assigns, subject to the terms and conditions of the working waterfront covenant;

[PL 2005, c. 574, §1 (NEW).]

6. Maintenance and insurance of working waterfront real estate. The obligation to maintain, operate and insure working waterfront real estate;

[PL 2005, c. 574, §1 (NEW).]

7. Construction and materials. The right to restrict or specify types of buildings, structures and materials that may be used in improvements on working waterfront real estate; and

[PL 2005, c. 574, §1 (NEW).]

8. Acts that may enhance affordability of working waterfront real estate. The right to prohibit, limit or require other acts that may enhance or allow the affordability and availability of working waterfront real estate to commercial marine fisheries businesses in the future.

[PL 2005, c. 574, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 574, §1 (NEW).

§135. Validity

A working waterfront covenant is valid and enforceable notwithstanding any of the following conditions. [PL 2005, c. 574, §1 (NEW).]

1. Not appurtenant to interest in real property. The working waterfront covenant is not appurtenant and does not run with an interest in real property.

[PL 2005, c. 574, §1 (NEW).]

2. Assignable to another holder. The working waterfront covenant can be or has been assigned to another qualified holder.

[PL 2005, c. 574, §1 (NEW).]

3. Not recognized at common law. The working waterfront covenant is not of a character traditionally recognized at common law.

[PL 2005, c. 574, §1 (NEW).]

4. Imposes negative burden. The working waterfront covenant imposes a negative burden.

[PL 2005, c. 574, §1 (NEW).]

5. Imposes affirmative obligations. The working waterfront covenant imposes affirmative obligations upon the owner of an interest in the burdened property or upon the qualified holder.

[PL 2005, c. 574, §1 (NEW).]

6. Benefit does not touch or concern real property. The benefit of the working waterfront covenant is held by a qualified holder who has not retained property that would benefit from enforcement of the working waterfront covenant, or the benefit does not touch or concern real property in any other way.

[PL 2005, c. 574, §1 (NEW).]

7. No privity of estate or contract. There is no privity of estate or privity of contract.

[PL 2005, c. 574, §1 (NEW).]

8. Does not run to successors or assigns. The working waterfront covenant does not run to the successors or assigns of the qualified holder.

[PL 2005, c. 574, §1 (NEW).]

9. Unreasonable restraint on alienability. The working waterfront covenant may be considered to be an unreasonable restraint on alienability.

[PL 2005, c. 574, §1 (NEW).]

10. In violation of rule against perpetuities. The working waterfront covenant may violate the rule against perpetuities.

[PL 2005, c. 574, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 574, §1 (NEW).

§136. Application

1. Interest created after effective date. This chapter applies to any interest that complies with this chapter created after the effective date of this chapter, whether designated as a working waterfront covenant or an equitable servitude, restriction, easement or other interest in real estate.

[PL 2005, c. 574, §1 (NEW).]

2. Working waterfront covenant created before effective date. This chapter applies to any working waterfront covenant created before the effective date of this chapter if the working waterfront covenant would have been enforceable had it been created after the effective date of this chapter, unless retroactive application contravenes the Constitution of Maine or the United States Constitution.

[PL 2005, c. 574, §1 (NEW).]

3. Chapter does not invalidate interest. This chapter does not invalidate any interest, whether designated as a working waterfront covenant or an equitable servitude, restriction, easement or other interest in real estate, that is otherwise enforceable under other laws of this State.

[PL 2005, c. 574, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 574, §1 (NEW).

CHAPTER 7

CONVEYANCE OF REAL ESTATE

SUBCHAPTER 1

ESTATES PASSING

§151. Items covered by deed

A person owning real estate and having a right of entry into it, whether seized of it or not, may convey it or all his interest in it, by a deed to be acknowledged and recorded as provided in this chapter. Down trees lying on land at the time of conveyance are real estate and pass by the deed; but such down trees as are cut into wood, logs or other lumber and hemlock bark peeled are personal property, and the owner may remove them in a reasonable time thereafter. [PL 1983, c. 433 (AMD).]

SECTION HISTORY

PL 1983, c. 433 (AMD).

§151-A. Definitions

As used in this chapter: [PL 1969, c. 433, §94 (NEW).]

1. Minor. "Minor" means any person who has not attained the age of 18 years. [PL 1971, c. 598, §84 (AMD).]

SECTION HISTORY

PL 1969, c. 433, §94 (NEW). PL 1971, c. 598, §84 (AMD).

§152. Contingent estates

When a contingent remainder, executory devise or estate in expectancy is so limited to a person that it will, in case of his death before the happening of such contingency, descend in fee simple to his heirs, he may before it happens convey or devise it subject to the contingency.

§153. Sale or mortgage of estates subject to contingent remainders

1. Sale or mortgage. When real estate is subject to a contingent remainder, executory devise or power of appointment, the Superior Court, the District Court or the Probate Court for the county or district in which the real estate is situated may, upon the petition of any person who has an estate in possession in the real estate and after notice and other proceedings as required, appoint one or more trustees and authorize the trustee or trustees:

A. To sell and convey the estate or any part of the estate in fee simple, if such a sale and conveyance appears to the court to be necessary or expedient; or [PL 1999, c. 547, Pt. A, §4 (NEW).]

B. To mortgage the estate, either with or without power of sale, for such an amount, on such terms and for such purposes as may seem to the court judicious or expedient. [PL 1999, c. 547, Pt. A, §4 (NEW).]

The conveyance or mortgage is valid and binding upon all parties.

[PL 1999, c. 547, Pt. A, §4 (NEW).]

2. Petition. The petition must set forth the nature of the petitioner's title to the real estate, the source from which the title was derived, the names and addresses of all persons known to be interested in the real estate and any other facts necessary for a full understanding of the matter.

[PL 1999, c. 547, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1999, c. 547, §A4 (RPR).

§154. -- notice; appointment of next friend of minors

Notice of any such petition shall be given in such manner as the court may order to all persons who are or may become interested in the real estate to which the petition relates, and to all persons whose issue, not in being, may become interested therein. If persons interested in said real estate do not consent in writing to a sale thereof, personal notice of the time and place of the hearing on said petition shall be given to all persons known to be interested therein. Said personal notice may be given in any manner provided by law, or by the clerk of courts or the register of probate sending a copy of said petition and order of court thereon by registered mail, return receipt requested, in time to give each party at least 14 days' notice of said hearing. The written statements of said clerk and register, with the return receipt, shall be proof of said service. The court shall in every case appoint a suitable person to appear and act therein as the next friend of all minors, persons not ascertained and persons not in being, who are or may become interested in such real estate. The cost of the appearance and services of such next friend, including the compensation of his counsel, to be determined by the court, shall be paid as the court may order either out of the proceeds of the sale or mortgage or by the petitioner, in which latter case execution therefor may issue in the name of the next friend.

§155. -- bond of trustees; disposal of proceeds of sale

Every trustee appointed under section 153 shall give bond in such form and for such an amount as the court appointing him may order, and he shall receive and hold, invest or apply the proceeds of any sale or mortgage made by him for the benefit of the persons who would have been entitled to the real estate, if such sale or mortgage had not been made, and the probate court for the county in which such real estate or the greater part thereof is situated shall have jurisdiction of all matters thereafter arising in relation to such trust.

§156. Entailments barred by conveyance in fee simple

A person seized of land as a tenant in tail may convey it in fee simple. When a minor is so seized of land, his guardian, duly licensed to sell it for his support and education or to invest the proceeds for his benefit, may convey it in fee simple. When land is owned by one person for life with a vested remainder in tail in another, they may by a joint deed convey the same in fee simple. Such conveyances bar the estate tail and all remainders and reversions expectant thereon.

§157. Conveyance of greater estate, conveys only interest owned

A conveyance of a greater estate than he can lawfully convey, made by a tenant for life or years, will pass what estate he has and will not work a forfeiture, and no expectant estate can be defeated by any act of the owner of the precedent estate or by any destruction of it, except as provided in section 156.

§158. Conveyance for life and to heirs in fee

A conveyance or devise of land to a person for life and to his heirs in fee, or by words to that effect, shall be construed to vest an estate for life only in the first taker and a fee simple in his heirs.

§159. Conveyances to 2 or more persons

Conveyances not in mortgage and devises of land to 2 or more persons create estates in common, unless otherwise expressed. Deeds in which 2 or more grantees anywhere in the conveyances are named as joint tenants or named as having the right of survivorship or that otherwise indicate anywhere in the conveyances by appropriate language the intent to create a joint tenancy between such grantees must be construed as vesting an estate in fee simple in such grantees with right of survivorship. Deeds in which the grantor is named as a grantee or as a grantee with another or others must be construed as vesting an estate in fee simple in such grantee or grantees including the grantor, unless otherwise expressed. [PL 2011, c. 4, §1 (AMD).]

A conveyance of real property by the owner of the real property to the owner and another or others, or by the owners of the real property to the owners or to the owners and another or others, as joint tenants or with the right of survivorship, or that otherwise indicates anywhere in the conveyance by appropriate language the intent to create a joint tenancy between such owner or owners and such other or others or between the owners by the conveyance, including language such as "as joint tenants," "in joint tenancy," "as joint tenants with rights of survivorship," "with rights of survivorship," "to them and to the survivor of them," "to them and their assigns and to the survivor and the heirs and assigns of the survivor forever" or "as tenants by the entirety," creates an estate in joint tenancy in the property so conveyed between all of the grantees, including the grantor. Estates in joint tenancy so created have and possess all of the attributes and incidents of estates in joint tenancy created or existing at common law and the rights and liabilities of the tenants in estates in joint tenancy so created are the same as in estates in joint tenancy created or existing at common law. [PL 2011, c. 4, §1 (AMD).]

A conveyance of real property by an owner or owners of the real property holding in joint tenancy to the owner or to the owner and another or others, or to the owners or to the owners and another or others, as tenants in common, or that otherwise indicates anywhere in the conveyance by appropriate language the intent to create a tenancy in common or the intent to sever the joint tenancy between the

owner or owners and such other or others or between the owners by the conveyance, or without expression of the tenancy created or without other expression of joint tenancy or right of survivorship, creates an estate in common in the property so conveyed between all of the grantees, including the grantor, or between the sole grantee and the other owner or owners. [PL 2011, c. 4, §1 (NEW).]

A conveyance on or after January 1, 2012 by a taxing or assessing authority of real property acquired from joint tenants by foreclosure of a tax or assessment lien mortgage, if made to such persons, recreates the joint tenancy held by the persons at the time of the foreclosure unless otherwise indicated anywhere in the conveyance by appropriate language. [PL 2011, c. 41, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 788, §164 (AMD). PL 2011, c. 4, §1 (AMD). PL 2011, c. 41, §1 (AMD).

§160. -- mortgage or trust

When real estate is conveyed in mortgage or in trust to 2 or more persons, with power to appoint a successor to one deceased, it is held in joint tenancy unless otherwise expressed. When one or more of the trustees, by death or otherwise, is divested of his interest, those remaining may convey such interest upon the same trusts, without impairing the joint tenancy, to trustees by them appointed, who shall hold the title, have the rights and be subject to the liabilities of the other trustees. Personal property, with real estate and upon the same trusts, is held as the real estate is, and it may be conveyed by the remaining trustees with the real estate and held in like manner.

§161. Quitclaim or release

A deed of release or quitclaim of the usual form conveys the estate which the grantor has and can convey by a deed of any other form. A joint deed of husband and wife conveys her estate in which the husband has an interest.

§162. No estate greater than tenancy at will unless by writing

There can be no estate created in lands greater than a tenancy at will, and no estate in them can be granted, assigned or surrendered unless by some writing signed by the grantor or maker or his attorney.

§163. Private transfer fee obligations void and unenforceable

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Private transfer fee" means a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept such a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price or other consideration given for the transfer. "Private transfer fee" does not include:

- (1) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development or sale of the property, if such consideration is payable on a one-time basis only and the obligation to make such payment does not bind successors in title to the property;
- (2) Any commission payable to a licensed real estate broker or real estate brokerage agency for the transfer of real property pursuant to an agreement between the broker or agency and the grantor or the grantee;
- (3) Any interest, charges, fees or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property;

(4) Any rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor under a lease or license, including, but not limited to, any fee payable to the lessor for consenting to an assignment, subletting, encumbrance or transfer of the lease or license;

(5) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing or not exercising the option or right upon the transfer of the property to another person;

(6) Any tax, fee, charge, assessment, fine, dues or other amount payable to or imposed by a governmental authority;

(7) Any fee, charge, assessment, fine or other amount payable to a homeowners association, condominium owners association, cooperative, mobile home owners association or property owners association pursuant to a declaration or covenant or law applicable to such an association for the maintenance, improvements, services or expenses related to real property that is owned, used or enjoyed in common by the members;

(8) Any fee, charge, assessment, dues, fine, contribution or other amount pertaining solely to the purchase or transfer of a club membership relating to real property owned by a club member, including, but not limited to, any amount determined by reference to the value, purchase price or other consideration given for the transfer of the real property;

(9) Any obligations created pursuant to affordable housing covenants under chapter 6 or working waterfront covenants under chapter 6-A; or

(10) Any fee payable, upon a transfer of real property, to a nonprofit corporation, organization or trust organized under the laws of this State, if the sole purpose of the corporation, organization or trust is to support cultural, educational, charitable, recreational, conservation, preservation or similar activities benefiting the real property being transferred and the fee is used exclusively to fund such activities. [PL 2011, c. 200, §1 (NEW).]

B. "Private transfer fee obligation" means an obligation arising under a declaration or covenant recorded against the title to real property or under any other contractual agreement or promise, whether or not recorded, that requires or purports to require the payment of a private transfer fee upon a subsequent transfer of an interest in the real property. [PL 2011, c. 200, §1 (NEW).]

C. "Transfer" means the sale, gift, grant, conveyance, lease, license, assignment, inheritance or other act resulting in a transfer of an ownership interest in real property located in this State. [PL 2011, c. 200, §1 (NEW).]

[PL 2011, c. 200, §1 (NEW).]

2. Void and unenforceable. A private transfer fee obligation recorded or entered into in connection with real property located in this State on or after the effective date of this section does not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser, mortgagee or holder of any interest in real property as an equitable servitude or otherwise. A private transfer fee obligation that is recorded or entered into in connection with real property located in this State on or after the effective date of this section is void and unenforceable. This subsection may not be construed to mean that a private transfer fee obligation recorded or entered into in connection with real property located in this State before the effective date of this section is presumed valid and enforceable.

[PL 2011, c. 200, §1 (NEW).]

3. Liability for violation. A person who records, or enters into, an agreement imposing a private transfer fee obligation in that person's favor after the effective date of this section is liable for all damages resulting from the imposition of the private transfer fee obligation on the transfer of an interest in the real property, including, but not limited to, the amount of any private transfer fee paid by a party

to the transfer and all attorney's fees, expenses and costs incurred by a party to the transfer or mortgagee of the real property to recover any private transfer fee paid or in connection with an action to quiet title. When an agent acts on behalf of a principal to record or secure a private transfer fee obligation, liability must be assessed to the principal rather than the agent.

[PL 2011, c. 200, §1 (NEW).]

4. Effect of transfer of certain interests in real property. A transfer, on or after the effective date of this section, of an interest in real property subject to a private transfer fee obligation recorded or entered into prior to the effective date of this section does not constitute the recording or entering into of a new private transfer fee obligation on or after the effective date of this section.

[PL 2011, c. 200, §1 (NEW).]

5. Disclosure. The following provisions govern the disclosure of private transfer fee obligations.

A. A contract for the sale of real property subject to a private transfer fee obligation must include a provision disclosing the existence of that obligation and a description of that obligation. A contract for the sale of real property that does not conform to the requirements of this paragraph is not enforceable by the seller, and the buyer is not liable to the seller for damages under such a contract and is entitled to the return of any deposits made under that contract. [PL 2011, c. 200, §1 (NEW).]

B. When a private transfer fee obligation is not disclosed as required by paragraph A and a buyer subsequently discovers the existence of the private transfer fee obligation after title to the real property has passed to the buyer, the buyer has the right to recover against the seller all damages resulting from the failure to disclose the private transfer fee obligation, including, but not limited to, the amount of any private transfer fee paid by the buyer and the difference between the market value of the real property subject to the private transfer fee obligation and the market value of the real property if the real property were not subject to the private transfer fee obligation. The buyer is also entitled to recover all attorney's fees, expenses and costs incurred in seeking the remedies under this subsection. [PL 2011, c. 200, §1 (NEW).]

C. Any provision in a contract for the sale of real property that purports to waive the rights of a buyer under this subsection is void. [PL 2011, c. 200, §1 (NEW).]

[PL 2011, c. 200, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 200, §1 (NEW).

SUBCHAPTER 1-A

RESIDENTIAL PROPERTY DISCLOSURES

§171. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 476, §1 (NEW).]

1. Known defect. "Known defect" means a condition, known by the seller, that has a significant adverse effect on the value of property, significantly impairs the health or safety of future occupants of the property or, if not repaired, removed or replaced, significantly shortens the expected normal life of the premises.

[PL 1999, c. 476, §1 (NEW).]

2. Seller. "Seller" means the owner of the residential real property that is for sale, exchange, sale under an installment contract or lease with an option to buy.

[PL 1999, c. 476, §1 (NEW).]

3. Property disclosure statement. "Property disclosure statement" means a written disclosure form prepared by a seller pursuant to section 173.

[PL 1999, c. 476, §1 (NEW).]

4. Purchaser. "Purchaser" means a transferee in any of the types of transactions described in section 172.

[PL 1999, c. 476, §1 (NEW).]

5. Real estate contract. "Real estate contract" means a contract for the transfer of ownership of residential real property by any of the ways described in section 172.

[PL 1999, c. 476, §1 (NEW).]

6. Residential real property. "Residential real property" means real estate consisting of one or not more than 4 residential dwelling units.

[PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW).

§172. Applicability; exemptions

This subchapter applies to the transfer of any interest in residential real property, whether by sale, exchange, installment land contract, lease with an option to purchase or any other option to purchase. If a person licensed to practice real estate brokerage is involved in the transaction, the licensee is subject to the requirements of licensure in Title 32, chapter 114. The following transfers are exempt from this subchapter: [PL 2005, c. 378, §24 (AMD); PL 2005, c. 378, §29 (AFF).]

1. Court order. Transfers pursuant to court order, including, but not limited to, transfers ordered by a court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain and transfers resulting from a decree for specific performance;

[PL 1999, c. 476, §1 (NEW).]

2. Default. Transfers to a mortgagee by a mortgagor or successor in interest who is in default or transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default;

[PL 1999, c. 476, §1 (NEW).]

3. Power of sale. Transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a mortgage or deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the residential real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or who has acquired the residential real property by a deed in lieu of foreclosure;

[PL 1999, c. 476, §1 (NEW).]

4. Fiduciary. Transfers by a fiduciary in the course of administration of a decedent's estate, guardianship, conservatorship or trust;

[PL 1999, c. 476, §1 (NEW).]

5. Coowner. Transfers from one or more coowners solely to one or more other coowners;

[PL 1999, c. 476, §1 (NEW).]

6. Testate; intestate succession. Transfers pursuant to testate or intestate succession;

[PL 1999, c. 476, §1 (NEW).]

7. Consanguinity. Transfers made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the owners;

[PL 1999, c. 476, §1 (NEW).]

8. Divorce. Transfers between spouses resulting from a judgment of divorce or a judgment of separate maintenance or from a property settlement agreement incidental to such a judgment; [PL 1999, c. 476, §1 (NEW).]

9. Government. Transfers or exchanges to or from any governmental entity; [PL 1999, c. 476, §1 (NEW).]

10. Relocation. Transfers from an entity that has taken title to a residential real property to assist the prior owner in relocating, as long as the entity makes available to the purchaser a copy of the property disclosure statement furnished to the entity by the prior owner; [PL 1999, c. 476, §1 (NEW).]

11. Living trust. Transfers to a living trust; and [PL 1999, c. 476, §1 (NEW).]

12. Corrective deed. Transfers that, without additional consideration and without changing ownership or ownership interest, confirm, correct, modify or supplement a deed previously recorded. [PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW). PL 2005, c. 378, §24 (AMD). PL 2005, c. 378, §29 (AFF).

§173. Required disclosures

Unless the transaction is exempt under section 172, the seller of residential real property shall provide to the purchaser a property disclosure statement containing the following information: [PL 1999, c. 476, §1 (NEW).]

1. Water supply system. The type of system used to supply water to the property. If the property has a private water supply, the seller shall disclose:

A. The type of system; [PL 1999, c. 476, §1 (NEW).]

B. The location of the system; [PL 1999, c. 476, §1 (NEW).]

C. Any malfunctions of the system; [PL 1999, c. 476, §1 (NEW).]

D. The date of the most recent water test, if any; and [PL 1999, c. 476, §1 (NEW).]

E. Whether the seller has experienced a problem such as an unsatisfactory water test or a water test with notations; [PL 1999, c. 476, §1 (NEW).]

[PL 1999, c. 476, §1 (NEW).]

2. Insulation.

[PL 2005, c. 378, §25 (RP); PL 2005, c. 378, §29 (AFF).]

2-A. Heating system or heating source. Detailed information on the system or source used to supply heat to the property, including:

A. The type of heating system or source; [PL 2005, c. 378, §26 (NEW); PL 2005, c. 378, §29 (AFF).]

B. The age of the heating system or source; [PL 2005, c. 378, §26 (NEW); PL 2005, c. 378, §29 (AFF).]

C. The name of the company that services the heating system or source; [PL 2005, c. 378, §26 (NEW); PL 2005, c. 378, §29 (AFF).]

D. The date of the most recent service call on the heating system or source; [PL 2005, c. 378, §26 (NEW); PL 2005, c. 378, §29 (AFF).]

- E. The annual fuel consumption per heating system or source; [PL 2019, c. 37, §1 (AMD).]
- F. Any malfunctions per heating system or source within the past 2 years; and [PL 2019, c. 37, §1 (AMD).]
- G. The date of the most recent inspection of the chimneys and vents for the heating system or source; [PL 2019, c. 37, §2 (NEW).]

[PL 2019, c. 37, §§1, 2 (AMD).]

3. Waste disposal system. The type of waste disposal system used on the property. If the property has a private waste disposal system, the seller shall disclose:

- A. The type of system; [PL 1999, c. 476, §1 (NEW).]
- B. The size and type of the tank; [PL 1999, c. 476, §1 (NEW).]
- C. The location of the tank; [PL 1999, c. 476, §1 (NEW).]
- D. Any malfunctions of the tank; [PL 1999, c. 476, §1 (NEW).]
- E. The date of installation of the tank; [PL 1999, c. 476, §1 (NEW).]
- F. The location of the leach field; [PL 1999, c. 476, §1 (NEW).]
- G. Any malfunctions of the leach field; [PL 1999, c. 476, §1 (NEW).]
- H. The date of installation of the leach field; [PL 1999, c. 476, §1 (NEW).]
- I. The date of the most recent servicing of the system; [PL 1999, c. 476, §1 (NEW).]
- J. The name of the contractor who services the system; and [PL 1999, c. 476, §1 (NEW).]
- K. For systems within shoreland zones, disclosures on septic systems required by Title 30-A, section 4216; [PL 1999, c. 476, §1 (NEW).]

[PL 1999, c. 476, §1 (NEW).]

4. Hazardous materials. The presence or prior removal of hazardous materials or elements on the residential real property, including, but not limited to:

- A. Asbestos; [PL 1999, c. 476, §1 (NEW).]
- B. Lead-based paint for pre-1978 homes in accordance with federal regulations; [PL 2011, c. 96, §5 (AMD).]
- C. Radon; [PL 2019, c. 234, §1 (AMD).]
- D. Underground oil storage tanks as required under Title 38, section 563, subsection 6; and [PL 2019, c. 234, §2 (AMD).]
- E. Methamphetamine; [PL 2019, c. 234, §3 (NEW).]

[PL 2019, c. 234, §§1-3 (AMD).]

5. Known defects. Any known defects; and
[PL 2017, c. 181, §2 (AMD).]

6. Access to the property. Information describing the means of accessing the property by:

- A. A public way, as defined in Title 29-A, section 101, subsection 59; and [PL 2017, c. 181, §3 (NEW).]
- B. Any means other than a public way, in which case the seller shall disclose information about who is responsible for maintenance of the means of access, including any responsible road association, if known by the seller. [PL 2017, c. 181, §3 (NEW).]

[PL 2017, c. 181, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW). PL 2005, c. 339, §3 (AMD). PL 2005, c. 378, §§25,26 (AMD). PL 2005, c. 378, §29 (AFF). PL 2011, c. 96, §5 (AMD). PL 2017, c. 181, §§1-3 (AMD). PL 2019, c. 37, §§1, 2 (AMD). PL 2019, c. 234, §§1-3 (AMD).

§173-A. Information provided

Beginning January 1, 2004, unless the transaction is exempt under section 172, the seller of residential real property shall provide to the purchaser information developed by the Director of the Bureau of Health within the Department of Health and Human Services regarding what homeowners should know about arsenic in private water supplies and arsenic in treated wood. Copies of this information must be provided to sellers at cost. [PL 2003, c. 457, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 2003, c. 457, §1 (NEW). PL 2003, c. 689, §B6 (REV).

§174. Delivery and time of disclosure; cancellation of contract

1. Delivery and time of disclosure. The seller of residential real property under this subchapter shall deliver or cause to be delivered the property disclosure statement to the purchaser no later than the time the purchaser makes an offer to purchase, exchange or option the property or exercises the option to purchase the property pursuant to a lease with an option to purchase. [PL 1999, c. 476, §1 (NEW).]

2. Terminate contract. If the property disclosure statement is delivered to the purchaser after the purchaser makes an offer, the purchaser may terminate any resulting real estate contract or withdraw the offer no later than 72 hours after receipt of the property disclosure statement. [PL 1999, c. 476, §1 (NEW).]

3. Withdrawal without penalty. If the purchaser terminates a real estate contract or withdraws an offer in compliance with this section, the termination or withdrawal of offer is without penalty to the purchaser and any deposit must be promptly returned to the purchaser. [PL 1999, c. 476, §1 (NEW).]

4. Rights waived. Any rights of the purchaser to terminate the real estate contract provided by this section are waived conclusively if not exercised prior to settlement or occupancy, whichever is earlier, by the purchaser in the case of a sale or exchange, or prior to settlement in the case of a purchase pursuant to a lease with option to purchase. Any rights of the purchaser to terminate the real estate contract for reasons other than those set forth in this section are not affected by this section. [PL 1999, c. 476, §1 (NEW).]

5. Invalidated. A transfer subject to this subchapter is not invalidated solely because of the failure of any person to comply with this subchapter. [PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW).

§175. Change in circumstances

1. Inaccurate information. If information disclosed in accordance with this subchapter becomes inaccurate as a result of any action, occurrence or agreement after the delivery of the property disclosure statement, the resulting inaccuracy does not constitute a violation of this subchapter. [PL 1999, c. 476, §1 (NEW).]

2. Supplemental disclosure. If prior to settlement or occupancy a seller has actual knowledge of an error, inaccuracy or omission in the disclosure after delivery of the property disclosure statement to

purchaser, the seller shall supplement the property disclosure statement with a written supplemental disclosure.

[PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW).

§176. Rights and duties of seller and purchaser

1. Seller's rights and duties. A property disclosure statement and any supplement to a property disclosure statement are not a warranty by the seller. The information in the disclosure statement is for disclosure only and is not intended to be a part of any contract between the purchaser and the seller.

If, at the time the disclosures are required to be made, an item of information required to be disclosed under this subchapter is unknown or unavailable to the seller, the seller may comply with this subchapter by advising the purchaser of the fact that the information is unknown.

The information provided to the purchaser is based upon the best information available to the seller. The seller is not obligated under this subchapter to make any specific investigation or inquiry in an effort to complete the property disclosure statement.

[PL 1999, c. 476, §1 (NEW).]

2. Purchaser's rights and duties. The property disclosure statement and any supplement to the property disclosure statement may not be used as substitutes for any inspections or warranties that the purchaser or seller may obtain. Nothing in this subchapter precludes the obligation of a purchaser to inspect the physical condition of the property.

[PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW).

§177. Liability

A seller is not liable for any error, inaccuracy or omission of any information required to be delivered to the purchaser under this subchapter if: [PL 1999, c. 476, §1 (NEW).]

1. Without actual knowledge. The error, inaccuracy or omission was not within the actual knowledge of the seller or was based on information provided by a public agency or by another person with a professional license or special knowledge who provided a written or oral report or opinion that the seller reasonably believed to be correct; and

[PL 1999, c. 476, §1 (NEW).]

2. Without negligence. The seller was not negligent in obtaining information from a 3rd party and transmitting that information to the purchaser.

[PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW).

§178. Effect on other statutes or common law

This subchapter is not intended to limit or modify any obligation to disclose created by any other statute or that may exist in common law in order to avoid fraud, misrepresentation or deceit in the transaction. [PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW).

§179. Effective date

This subchapter takes effect January 1, 2000. [PL 1999, c. 476, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 476, §1 (NEW).

SUBCHAPTER 1-B

NONRESIDENTIAL PROPERTY DISCLOSURES

§191. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2017, c. 345, §4 (NEW).]

1. Nonresidential real property. "Nonresidential real property" means real estate that is not residential real property as defined in section 171, subsection 6.

[PL 2017, c. 345, §4 (NEW).]

2. Public easement. "Public easement" has the same meaning as in Title 23, section 3021, subsection 2.

[PL 2017, c. 345, §4 (NEW).]

3. Town way. "Town way" has the same meaning as in Title 23, section 3021, subsection 3.

[PL 2017, c. 345, §4 (NEW).]

SECTION HISTORY

PL 2017, c. 345, §4 (NEW).

§192. Applicability; exemptions

This subchapter applies to the transfer of any interest in nonresidential real property, whether by sale, installment land contract, lease with an option to purchase or any other option to purchase. If a person licensed to practice real estate brokerage is involved in the transaction, the licensee is subject to the requirements of licensure in Title 32, chapter 114. The following transfers are exempt from this subchapter: [PL 2017, c. 345, §4 (NEW).]

1. Court order. Transfers pursuant to court order, including, but not limited to, transfers ordered by a court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain and transfers resulting from a decree for specific performance;

[PL 2017, c. 345, §4 (NEW).]

2. Default. Transfers to a mortgagee by a mortgagor or successor in interest who is in default or transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default;

[PL 2017, c. 345, §4 (NEW).]

3. Co-owner. Transfers from one or more co-owners solely to one or more other co-owners;

[PL 2017, c. 345, §4 (NEW).]

4. Testate; intestate succession. Transfers pursuant to testate or intestate succession;

[PL 2017, c. 345, §4 (NEW).]

5. Divorce. Transfers between spouses resulting from a judgment of divorce or a judgment of separate maintenance or from a property settlement agreement incidental to such a judgment;

[PL 2017, c. 345, §4 (NEW).]

6. Living trust. Transfers to a living trust; and

[PL 2017, c. 345, §4 (NEW).]

7. Corrective deed. Transfers that, without additional consideration and without changing ownership or ownership interest, confirm, correct, modify or supplement a deed previously recorded. [PL 2017, c. 345, §4 (NEW).]

SECTION HISTORY

PL 2017, c. 345, §4 (NEW).

§193. Disclosures

Unless the transaction is exempt under section 192, the seller of nonresidential real property shall provide to the purchaser a property disclosure statement containing the following: [PL 2017, c. 345, §4 (NEW).]

1. Roads on or abutting property.

[PL 2019, c. 142, §1 (RP).]

2. Road maintenance.

[PL 2019, c. 142, §1 (RP).]

3. Access to the property. Information describing the means of accessing the property by:

A. A public way, as defined in Title 29-A, section 101, subsection 59; and [PL 2019, c. 142, §2 (NEW).]

B. Any means other than a public way, in which case the seller shall disclose information about who is responsible for maintenance of the means of access, including any responsible road association, if known by the seller. [PL 2019, c. 142, §2 (NEW).]

[PL 2019, c. 142, §2 (NEW).]

SECTION HISTORY

PL 2017, c. 345, §4 (NEW). PL 2019, c. 142, §§1, 2 (AMD).

SUBCHAPTER 2

RECORDING

§201. Priority of recording

No conveyance of an estate in fee simple, fee tail or for life, or lease for more than 2 years or for an indefinite term is effectual against any person except the grantor, his heirs and devisees, and persons having actual notice thereof unless the deed or lease is acknowledged and recorded in the registry of deeds within the county where the land lies, and if the land is in 2 or more counties then the deed or lease shall be recorded in the registry of deeds of each of such counties, and in counties where there are 2 or more registry districts then the deed or lease shall be recorded in the district legal for such record. Conveyances of the right, title or interest of the grantor, if duly recorded, shall be as effectual against prior unrecorded conveyances, as if they purported to convey an actual title. All recorded deeds, leases or other written instruments regarding real estate take precedence over unrecorded attachments and seizures.

A memorandum of lease of real estate may be recorded, and if so recorded, the lease shall be considered recorded for all purposes. Said memorandum shall be executed and acknowledged by one of the lessors, name all the parties to the lease, contain an intelligible description of the property leased, state the date and the term of the lease, describe any provisions related to renewals or extensions, describe any provisions relating to options to purchase or the transfer of title, but need not describe any provisions relating to rent. The recording of said memorandum shall constitute notice of all terms of the lease including all provisions relating to rental, price, considerations and default, as effectively as

if said lease had been recorded in full. Nothing herein contained shall be deemed to affect the validity of the recording of an abstract, memorandum or statement of lease prior to September 21, 1963, but any such abstract, memorandum or statement of lease recorded prior to September 21, 1963, shall be deemed to meet the requirements of a memorandum of lease made and recorded hereunder if it reasonably describes the parties to the lease and contains a reasonable description of the leased property.

§201-A. Conditions of actual notice

An exception, reservation, or recital in a conveyance, mortgage, devise or other transfer of real property or of any interest therein, shall not constitute actual notice within the meaning of section 201 of any other conveyance, mortgage, devise or other transfer of real property or of any interest therein unless it contains the following: [PL 1977, c. 504 (NEW).]

1. Reference to the volume and page of the registry or probate court record. A reference to the volume and page of the registry or probate court record of the deed or other instrument evidencing such other conveyance, mortgage, devise or other transfer, which record can be found at the time of the recording of the deed or other instrument containing the exception, reservation or recital; or [PL 1977, c. 504 (NEW).]

2. Adequate description. An adequate description by metes and bounds or by reference to the volume and page of the record of a survey plan of the property affected by the exception, reservation or recital, in which case the actual notice shall extend only to the property so described.

Any such exception, reservation or recital lacking such reference or adequate description shall not except, reserve or otherwise affect real property or any interest therein; provided that this section shall not prevent any such exception, reservation or recital from constituting a waiver, limitation or negation of a warranty of title in the document in which the exception, reservation or recital occurs, or from being taken into account in determining the existence of a contractual obligation or condition between the immediate parties to the document in which the exception, reservation or recital occurs.

[PL 1977, c. 504 (NEW).]

SECTION HISTORY

PL 1977, c. 504 (NEW).

§201-B. Notice; construction of provisions

1. Preservation of claims by filing of notice. Section 201-A shall apply to an exception, reservation or recital in a conveyance, mortgage, devise or other transfer of real property or of any interest therein made prior to the effective date of this section as well as to those made thereon or thereafter; provided that, if and to the extent constitutionally necessary to preserve rights, if any, existing at the effective date of section 201-A, that section shall not apply to such an exception, reservation or recital made previous to the effective date of that section, provided that within 2 years of the effective date of this section a person claiming such existing right, if any, shall have recorded in the registry of deeds for the county or district thereof in which the land is located the following:

A. The notice provided in subsection 2, and the deed or other instrument evidencing the previous conveyance, mortgage, devise or other transfer under which he claims, if such deed or instrument was not recorded previous to the effective date of this section; or [PL 1977, c. 504 (NEW).]

B. The notice provided in subsection 2, if such deed or other instrument under which he claims is lost or if such deed or instrument although recorded previous to the effective date of this section was not recorded previous to the deed or other instrument containing such exception, reservation or recital. [PL 1977, c. 504 (NEW).]

[PL 1977, c. 504 (NEW).]

2. Filing of notice; recording fee; indexing. In order for the notice specified in subsection 1 to be effective, it shall contain an adequate description of the property in which the right, title or interest

is claimed; a reference to the deed or other instrument on which the claim is based; the name of the current record owner of the property; a specific reference by date of recording and by volume and page numbers to the recorded deed or other instrument containing the exception, reservation or recital; and shall be duly verified by oath taken by any person authorized to perform notarial acts. The register of deeds for the county or district thereof in which the land is located shall accept all such notices presented that describe property located in such county or district and shall enter and record them in the same manner that deeds and other instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. In indexing such notice, the register of deeds shall enter it in the grantee index of deeds under the name of the claimant appearing in the notice and in the grantor index of deeds under the name of the record owner appearing in the notice. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the previous instruments referred to by volume and page numbers in such notice the volume and page in which the record of such notice may be found. The person filing the notice shall deliver or mail a copy thereof to the current record owner of the property at the last known address of such owner. [PL 1977, c. 504 (NEW).]

3. Persons under disability; 2-year period not suspended. The notice provided in subsection 1 may be filed for record by the claimant or any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on his own behalf, but no disability or lack of knowledge of any kind shall suspend or extend the period provided for such filing. [PL 1977, c. 504 (NEW).]

4. Statutes of limitations not extended. Nothing contained in section 201-A and in this section shall be construed to extend the period limited for the bringing of any action or for the doing of any other required act or to otherwise extend any statute of limitations; nor shall it be construed as legislative recognition of the existence of any claims that it may bar. [PL 1977, c. 504 (NEW).]

5. Liberal construction. Section 201-A and this section shall be liberally construed to effect the legislative purpose of enhancing the marketability of the title to real property by eliminating the possibility of interests under certain unrecorded or late recorded deeds. [PL 1977, c. 504 (NEW).]

SECTION HISTORY

PL 1977, c. 504 (NEW).

§202. Failure to record, effect of

A deed purporting to convey an absolute estate in land cannot be defeated by an instrument intended as a defeasance, as against any other person than the maker, his heirs and devisees, unless such instrument is recorded in the registry where the deed is recorded.

§203. Need for acknowledgment

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

Deeds and all other written instruments before recording in the registries of deeds, except those issued by a court of competent jurisdiction and duly attested by the proper officer thereof, and excepting plans and notices of foreclosure of mortgages and certain financing statements as provided in Title 11, section 9-1501, subsection (1), paragraph (a), and excepting notices of liens for internal revenue taxes and certificates discharging such liens and excepting notices of liens for taxes assessed pursuant to Title 36, Part 1 and Parts 3 to 8 and Title 26, chapter 13, and releases discharging such liens, and excepting notices of liens for taxes assessed pursuant to Title 36, Part 2 when filed by the State Tax Assessor, and releases discharging such liens, must be acknowledged by the grantors, or by the persons executing any such written instruments, or by one of them, or by their attorney executing the same, or by the lessor in a lease or one of the lessors or lessor's attorney executing the same, before a notary public in the State,

or before an attorney-at-law duly admitted and eligible to practice in the courts of the State, if within the State; or before any clerk of a court of record having a seal, notary public or commissioner appointed by the Governor of this State for the purpose, or a commissioner authorized in the state where the acknowledgment is taken, within the United States; or before a minister, vice-consul or consul of the United States or notary public in any foreign country. [PL 2019, c. 607, Pt. A, §3 (AMD).]

Any person who is in the Armed Forces of the United States, and who executes a general or special power of attorney, deed, lease, contract or any instrument that is required to be recorded, may acknowledge the same as that person's true act and deed before any lieutenant or officer of senior grade thereto in the Army, U. S. Marine Corps or Air Force or before any ensign or officer of senior grade thereto in the Navy or Coast Guard and the record of such acknowledgment by said officers must be received and have the same force and effect as acknowledgments under the other provisions of this section, and all such instruments heretofore executed are hereby validated as to acknowledgment and authenticity. Powers of attorney and other instruments requiring seals executed by such members of the armed forces may be accepted for recordation in registries of deeds and other offices of record in cases where no seal is affixed after the name of the person or persons executing the instrument with like force and effect as though seals were affixed thereto. [PL 1999, c. 699, Pt. D, §20 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

Any notary public who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgment of any party to any written instrument executed to or by such corporation, provided such notary public is not a party to such instrument either individually or as a representative of such bank or other corporation. [PL 1987, c. 736, §48 (AMD).]

This section may not be construed as invalidating any instrument duly executed in accordance with the statutes heretofore in effect or made valid by any such statute. All such instruments may be admitted to record which at the time of their execution or subsequent validation could be so recorded. [PL 1999, c. 699, Pt. D, §20 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

(TEXT EFFECTIVE UNTIL 7/01/23) Notwithstanding any of the requirements in this section, an instrument with an acknowledgment conforming to the requirements of the Uniform Recognition of Acknowledgments Act, Title 4, section 1011 et seq., must be accepted for recording purposes. [PL 1999, c. 699, Pt. D, §20 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

(TEXT EFFECTIVE 7/01/23) Notwithstanding any of the requirements in this section, an instrument with an acknowledgment conforming to the requirements of the Revised Uniform Law on Notarial Acts must be accepted for recording purposes. [PL 2021, c. 651, Pt. A, §7 (AMD); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 1969, c. 260 (AMD). PL 1979, c. 20 (AMD). PL 1981, c. 456, §§A114,A115 (AMD). PL 1983, c. 635 (AMD). PL 1987, c. 736, §48 (AMD). PL 1993, c. 395, §1 (AMD). PL 1999, c. 699, §D20 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2019, c. 607, Pt. A, §3 (AMD). PL 2021, c. 651, Pt. A, §7 (AMD). PL 2021, c. 651, Pt. A, §8 (AFF).

§204. Deed lost before recording

If a deed, duly executed and delivered, is lost or destroyed before being recorded, the grantee or person claiming under him may file a copy of it in the registry of deeds in the county where the land lies. It shall have the same effect as a record for 90 days. He may thereupon proceed to have the depositions of the subscribing witnesses and others knowing the facts taken, as depositions are taken in perpetuum; but if any person supposed to have an adverse interest lives out of the State in an unknown place, the Superior Court may order notice of the taking of such depositions by publication as it deems proper. The filing and recording of such depositions and copy within said 90 days shall have the same

effect as if the deed itself had been recorded when said copy was first filed. Certified copies thereof are evidence when the original would be.

§205. Certified copies of deeds recorded in other registries

If a deed conveying lands in more than one county is lost before being recorded in all, or if a deed is recorded in the wrong county or registry district and lost, a certified copy from a registry where it has been recorded may be recorded in another county or registry district with the same effect as a record of the original.

§206. Recording by compulsion

A person having an interest in real estate of which any prior grantee has an unrecorded deed or other evidence of title may give the latter personal notice in writing to have the same recorded. If he neglects to have it so recorded for 30 days, the Superior Court, on complaint, may cause said grantee or his heirs to be brought before it for examination and, unless sufficient cause is shown for such neglect, may order such deed or other evidence of title to be recorded, and the cost paid by the defendant, together with the legal fees of the register for recording such deed or other evidence of title.

§207. Recording master form

An instrument containing a form or forms of covenants, conditions, obligations, powers and other clauses of a mortgage, or deed of trust, may be recorded in the registry of deeds of any county and the recorder of such county, upon the request of any person, on tender of the lawful fees therefor, shall record the same in his registry. Every such instrument shall be entitled on the face thereof as a "Master form recorded by (name of person causing the instrument to be recorded)." Such instrument need not be acknowledged to be entitled to record. [PL 1967, c. 107 (NEW).]

SECTION HISTORY

PL 1967, c. 107 (NEW).

§208. Indexing

When any such instrument is recorded, the recorder shall index such instrument under the name of the person causing it to be recorded in the manner provided for miscellaneous instruments relating to real estate. [PL 1967, c. 107 (NEW).]

SECTION HISTORY

PL 1967, c. 107 (NEW).

§209. Incorporating master form

Thereafter any of the provisions of such master form instrument may be incorporated by reference in any mortgage, or deed of trust, of real estate situated within this State, if such reference in the mortgage, or deed of trust, states that the master form instrument was recorded in the county in which the mortgage, or deed of trust, is offered for record, the date when and the book and page or pages where such master form instrument was recorded, and that a copy of such master form instrument was furnished to the person executing the mortgage, or deed of trust. The recording of any mortgage, or deed of trust, which has so incorporated by reference therein any of the provisions of a master form instrument recorded as provided in this section shall have like effect as if such provisions of the master form so incorporated by reference had been set forth fully in the mortgage, or deed of trust. [PL 1967, c. 107 (NEW).]

SECTION HISTORY

PL 1967, c. 107 (NEW).

§210. Recording instrument incorporating master forms

Whenever a mortgage, or deed of trust, is presented for recording on which is set forth matter purporting to be a copy or reproduction of such master form instrument or of part thereof, identified by its title as provided in section 207 and stating the date when it was recorded and the book and page where it was recorded, preceded by the words "do not record" or "not to be recorded" and plainly separated from the matter to be recorded as a part of the mortgage, or deed of trust, in such manner that it will not appear upon a photographic reproduction of any page containing any part of the mortgage, or deed of trust, such matter shall not be recorded by the recorder to whom the instrument is presented for recording. In such case the recorder shall record only the mortgage, or deed of trust, apart from such matter and shall not be liable for so doing, any other provisions of law to the contrary notwithstanding. [PL 1967, c. 107 (NEW).]

SECTION HISTORY

PL 1967, c. 107 (NEW).

SUBCHAPTER 3

EXECUTION AND ACKNOWLEDGMENT

ARTICLE 1

COMMISSIONER OF DEEDS

§251. Appointment; powers

The Governor may appoint one or more commissioners in any other of the United States and in any foreign country, who shall continue in office during his pleasure; and have authority to take the acknowledgment and proof of the execution of any deed, other conveyance or lease of lands lying in this State; and of any contract, letter of attorney or any other writing, under seal or not, to be used or recorded in this State.

§252. Legal effect of official acts

The acknowledgment or proof, taken according to the laws of this State and certified by any such commissioner under his seal of office, annexed to or indorsed on such instrument, shall have the same force and effect as if done by an officer authorized to perform such acts within this State.

§253. Administration of oaths and depositions

Every commissioner appointed under section 251 may administer any oath lawfully required in this State to any person willing to take it; and take and duly certify all depositions to be used in any of the courts in this State, in conformity to the laws thereof, on interrogatories proposed under commission from a court of this State, by consent of parties or on legal notice given to the opposite party. All such acts shall be as valid as if done and certified according to law by a judicial officer or notary public in this State. [PL 1987, c. 736, §49 (AMD).]

SECTION HISTORY

PL 1987, c. 736, §49 (AMD).

§254. Qualifications and seal

Every commissioner appointed under section 251, before performing any duty or exercising any power by virtue of his appointment, shall take and subscribe an oath or affirmation, before a judge or clerk of one of the superior courts of the state or country in which he resides, well and faithfully to

execute and perform all his official duties under the laws of this State; which oath and a description of his seal of office shall be filed in the office of the Secretary of State.

ARTICLE 2

PROOF OF EXECUTION

§301. Grantor dead or out of State

When a grantor or lessor dies, or departs from the State without acknowledging his deed, its execution may be proved by a subscribing witness before any court of record in the State. No deed without one subscribing witness can, for this purpose, be proved before any court or justice.

§302. Witness dead or absent

When the witnesses are dead or out of the State, the handwriting of the grantor and subscribing witness may be proved by other testimony.

§303. Grantor refusing to acknowledge

When a grantor refuses to acknowledge his deed, the grantee or person claiming under him may leave a true copy of it with the register of deeds, and it shall have the same effect for 40 days as a record of the deed.

§304. Proof before justice of the peace after summons

In such case, a justice of the peace where the grantor resides or where his land lies, upon application of the grantee or person claiming under him, may summon the grantor to appear before him at a time and place named, to hear the testimony of the subscribing witnesses. The date of the deed, the names of the parties and of the subscribing witnesses to it must be stated in the summons, which must be served 7 days before the time for proving the deed. [PL 1987, c. 736, §50 (AMD).]

SECTION HISTORY

PL 1981, c. 456, §A116 (AMD). PL 1987, c. 736, §50 (AMD).

§305. Certification

When the justice of the peace at the hearing is satisfied by the testimony of witnesses that they saw the deed duly executed by the grantor, he shall certify the same thereon, and state in his certificate the presence or absence of the grantor. [PL 1987, c. 736, §51 (AMD).]

SECTION HISTORY

PL 1981, c. 456, §A117 (AMD). PL 1987, c. 736, §51 (AMD).

§306. -- indorsement of certificate of acknowledgment

A certificate of acknowledgment or proof of execution must be indorsed on or annexed to the deed, and then the deed and certificate may be recorded in the registry of deeds. No deed can be recorded without such certificate.

SUBCHAPTER 3-A

VALIDITY OF SIGNATURES

(REPEALED)

§331. Electronic signatures not valid on certain real property documents**(REPEALED)**

SECTION HISTORY

PL 1999, c. 711, §3 (NEW). PL 2001, c. 121, §1 (RP).

SUBCHAPTER 4**VALIDATION OF DEFECTS****§351. Acknowledgments after commission expired**

When a person authorized to take acknowledgments takes and certifies one in good faith after the expiration of his commission, not being aware of it, such acknowledgment is as valid as if done before such expiration.

§352. Defective acknowledgments

A record of a deed or other instrument, including a power of attorney, made for the conveyance of real property, or of any interest in real property, and recorded for at least 2 years in the registry of deeds of the county or district in which the real property is located is valid and enforceable even if: [PL 2017, c. 196, §1 (AMD).]

1. Acknowledgment. The acknowledgment was incomplete or defective in any respect, no acknowledgment appears in the record of the deed, other instrument or power of attorney or no acknowledgment was taken; or

- A. [PL 2017, c. 196, §1 (RP).]
- B. [PL 2017, c. 196, §1 (RP).]
- C. [PL 2017, c. 196, §1 (RP).]
- D. [PL 2017, c. 196, §1 (RP).]
- E. [PL 2017, c. 196, §1 (RP).]
- F. [PL 2017, c. 196, §1 (RP).]
- G. [PL 2017, c. 196, §1 (RP).]
- H. [PL 2017, c. 196, §1 (RP).]
- I. [PL 2017, c. 196, §1 (RP).]
- J. [PL 2017, c. 196, §1 (RP).]
- K. [PL 2017, c. 196, §1 (RP).]
- L. [PL 2017, c. 196, §1 (RP).]
- M. [PL 2017, c. 196, §1 (RP).]
- N. [PL 2017, c. 196, §1 (RP).]
- O. [PL 2017, c. 196, §1 (RP).]

[PL 2017, c. 196, §1 (AMD).]

2. Records relating to title to real property. The records in relating to the title to real property fail to disclose the date when received for record or the records have not been signed by the register of deeds or other duly authorized recording officer for the county or district.

[PL 2017, c. 196, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 469, §1 (AMD). PL 1981, c. 181, §1 (AMD). PL 1995, c. 304, §1 (RPR). PL 2001, c. 275, §B1 (AMD). PL 2015, c. 157, §1 (AMD). PL 2017, c. 196, §1 (AMD).

§353. Miscellaneous defects**(REPEALED)**

SECTION HISTORY

PL 1965, c. 120 (AMD). PL 1967, c. 158 (AMD). PL 1967, c. 544, §83 (AMD). PL 1971, c. 469, §§2-4 (AMD). PL 1973, c. 266 (AMD). PL 1981, c. 181, §2 (RP).

§353-A. Miscellaneous defects

1. Omission of consideration; failure to seal. A deed or other instrument, including a power of attorney, whenever made for the conveyance of real property, or any interest in real property, in this State and otherwise valid, except that the deed or instrument does not state any consideration for the real property or was not sealed by the grantors, is valid.

[PL 2017, c. 196, §2 (AMD).]

2. Discharge or assignment of mortgage. A duly recorded satisfaction piece or instrument made and recorded for at least 2 years in the registry of deeds of the county or district in which the real property is located with the intent to cancel and discharge or assign a mortgage of real estate, fully identifying the mortgage intended to be canceled and discharged or assigned, but not drawn in accordance with statutory requirements is considered valid.

[PL 2017, c. 196, §2 (AMD).]

3. Corporations and other entities organized or attempted to be organized; validation of deeds and other instruments. A corporation or other legal entity organized or attempted to be organized under the laws of this State for more than 20 years and not yet declared to be invalid is for all intents and purposes a lawful corporation or other legal entity as applicable. The deeds or other instruments of the corporation or other legal entity, given in its corporate or other legal entity name, that affect or convey real estate or any interest in real estate and that have been recorded for at least 2 years in the registry of deeds in the county where the real estate is located may not be held invalid by reason of:

A. The lack of authority for or informality in their execution or delivery if executed or delivered in good faith by the acting officers or other authorized officials or members of the corporation or other legal entity as applicable; [PL 2017, c. 196, §2 (AMD).]

B. The failure to disclose the corporation's or other legal entity's authority for the conveyance of real estate; [PL 2017, c. 196, §2 (AMD).]

C. The failure to bear the seal of the corporation or other legal entity; [PL 2017, c. 196, §2 (AMD).]

D. A person executing or acknowledging a deed or instrument in that person's individual capacity; [PL 1995, c. 304, §2 (NEW).]

E. The failure to disclose the official capacity of the person executing the deed or instrument; or [PL 1995, c. 304, §2 (NEW).]

F. The failure of the duly authorized officer to sign the deed or instrument. [PL 2017, c. 196, §2 (AMD).]

[PL 2017, c. 196, §2 (AMD).]

4. Omission of authorization for conveyance of real estate. A deed or other instrument for the conveyance of real property, or any interest in the real property executed by a person or persons

purporting to act as the agent or attorney of the grantors or their spouses, that has been recorded for at least 20 years in the registry of deeds of the county or district in which the real property is located is valid even if no power of attorney authorizing and empowering an agent or attorney to make the conveyance or execute and deliver the deed or instrument appears of record, but the real property has in the meantime been occupied, claimed or treated by the grantees or their heirs, successors or assigns as their own property.

[PL 2017, c. 196, §2 (AMD).]

5. Discharge of mortgage. An instrument that has been recorded or written on the record in the registry of deeds of the county or district in which the real property is located for at least 20 years that is signed or executed by a person or persons purporting to act as the agent or attorney of a mortgagee of real estate and purporting to discharge the mortgage is valid even if no power of attorney authorizing an agent or attorney appears of record.

[PL 2017, c. 196, §2 (AMD).]

6. Failure to secure bond or comply with licensing. In all cases in which an executor, administrator, personal representative, guardian, conservator, trustee, master, receiver or similar officer has been authorized or ordered by a court of probate or other court to distribute, sell or exchange real estate and has distributed, sold or exchanged the real estate, or any interest in the real estate, in accordance with the authority, without first having filed a bond covering the faithful administration and distribution of the estate when a bond was required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing the distribution, sale or exchange and has given a deed to the distributee or purchaser of the real estate or to the person with whom an exchange was authorized or ordered or when the executor, administrator, personal representative, guardian, conservator, trustee, master, receiver or other officer appointed has acted in that capacity under a decree of any court appointing that person to the office, but the decree of appointment erroneously or inadvertently excused the person from giving bond in that capacity when a bond was required by law and was not in fact given, the deeds and acts previously done are valid.

[PL 2017, c. 196, §2 (AMD).]

7. Foreclosure by publication. In all cases of foreclosure of real estate mortgages by publication, a certificate of the publication of foreclosure made by the mortgagee or by an officer, member, partner or other authorized representative of the mortgagee, if the mortgagee is a corporation or other legal entity, or made by an officer or employee of the newspaper that published the notice recorded in the registry of deeds of the county or district in which the real property is located is prima facie evidence of the publication of foreclosure to the same extent as if the certificate had in fact been made by the register of deeds and recorded; certificates made by the mortgagee or by an officer, member, partner or other authorized representative of the mortgagee, if the mortgagee is a corporation or other legal entity, or made by an officer or employee of the newspaper that published the notice recorded in the registry of deeds of the county or district in which the real property is located have the same force and effect as if made by the register of deeds and are valid.

[PL 2017, c. 196, §2 (AMD).]

8. Foreclosure by civil action. All foreclosures commenced on or after October 1, 1975 of real estate mortgages executed on or prior to October 1, 1975 using the method of foreclosure set forth in Title 14, sections 6321 to 6324 for which the period of redemption allowed was not less than one year and that would be valid but for the date of execution of the mortgage are valid and effective according to their terms.

[PL 1995, c. 304, §2 (NEW).]

9. Abstracts of divorce decrees. An abstract of a divorce decree recorded in any registry of deeds on or after August 20, 1955 and otherwise valid that failed to state the residence of any party to the divorce action is valid and has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract.

[PL 2017, c. 196, §2 (AMD).]

SECTION HISTORY

PL 1981, c. 181, §3 (NEW). PL 1981, c. 698, §165 (AMD). PL 1987, c. 15, §2 (AMD). PL 1995, c. 304, §2 (RPR). PL 1997, c. 62, §1 (AMD). PL 2001, c. 275, §B2 (AMD). PL 2015, c. 157, §2 (AMD). PL 2017, c. 196, §2 (AMD).

§353-B. Defects in plats

Any plats of a subdivision approved by the municipal officers of the municipality in which the land is located that have been recorded for at least 2 years in the registry of deeds for the county or district in which the land is located and otherwise valid, except that the same were not approved by a planning board pursuant to the 1944 Revised Statutes, chapter 80, section 85, as amended, the 1954 Revised Statutes, chapter 91, section 94, as amended, the 1954 Revised Statutes, chapter 90-A, section 61, as amended, or the 1964 Revised Statutes, Title 30, section 4956, as amended, or by the municipal reviewing authority pursuant to Title 30-A, section 4403, as amended, are validated. [PL 2017, c. 196, §3 (AMD).]

Any plat or subdivision approved by the planning board of the municipality in which the land is located that has been recorded for at least 2 years in the registry of deeds for the county or district in which the land is located and otherwise valid, except that the same was not approved by the municipal officers pursuant to the 1944 Revised Statutes, chapter 80, section 85, as amended, the 1954 Revised Statutes, chapter 91, section 94, as amended, the 1954 Revised Statutes, chapter 90-A, section 61, as amended, or the 1964 Revised Statutes, Title 30, section 4956, as amended, or by the municipal reviewing authority pursuant to Title 30-A, section 4403, as amended, is validated. [PL 2017, c. 196, §3 (AMD).]

Any plats of a subdivision approved by the planning board or by the municipal officers of the municipality or by both in which the land is located that have been recorded in the registry of deeds for the county or district in which the land is located and otherwise valid, except that the approval is not noted thereon pursuant to the 1944 Revised Statutes, chapter 80, section 85, as amended, the 1954 Revised Statutes, chapter 91, section 94, as amended, the 1954 Revised Statutes, chapter 90-A, section 61, as amended, the 1964 Revised Statutes, Title 30, section 4956, as amended, or Title 30-A, section 4403, as amended, are validated, if the approval by the appropriate board can be substantiated by affidavit recorded in the registry of deeds for the county or district in which the land is located, the recording of the affidavit to be noted on the plat. [PL 2017, c. 196, §3 (AMD).]

Any deed or other instrument for the conveyance of real property or any interest therein in the unorganized or deorganized territory, including plantations, in this State, that was otherwise validly made or placed on record, except that it was made in violation of Title 12, section 687, as enacted by the Public Laws of 1969, chapter 494 and repealed by the Public Laws of 1971, chapter 457, section 7, made in violation of Title 12, section 685-B, subsection 6, as enacted by the Public Laws of 1971, chapter 457, section 5 and amended by the Public Laws of 1971, chapter 544, section 28-G, or made in violation of Title 12, section 685-B, subsection 6-A as enacted by Public Law 1991, chapter 687, section 2 and amended by Public Law 2001, chapter 431, section 4, is validated. All structures on land in the unorganized or deorganized territory, including plantations, that are not otherwise nuisances, may not be deemed to be nuisances merely because they are located upon land conveyed by deed or other instrument that lacked evidence of the approval of the Maine Land Use Regulation Commission or the Maine Land Use Planning Commission, as applicable, thereon. [PL 2017, c. 196, §3 (AMD).]

SECTION HISTORY

PL 1981, c. 181, §4 (NEW). PL 2011, c. 682, §38 (REV). PL 2017, c. 196, §3 (AMD).

SUBCHAPTER 5

TIMBER AND WOODLANDS**§401. Cutting and sale of trees; order of court**

Any person seized of a freehold estate, or of a remainder or reversion in fee simple or fee tail, in a tract of woodland or timberland, on which the trees are of a growth and age fit to be cut, may apply to the Superior Court in any county for leave to cut and dispose of such trees and invest the proceeds for the use of the persons interested therein. The court after due notice to all persons interested and a hearing of the parties, if any appear, may appoint one or more persons to examine the land and report to the court, and the court may thereupon order the whole or a part of such trees to be cut and sold and the proceeds brought into court subject to further orders. The court shall appoint one or more commissioners to superintend the cutting and sale of such trees who shall account for the proceeds to the court and be under bond to the clerk for the faithful performance of their trust.

§402. -- proceeds invested; income appropriated

The court may cause the net proceeds of sale to be invested in other real estate in the State or in public stocks, to the same uses and under the same limitations as the land; the income thereof to be paid to the persons entitled to the income of the land, or apportioned among the persons interested in the estate, according to their interests.

§403. -- appointment of trustees; bond

The court may appoint one or more trustees, removable at its pleasure, to hold said estates or stocks for said uses, who shall give bond with sufficient sureties to the clerk of said court for the faithful discharge of their duty.

SUBCHAPTER 6**MISCELLANEOUS PROVISIONS****§451. Rights of aliens**

An alien may take, hold, convey and devise real estate or any interest therein. All conveyances and devises of such estate or interest already made by or to an alien are valid.

§452. Deeds and contracts by agents

Deeds and contracts executed by an authorized agent of a person or corporation in the name of his principal, or in his own name for his principal, are in law the deeds and contracts of such principal.

§453. Conveyances for use of county

Conveyances, in whatever form, made to the inhabitants of a county, or to its treasurer, or to a person or committee for its benefit, are as effectual as if made in the corporate name of the county.

§454. Church pews

Pews and rights in houses of public worship are real estate. Deeds of them, and levies by execution upon them may be recorded by the clerk of the town where the houses are situated, with the same effect as if recorded in the registry of deeds.

§455. Agreements to treat building as personal property

No agreement, that a building erected with the consent of the landowner by one not the owner of the land upon which it is erected shall be and remain personal property, shall be effectual against any person, except the owner of such land, his heirs, devisees and persons having actual notice thereof, unless such agreement is in writing and signed by such landowner or by someone duly authorized for

that purpose, and acknowledged and recorded as deeds are required to be acknowledged and recorded under this chapter. This section shall not apply to agreements entered into prior to the 28th day of April, 1903, and then outstanding.

§456. Address of buyer

All deeds and other instruments for the conveyance of real property shall contain, in addition to the name of the grantee, his address, including street and number, municipality and state. [PL 1971, c. 57 (NEW).]

SECTION HISTORY

PL 1971, c. 57 (NEW).

§457. Error or omission of mailing address

Any error in or omission of mailing address of grantee or mortgagee in the deed, mortgage or other conveyance, required by any provision of this Title, shall not affect in any way the validity, effectiveness or recordability of such deed, mortgage or other conveyance of real estate. [PL 1971, c. 57 (NEW).]

SECTION HISTORY

PL 1971, c. 57 (NEW).

§458. Easements or rights-of-way; installation of utility services

1. Easements or rights-of-way established on or after January 1, 1990. The owner of an easement or right-of-way does not have the right by implication to install utility services on or under the easement or right-of-way if:

A. The easement or right-of-way is originally established in a written instrument executed on or after January 1, 1990; and [PL 1989, c. 149 (NEW).]

B. The instrument granting or reserving the easement or right-of-way does not expressly include the right to install utility services. [PL 1989, c. 149 (NEW).]

[PL 1989, c. 149 (NEW).]

2. Definitions. As used in this section, the following terms have the following meanings.

A. "Easement or right-of-way" means the right of a person to pass over the land of another person. [PL 1989, c. 149 (NEW).]

B. "Utility services" includes facilities necessary for the transmission of electricity, gas, telephone communications, cable television, sewerage, water or similar services which are currently or may in the future become available. [PL 1989, c. 149 (NEW).]

[PL 1989, c. 149 (NEW).]

SECTION HISTORY

PL 1989, c. 149 (NEW).

§459. Easements and rights-of-way; installation of docks

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dock" means a platform used for access to a water body or to secure, protect and provide access to a boat or ship. The platform may extend from a shore over the water body or may be a floating platform attached to a mooring. [PL 2017, c. 194, §1 (NEW).]

B. "Easement or right-of-way" means the right of a person to pass over the land of another person. [PL 2017, c. 194, §1 (NEW).]

C. "Water body" means all inland and coastal waters, including but not limited to all ponds, great ponds, lakes, rivers, streams and coastal waters. [PL 2017, c. 194, §1 (NEW).]
[PL 2017, c. 194, §1 (NEW).]

2. Easements or rights-of-way established on or after January 1, 2018. The owner of an easement or right-of-way leading to or touching upon a water body does not have the right by implication to construct a dock on the easement or right-of-way or use the easement or right-of-way to facilitate the construction of a dock on the water body if:

A. The easement or right-of-way is originally established in a written instrument executed on or after January 1, 2018; and [PL 2017, c. 194, §1 (NEW).]

B. The instrument granting or reserving the easement or right-of-way does not expressly include the right to construct a dock on the easement or right-of-way or the right to use the easement or right-of-way to facilitate the construction of a dock on the water body. [PL 2017, c. 194, §1 (NEW).]

[PL 2017, c. 194, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 194, §1 (NEW).

SUBCHAPTER 7

TITLE TO ROADS AND WAYS

§460. Conveyance of land abutting a road or way

A conveyance of land which abuts a town or private way, county road, highway or proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds shall be deemed to convey all of the grantor's interest in the portion of the road or way which abuts the land, except: [PL 1987, c. 385, §3 (RPR).]

1. Proposed, unaccepted ways. With respect to a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds, those rights provided to owners of other lots in the subdivision by Title 23, section 3031; and [PL 1987, c. 385, §3 (NEW).]

2. All roads and ways. With respect to a town or private way, county road or highway, an easement of access necessary to provide ingress and egress to property adjoining the town or private way, county road or highway which shall be preserved, unless the grantor expressly reserves his title to the road or way by a specific reference to the road or way contained in the conveyance. [PL 1987, c. 385, §3 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW). PL 1975, c. 416 (AMD). PL 1987, c. 385, §3 (RPR).

§461. Prior conveyances

Any conveyance made prior to October 3, 1973 which conveyed land abutting upon a town or private way, county road or highway shall be deemed to have conveyed all of the grantor's interest in the portion of such road or way, which abutted said land unless the grantor shall have expressly reserved his title to such road or way by a specific reference thereto contained in said conveyance. This section shall not apply to any conveyance of a lot or lots by reference to a recorded plan. [PL 1973, c. 788, §165 (AMD).]

SECTION HISTORY

PL 1973, c. 505 (NEW). PL 1973, c. 788, §165 (AMD).

§462. Preservation of claims by filing of notice within 2 years

Any grantor who, prior to the effective date of this Act, shall have conveyed land abutting a town or private way, county road or highway, with the intent to reserve his title in such road or way, but who shall not have expressly reserved his title thereto by specific reference as required in section 461, or any person who claims title to any road or way, or discontinued portion thereof, by, through or under, or as the heir, successor, executor, administrator or assign of any such grantor, may preserve his title or claim by filing the notice provided in section 463 in the registry of deeds for the county in which the road or way is located, within 2 years after the effective date of this Act. In any action concerning title to a road or way, or discontinued portion thereof, the burden of proof in establishing the grantor's intent to reserve such title shall be on said grantor or those claiming by, through or under him. [PL 1973, c. 505 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW).

§463. Filing of notice; recording fee

In order for the notice specified in section 462 to be effective, it shall contain an accurate description of the road or way, or portion thereof, to which title is being claimed; the name or names of the person or persons on behalf of whom the title is being claimed; and a specific reference by volume and page to the recorded conveyance in which the title to such road or way is alleged to have been reserved by the grantor therein. The register of deeds for the county in which the road or way is located shall accept all such notices presented to him which describe land located in said county and shall enter and record full copies thereof in the same way that deeds and other instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the prior conveyance referred to in said notice the volume and page in which the copy of said notice may be found. [PL 1973, c. 505 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW).

§464. Persons under a disability; 2-year period not suspended

The notice specified in section 463 may be filed for record by the claimant or by any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on his own behalf, but no disability or lack of knowledge of any kind shall suspend or extend the 2-year period provided for such filing. [PL 1973, c. 505 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW).

§465. Abutters own the centerline of road or way

Any person owning land in this State abutting a town or private way, county road or highway, whose predecessors in title have not reserved any title in such road or way as provided in sections 460 and 461, or filed the notice provided in section 462 within the time specified therein, shall be deemed to own to the centerline of such road or way except as provided in sections 466 to 469. [PL 1977, c. 696, §257 (AMD).]

SECTION HISTORY

PL 1973, c. 505 (NEW). PL 1977, c. 696, §257 (AMD).

§466. -- State and municipal owned roads

This subchapter shall not apply to any road or way, title to which is owned by the State or any municipality or other governmental body. [PL 1973, c. 505 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW).

§467. -- public easement acquired over opposite sides of road or way in unequal proportion

Where a town or private way, county road or highway shall be, or shall have been, laid out, widened or altered in such a manner that the public easement is located over land taken from the land on opposite sides of such road or way in unequal proportions, then the persons owning the land abutting the road or way on opposite sides thereof, shall each be deemed to own that portion of such road or way which shall have been acquired from their respective sides of such road or way. If it cannot be determined from which side of the road or way the land was so acquired, the owners of the abutting land on opposite sides of such road or way shall each be deemed to own to the centerline thereof. [PL 1973, c. 505 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW).

§468. Statutes of limitation not extended

Nothing contained in this subchapter shall be construed to extend the period for the bringing of an action or for the doing of any other required act under any statute of limitations. [PL 1973, c. 505 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW).

§469. Liberal construction

This subchapter shall be liberally construed to effect the legislative purpose of clarifying the title to the land underlying roads and ways by eliminating the possibility of ancient claims. [PL 1973, c. 505 (NEW).]

SECTION HISTORY

PL 1973, c. 505 (NEW).

§469-A. Title to proposed, unaccepted ways

1. Reservation of title. Any conveyance made before September 29, 1987 that conveyed land abutting upon a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds is deemed to have conveyed all of the grantor's interest in the portion of the way that abuts the land conveyed, unless the grantor expressly reserved the grantor's title to the way by a specific reference to this reservation in the conveyance of the land. [PL 2011, c. 312, §1 (AMD).]

2. Intent to reserve. Any grantor who, before September 29, 1987, conveyed land abutting a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds with the intent to reserve title to the way, but who did not expressly reserve title to the way as required in subsection 1, or any person who claims title to the way by, through or under the grantor, may preserve the grantor's claim by recording the notice set forth in subsection 3, in the registry of deeds where the pertinent subdivision plan is recorded, within 2 years after September 29, 1987. [PL 2011, c. 312, §1 (AMD).]

3. Notice. The notice required under subsection 2 shall contain:

A. An intelligible description of the way or portion of a way in which title is being claimed; [PL 1987, c. 385, §4 (NEW).]

B. The name and address of the person on whose behalf the title is being claimed; [PL 1987, c. 385, §4 (NEW).]

C. A description, including specific reference, by date of recording and the volume and page numbers, to that conveyance, of the recorded instrument in which the person claims title to the way or portion of the way which was intended to be reserved; and [PL 1987, c. 385, §4 (NEW).]

D. A duly verified oath taken by the person claiming title before a person authorized to administer oaths. [PL 1987, c. 385, §4 (NEW).]

[PL 1987, c. 385, §4 (NEW).]

4. Register's duties. The register of deeds shall enter upon the margin of the recorded conveyance, described in the notice under subsection 3, paragraph C, the volume and page numbers where the notice is recorded.

The register of deeds may charge the same fee for recording the notice that is charged for recording deeds.

[PL 1987, c. 385, §4 (NEW).]

5. Who may present notice for recording. The notice required under subsection 2 may be presented for recording by the person claiming title or a person acting on his behalf. Disability or lack of knowledge by the person claiming title shall not extend the time limitations related to the recording of the notice.

[PL 1987, c. 385, §4 (NEW).]

6. Lack of reservation. Any person owning land in this State abutting a proposed, unaccepted way or portion of a proposed, unaccepted way, whose predecessors in title had not reserved title in the way under subsection 1 or 2, is deemed to own to the center line of the way or portion of the way, except for a proposed, unaccepted way under subsection 6-A.

[PL 2011, c. 312, §2 (AMD).]

6-A. Bounded by other property. A person owning land in a subdivision abutting a proposed, unaccepted way or portion of a proposed, unaccepted way owns the entire width of the portion of the way that abuts the person's land if:

A. The proposed, unaccepted way or portion of the proposed, unaccepted way is part of the subdivision and is laid out on the subdivision plan recorded in the registry of deeds; [PL 2011, c. 312, §3 (NEW).]

B. The person's predecessors in title had not reserved title in the proposed, unaccepted way or portion of the proposed, unaccepted way under subsection 1 or 2; and [PL 2011, c. 312, §3 (NEW).]

C. The proposed, unaccepted way or portion of the proposed, unaccepted way is bounded on the opposite side by land that is not included in the subdivision. [PL 2011, c. 312, §3 (NEW).]

If the land on the opposite side of a proposed, unaccepted way or a portion of a proposed, unaccepted way under this subsection extends beyond the person's land, then the person owns the entire width of that portion of the extension of the proposed, unaccepted way that is not bounded by another owner's land on the person's side of the way.

[PL 2011, c. 312, §3 (NEW).]

7. Action to establish title. In any action concerning title to a proposed, unaccepted way, the burden of proof concerning the grantor's intent to reserve title shall be on the grantor or those claiming title by, through or under the grantor.

[PL 1987, c. 385, §4 (NEW).]

8. Construction of laws. Nothing contained in this section may be construed to extend the period for the bringing of an action or for the doing of any other required act under any statute of limitations.

This section shall be liberally construed to affect the legislative purpose of clarifying the title to land underlying proposed, unaccepted ways by eliminating the possibility of ancient claims.

[PL 1987, c. 385, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 385, §4 (NEW). PL 2011, c. 312, §§1-3 (AMD).

SUBCHAPTER 8

OMITTED MARITAL RELEASE

§470. Failure of spouse to join in release of right and interest by descent

If the spouse of a grantor in a conveyance of land fails to join in the conveyance in release of the spouse's right and interest by descent, such spouse and all persons claiming by, through or under such spouse shall be forever barred from claiming such right and interest by descent by real or mixed action for the recovery of lands, by entry, or otherwise unless such spouse has filed the notice provided in section 472 or has made some other claim of record within the time limited in section 471. [PL 1975, c. 511 (NEW).]

SECTION HISTORY

PL 1975, c. 511 (NEW).

§471. Preservation of claims by filing of notice

The spouse of a grantor who, 20 years or more before October 1, 1975, has conveyed land without the joinder therein of such spouse in release of the spouse's right and interest by descent in the land conveyed, and which spouse intends to claim such right and interest, or any person claiming by, through or under the spouse after such right and interest has become vested in the spouse, may preserve such right and interest, or claim thereto, by filing the notice provided in section 472 in the registry of deeds for the county in which the land is located, within 2 years of October 1, 1975. [PL 1977, c. 564, §126 (AMD).]

The spouse of a grantor who, less than 20 years before or at any time after October 1, 1975, has conveyed land without the joinder therein of such spouse in release of the spouse's right and interest by descent in the land conveyed and which spouse intends to claim such right and interest, or any person claiming by, through or under the spouse after said right and interest has become vested in the spouse, may preserve such right and interest, or claim thereto, by filing the notice provided in section 472 in the registry of deeds for the county in which the land is located, before the recording of the conveyance or within the later of 20 years of the date of recording of the conveyance or 2 years of October 1, 1975. [PL 1977, c. 564, §126 (AMD).]

A spouse may also preserve a claim to right and interest by descent by filing the notice provided in section 472 at any time prior to a conveyance in which the spouse does not intend to join in the release of such right and interest. [PL 1975, c. 511 (NEW).]

In all cases the spouse must bring a claim of record for title or possession within one year of the later of the filing of the notice or the vesting of the right and interest. [PL 1975, c. 511 (NEW).]

SECTION HISTORY

PL 1975, c. 511 (NEW). PL 1977, c. 564, §126 (AMD).

§472. Filing of notice; recording fee; indexing

In order for the notice specified in section 471 to be effective, it shall contain an intelligible description of the land in which the right and interest by descent is claimed; the name of the person on whose behalf such right and interest is claimed; the name of the current record owner of the land; a specific reference by date of recording and by volume and page numbers to the recorded conveyance, if any, that omitted the release of such right and interest; and shall be duly verified by oath taken by any person authorized to perform notarial acts. The register of deeds for the county in which the land is located shall accept all such notices presented that describe land located in said county and shall enter and record them in the same manner that deeds and other instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. In indexing such notice, the register of deeds shall enter it in the grantee index of deeds under the name of the claimant appearing in the notice, and in the grantor index of deeds under the name of the record owner appearing in the notice. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the prior conveyance, if any, referred to in said notice the volume and page in which the record of said notice may be found. The person filing the notice shall deliver or mail a copy thereof to the current record owner of the land at the last known address of such owner. [PL 1975, c. 511 (NEW).]

SECTION HISTORY

PL 1975, c. 511 (NEW).

§473. Persons under disability; 2-year period not suspended

The notice provided in section 472 may be filed for record by the claimant or any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on his own behalf, but no disability or lack of knowledge of any kind shall suspend or extend the periods provided for such filing. [PL 1975, c. 511 (NEW).]

SECTION HISTORY

PL 1975, c. 511 (NEW).

§474. Statutes of limitations not extended; bar or release not affected

Nothing contained in this subchapter shall be construed to extend the period limited for the bringing of an action or for the doing of any other required act or to otherwise extend any statute of limitations; nor shall it be construed to affect the nature of the right and interest by descent, the time at which it becomes vested or any provision of law regarding its bar, release or other disposition. [PL 1975, c. 511 (NEW).]

SECTION HISTORY

PL 1975, c. 511 (NEW).

§475. Liberal construction

This subchapter shall be liberally construed to affect the legislative purpose of enhancing the marketability of the title to land by eliminating the possibility of ancient marital interests that are outstanding on the record but are unclaimed. [PL 1975, c. 511 (NEW).]

SECTION HISTORY

PL 1975, c. 511 (NEW).

SUBCHAPTER 8-A

CONSERVATION EASEMENTS

§476. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 395, §3 (NEW).]

1. Conservation easement. "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.
[PL 1985, c. 395, §3 (NEW).]

2. Holder. "Holder" means:

A. A governmental body empowered to hold an interest in real property under the laws of this State or the United States; or [PL 1985, c. 395, §3 (NEW).]

B. A nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality or preserving the historical, architectural, archaeological or cultural aspects of real property. [PL 1985, c. 395, §3 (NEW).]
[PL 1985, c. 395, §3 (NEW).]

3. Real property. "Real property" includes without limitation surface waters.
[PL 2007, c. 412, §1 (AMD).]

4. Third-party right of enforcement. "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, nonprofit corporation or charitable trust, which, although eligible to be a holder, is not a holder.
[PL 1985, c. 395, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 395, §3 (NEW). PL 2007, c. 412, §1 (AMD).

§477. Creation, conveyance, acceptance and duration

1. Conservation easement. Except as otherwise provided in this subchapter, a conservation easement may be created, conveyed, recorded, assigned or partially released in the same manner as other easements created by written instrument. A conservation easement may be terminated or amended by the parties only as provided in section 477-A, subsection 2.
[PL 2007, c. 412, §2 (AMD).]

2. Right or duty. No right or duty in favor of or against a holder arises under a conservation easement unless it is accepted by the holder and no right in favor of a person having a 3rd-party right of enforcement arises under a conservation easement unless it is accepted by any person having a 3rd-party right of enforcement.
[PL 1985, c. 395, §3 (NEW).]

3. Limitation. Except as provided in this subchapter, a conservation easement is unlimited in duration unless:

A. The instrument creating it otherwise provides; or [PL 1985, c. 395, §3 (NEW).]

B. Change of circumstances renders the easement no longer in the public interest as determined by the court as provided in section 477-A, subsection 2, paragraph B in an action under section 478.
[PL 2007, c. 412, §3 (AMD).]
[PL 2007, c. 412, §3 (AMD).]

4. Interest. An interest in real property in existence at the time a conservation easement is created shall not be impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

[PL 1985, c. 395, §3 (NEW).]

5. Entitled to enter land. The instrument creating a conservation easement must provide in what manner and at what times representatives of the holder of a conservation easement or of any person having a 3rd-party right of enforcement shall be entitled to enter the land to assure compliance.

[PL 1985, c. 395, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 395, §3 (NEW). PL 2007, c. 412, §§2, 3 (AMD).

§477-A. Conservation easement standards

1. Conservation values. A conservation easement executed on or after the effective date of this section must include a statement of the conservation purposes of the easement, the conservation attributes associated with the real property and the benefit to the general public intended to be served by the restriction on uses of the real property subject to the conservation easement.

[PL 2007, c. 412, §4 (NEW).]

2. Amendment and termination. Amendments and termination of a conservation easement may occur only pursuant to this subsection.

A. A conservation easement executed on or after the effective date of this section must include a statement of the holder's power to agree to amendments to the terms of the conservation easement in a manner consistent with the limitations of paragraph B. [PL 2007, c. 412, §4 (NEW).]

B. A conservation easement may not be terminated or amended in such a manner as to materially detract from the conservation values intended for protection without the prior approval of the court in an action in which the Attorney General is made a party. In making this determination, the court shall consider, among other relevant factors, the purposes expressed by the parties in the easement and the public interest. If the value of the landowner's estate is increased by reason of the amendment or termination of a conservation easement, that increase must be paid over to the holder or to such nonprofit or governmental entity as the court may designate, to be used for the protection of conservation lands consistent, as nearly as possible, with the stated publicly beneficial conservation purposes of the easement. [PL 2007, c. 412, §4 (NEW).]

[PL 2007, c. 412, §4 (NEW).]

3. Monitoring. The holder of a conservation easement shall monitor the condition of the real property subject to the conservation easement at least every 3 years and shall prepare and retain a written monitoring report in its permanent records. The holder shall make available to the landowner, upon request, a copy of the monitoring report.

[PL 2007, c. 412, §4 (NEW).]

4. Failure to comply. Failure to comply with the requirements of subsection 1, subsection 2, paragraph A or subsection 3 does not invalidate a conservation easement otherwise entitled to the protections of this subchapter.

[PL 2007, c. 412, §4 (NEW).]

SECTION HISTORY

PL 2007, c. 412, §4 (NEW).

§478. Judicial actions

1. Action or intervention. An action affecting a conservation easement may be brought or intervened in by:

A. An owner of an interest in the real property burdened by the easement; [PL 1985, c. 395, §3 (NEW).]

B. A holder of the easement; [PL 2007, c. 412, §5 (AMD).]

C. A person having a 3rd-party right of enforcement; or [PL 2007, c. 412, §5 (AMD).]

D. The Attorney General; except that the Attorney General may initiate action seeking enforcement of a conservation easement only when the parties designated as having the right to do so under the terms of the conservation easement:

(1) Are no longer in legal existence;

(2) Are bankrupt or insolvent;

(3) Cannot be contacted after reasonable diligence to do so; or

(4) After 90 days' prior written notice by the Attorney General of the nature of the asserted failure, have failed to take reasonable actions to bring about compliance with the conservation easement. [PL 2007, c. 412, §5 (NEW).]

[PL 2007, c. 412, §5 (AMD).]

2. Intervention only. An action affecting a conservation easement may be intervened in by a political subdivision of the State in which the real property burdened by the easement is located, in accordance with court rules for permissive intervention.

[PL 2007, c. 412, §5 (AMD).]

3. Power of court. The court may permit termination of a conservation easement or approve amendment to a conservation easement that materially detracts from the conservation values it serves, as provided in section 477-A, subsection 2, paragraph B, and may enforce a conservation easement by injunction or proceeding at law and in equity. A court may deny equitable enforcement of a conservation easement only when it finds that change of circumstances has rendered that easement no longer in the public interest or no longer serving the publicly beneficial conservation purposes identified in the conservation easement. If the court so finds, the court may allow damages as the only remedy in an action to enforce the easement.

[PL 2007, c. 412, §5 (AMD).]

4. Confidentiality of records. Documents and records obtained by the Attorney General, which would otherwise not legally be subject to public disclosure, may be shared with other public agencies but must be held as legally confidential under Title 1, section 402, unless disclosed in the course of a public proceeding in court.

[PL 2007, c. 412, §5 (NEW).]

No comparative economic test may be used to determine under this subchapter if a conservation easement is in the public interest or serves a publicly beneficial conservation purpose. [PL 2007, c. 412, §5 (NEW).]

SECTION HISTORY

PL 1985, c. 395, §3 (NEW). PL 2007, c. 412, §5 (AMD).

§479. Validity

A conservation easement is valid even though: [PL 1985, c. 395, §3 (NEW).]

1. Not appurtenant to interest in real property. It is not appurtenant to or does not run with an interest in real property;

[PL 1985, c. 395, §3 (NEW).]

2. Assigned to another holder. It can be or has been assigned to another holder;

[PL 1985, c. 395, §3 (NEW).]

3. Not recognized at common law. It is not of a character that has been recognized traditionally at common law;
[PL 1985, c. 395, §3 (NEW).]

4. Negative burden. It imposes a negative burden;
[PL 1985, c. 395, §3 (NEW).]

5. Affirmative obligations. It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
[PL 1985, c. 395, §3 (NEW).]

6. Benefit does not touch or concern real property. The benefit does not touch or concern real property;
[PL 1985, c. 395, §3 (NEW).]

7. No privity of estate or of contract. There is no privity of estate or of contract;
[PL 2007, c. 412, §6 (AMD).]

8. Does not run to successors or assigns. It does not run to the successor and assigns of the holder;
[PL 2007, c. 412, §7 (AMD).]

9. Acquired for tax delinquency. A lien has been established for property tax delinquency under Title 36, section 552, or title to the real property subject to the conservation easement has been acquired by procedures for enforcement and foreclosure of delinquent taxes under Title 36, chapter 105, subchapter 9; or
[PL 2007, c. 412, §8 (NEW).]

10. Merger. The title to the real property subject to the conservation easement has been acquired by the holder, unless the holder, with the consent of any 3rd party with rights of enforcement, replaces the conservation easement with legally binding restrictions under a conservation easement or declaration of trust at least as protective of the conservation values of the protected property as provided by the replaced easement.
[PL 2007, c. 412, §9 (NEW).]

SECTION HISTORY

PL 1985, c. 395, §3 (NEW). PL 2007, c. 412, §§6-9 (AMD).

§479-A. Applicability

1. Interest created after effective date. This subchapter applies to any interest created after its effective date which complies with this subchapter, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement or otherwise.
[PL 1985, c. 395, §3 (NEW).]

2. Conservation easement created before effective date. This subchapter applies to any conservation easement created before the effective date of this subchapter if the conservation easement would have been enforceable had it been created after the effective date of this subchapter, unless retroactive application contravenes the Constitution of Maine or the United States Constitution.
[PL 1985, c. 395, §3 (NEW).]

3. Subchapter does not invalidate interest. This subchapter does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement or otherwise, that is enforceable under other laws of this State.
[PL 1985, c. 395, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 395, §3 (NEW).

§479-B. Uniformity of application and construction

This subchapter shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of the subchapter among states enacting it. [PL 1985, c. 395, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 395, §3 (NEW).

§479-C. Conservation lands registry

A holder of a conservation easement or a fee owner of land for conservation purposes that is organized or doing business in the State shall annually report to the Department of Agriculture, Conservation and Forestry the book and page number at the registry of deeds for each conservation easement that it holds or each parcel owned in fee for conservation purposes, the municipality, the approximate number of acres protected under each easement or parcel owned, the approximate number of acres that are exempt from taxation pursuant to Title 36, section 652 for which the municipality or county does not receive payments in lieu of taxes and such other information as the Department of Agriculture, Conservation and Forestry determines necessary to fulfill the purposes of this subchapter. The filing must be made by a date and on forms established by the Department of Agriculture, Conservation and Forestry to avoid duplicative filings when possible and otherwise reduce administrative burdens. The annual filing must be accompanied by an \$80 fee. The Department of Agriculture, Conservation and Forestry shall maintain a permanent record of the registration and report to the Attorney General any failure of a holder of a conservation easement disclosed by the filing or otherwise known to the Department of Agriculture, Conservation and Forestry. The fees established under this section must be held by the Department of Agriculture, Conservation and Forestry in a nonlapsing, special account to defray the costs of maintaining the registry and carrying out its duties under this section. [PL 2017, c. 475, Pt. A, §56 (AMD).]

SECTION HISTORY

PL 2007, c. 412, §10 (NEW). PL 2011, c. 655, Pt. II, §7 (AMD). PL 2011, c. 655, Pt. II, §11 (AFF). PL 2011, c. 657, Pt. W, §5 (REV). PL 2017, c. 284, Pt. TT, §1 (AMD). PL 2017, c. 475, Pt. A, §56 (AMD).

SUBCHAPTER 9**SIGNATURE OF A NONOWNER SPOUSE****§480. Signature of nonowner**

An owner of real estate may convey that real estate, or any interest in it free from any claim to the real estate by his nonowner spouse, by deed, mortgage or any other instrument, without signature of his nonowner spouse, unless: [PL 1983, c. 748, §2 (NEW).]

1. Non-bona fide purchaser. The transfer requires signature pursuant to Title 18-C, section 2-208, subsection 1; or
[PL 2017, c. 402, Pt. C, §89 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Divorce action. The nonowner spouse has filed a claim in the registry of deeds pursuant to Title 19-A, section 953, and either the divorce action is still pending or the nonowner spouse has been granted an interest in the real estate by the court.
[PL 1995, c. 694, Pt. D, §60 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

After that conveyance, any claim of the nonowner spouse under probate, divorce or any other laws, shall be against the proceeds of that conveyance and not against the real estate. Notwithstanding any

provision of the Maine Probate Code, a mortgage deed does not need to be signed by a nonowner spouse, provided that the mortgage deed secures actual consideration in money or money's worth given in good faith by the mortgagee to the owner. Notwithstanding any provision of the Maine Probate Code or divorce laws, a correcting deed does not need to be signed by a nonowner spouse. [PL 1983, c. 748, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 748, §2 (NEW). PL 1995, c. 694, §D60 (AMD). PL 1995, c. 694, §E2 (AFF). PL 2017, c. 402, Pt. C, §89 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

CHAPTER 8

LAND INSTALLMENT CONTRACTS

§481. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 368 (NEW).]

1. Down payment. "Down payment" means the payment made by the purchaser to the vendor on account of the purchase price at or before the time of the execution of a land installment contract. [PL 1983, c. 368 (NEW).]

2. Land installment contract. "Land installment contract" means an agreement under which the vendor agrees to sell an interest in property to the purchaser and the purchaser agrees to pay the purchase price in 5 or more subsequent payments exclusive of the down payment, if any, and the vendor retains title to the property as security for the purchaser's obligation under the agreement. Land installment contracts do not include option contracts for the purchase of real property or purchase and sale agreements entered into with the good faith expectation of a separate transaction in which a 3rd party or the seller agrees to finance the purchase price in a single installment. [PL 1983, c. 368 (NEW).]

3. Property. "Property" means improved real property located in this State, sold to be occupied as a dwelling. [PL 1983, c. 368 (NEW).]

4. Purchaser. "Purchaser" means an individual who purchases property subject to a land installment contract, or any legal successor in interest to him, regardless of whether the individual has entered into an agreement as to extension, default or refund. [PL 1983, c. 368 (NEW).]

5. Vendor. "Vendor" means a person who makes a sale of property by means of a land installment contract or his successor in interest. [PL 1983, c. 368 (NEW).]

SECTION HISTORY

PL 1983, c. 368 (NEW).

§482. Minimum contents of land installment contracts; recordation

1. Contents. A land installment contract shall be executed in duplicate and a copy of the contract shall be provided to the vendor and the purchaser. The contract shall contain at least the following provisions:

- A. The full names and post-office addresses of all the parties to the contract; [PL 1983, c. 368 (NEW).]
- B. The date the contract is signed by each party; [PL 1983, c. 368 (NEW).]
- C. A legal description of the property conveyed; [PL 1983, c. 368 (NEW).]
- D. The sales price of the property conveyed; [PL 1983, c. 368 (NEW).]
- E. Any charges or fees for services included in the contract separate from the sales price; [PL 1983, c. 368 (NEW).]
- F. The amount of the purchaser's down payment; [PL 1983, c. 368 (NEW).]
- G. The principal balance owed by the purchaser, which is the sum of the amounts described in paragraphs D and E, less the amount described in paragraph F; [PL 1983, c. 368 (NEW).]
- H. The amount and due date of each installment payment and the total number of installment payments; [PL 1983, c. 368 (NEW).]
- I. The interest rate on the unpaid balance and the method of determining the interest rate; [PL 1983, c. 368 (NEW).]
- J. A conspicuous statement of any encumbrances against the property, including a statement of any pending order of any public agency or other matters of public record affecting the property; [PL 1983, c. 368 (NEW).]
- K. A statement which explains that the contract is not a mortgage and that the purchaser does not obtain title to the property until the purchase price is paid in full; [PL 1983, c. 368 (NEW).]
- L. A statement of the rights of the buyer established by Title 14, section 6111 to cure a default by the buyer; [PL 1993, c. 373, §3 (AMD).]
- M. A provision that the vendor provide evidence of title by copy of deed, or otherwise, at the time of the execution of the agreement and, if the vendor is not prepared to deliver a full warranty deed on completion of the contract, a description of the deed which the vendor will deliver on completion; [PL 1983, c. 368 (NEW).]
- N. A provision that, if the vendor defaults on any mortgage on the property, the purchaser may pay on the mortgage and receive credit on the land installment contract; [PL 1983, c. 368 (NEW).]
- O. A requirement that the purchaser shall be responsible for the payment of taxes, assessments and other charges against the property from the date of the contract, unless agreed to the contrary; [PL 1983, c. 368 (NEW).]
- P. A provision that the purchaser has the right to accelerate or prepay any installment payments without penalty, unless agreed to the contrary; and [PL 1983, c. 368 (NEW).]
- Q. A clear and conspicuous provision above the place for the signature of the purchaser which acknowledges receipt by the purchaser of a copy of the land installment contract signed by the vendor. [PL 1983, c. 368 (NEW).]
[PL 1993, c. 373, §3 (AMD).]

2. Recordation. Within 20 days after the contract has been signed by both the vendor and the purchaser, the vendor shall cause a copy of the contract or a memorandum of the contract to be recorded at the purchaser's expense in the registry of deeds in the county where the property sold under the contract is located. If a memorandum of the contract is recorded, it shall be entitled "Memorandum of a Land Installment Contract" and shall contain, as a minimum, the names of the parties, the signatures of the parties, a description of the property and applicable time periods. A person other than a vendor and purchaser may rely on the recorded materials in determining whether the requirements of this subsection have been met.

[PL 1983, c. 368 (NEW).]

3. Other disclosures. Disclosures made by the vendor pursuant to Title 9-A, Article 8-A, Truth-in-Lending, are deemed to comply with subsection 1, paragraphs D to I.

[PL 2011, c. 427, Pt. D, §22 (AMD).]

SECTION HISTORY

PL 1983, c. 368 (NEW). PL 1993, c. 373, §3 (AMD). PL 2011, c. 427, Pt. D, §22 (AMD).

§483. Prohibited acts

1. Bad faith avoidance. A person may not in bad faith attempt to avoid the application of this chapter including engaging in subterfuge or designing or structuring a transaction with the purpose of evading the provisions of this chapter.

[PL 2021, c. 350, §3 (NEW).]

2. Survival of foreclosure. A land installment contract may not require a purchaser to enter into a promissory note or any other financial instrument or obligation that survives the foreclosure of the purchaser's interest in the real estate, or enforce any such obligation, unless:

A. The term of the promissory note does not exceed the term of the land installment contract; [PL 2021, c. 350, §3 (NEW).]

B. Payments of principal made during the term of the promissory note are credited to reduce the principal due on the note; and [PL 2021, c. 350, §3 (NEW).]

C. After obtaining a judgment for foreclosure and the expiration of the period of redemption set forth in Title 14, section 6203-F, the vendor conducts a sale in the same manner as required for a mortgagee in Title 14, section 6323 and complies with the provisions of Title 14, section 6324 except with the equity of redemption being 60 days. [PL 2021, c. 350, §3 (NEW).]

[PL 2021, c. 350, §3 (NEW).]

SECTION HISTORY

PL 2021, c. 350, §3 (NEW).

CHAPTER 9

MORTGAGES OF REAL PROPERTY

SUBCHAPTER 1

GENERAL PROVISIONS

§501. Forms

Mortgages of real estate include those made in the usual form, in which the condition is set forth in the deed, and those made by a conveyance appearing on its face to be absolute, with a separate instrument of defeasance executed at the same time or as part of the same transaction.

§501-A. "Power of sale"

The following "power" is known as "The Statutory Power of Sale" and may be included in any mortgage or incorporated by reference in any mortgage granted by a corporation, partnership, including a limited partnership or a limited liability partnership, limited liability company or trustee of a trust and, if included in the mortgage, the mortgage may be foreclosed pursuant to Title 14, chapter 713, subchapter 3. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of

a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate encumbered by the mortgage deed is not used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale. [PL 2015, c. 147, §7 (AMD).]

POWER

Upon any default in the performance or the observance of the foregoing or other condition, the mortgagee or the mortgagee's executors, administrators, successors or assigns, or the agent or attorney of the mortgagee or the mortgagee's executors, administrators, successors or assigns, may sell the mortgaged premises or such portion thereof as may remain subject to the mortgage in case of any partial release thereof, either as a whole or in parcels, together with all improvements that may be thereon, by a public sale in the county where the real estate then subject to the mortgage is situated, or, if more than one parcel is then subject thereto, then in the county where one of said parcels is situated, or at such place as may be designated for the purpose in the mortgage, first complying with the terms of the mortgage and the statutes relating to the foreclosure of mortgage by the exercise of a power of sale, and the mortgagee or the mortgagee's executors, administrators, successors or assigns or the agent or attorney of the mortgagee or the mortgagee's executors, administrators, successors or assigns may convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple; and such sale forever bars the mortgagor and all persons claiming under it from all right and interest in the mortgaged premises, whether at law or in equity. [PL 2015, c. 147, §7 (AMD).]

SECTION HISTORY

PL 1967, c. 424, §4 (NEW). PL 1991, c. 134, §3 (AMD). PL 1991, c. 768, §§3,4 (AMD). PL 1993, c. 277, §§3,4 (AMD). PL 1993, c. 277, §5 (AFF). PL 1995, c. 106, §2 (AMD). PL 2015, c. 147, §7 (AMD).

§502. Entry by mortgagee

A mortgagee, or person claiming under him, may enter on the premises or recover possession thereof, before or after breach of condition, when there is no agreement to the contrary. In such case, if the mortgage is afterwards redeemed, the amount of the clear rents and profits from the time of taking possession shall be accounted for and deducted from the sum due on the mortgage.

§503. Property insurance

No person or financial institution making a residential mortgage loan for one to 4 residential units may, as a condition of the mortgage or as a term of the mortgage deed, require that the mortgagor carry property insurance on the property which is the subject of the mortgage in excess of the replacement cost of any buildings or appurtenances subject to the mortgage. [PL 1985, c. 182 (NEW).]

SECTION HISTORY

PL 1985, c. 182 (NEW).

§504. Interest on residential mortgage escrow accounts

1. Loan provisions required. A mortgage deed resulting from a mortgage loan must contain provisions for payment of interest on the escrow balance in accordance with Title 9-B, section 429 if:

A. The mortgage is on owner-occupied residential property of not more than 4 units; and [PL 1991, c. 118, §1 (NEW).]

B. The loan or note requires payments into a mandatory escrow account. [PL 1991, c. 118, §1 (NEW).]

[PL 1991, c. 118, §1 (NEW).]

2. Applicability. The requirements of this section apply to any residential mortgage deed dated on or after January 1, 1992.

[PL 1991, c. 118, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 118, §1 (NEW).

§505. Open-end mortgages

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Contingent obligations" means obligations that become fixed or certain at some time after the recording of a mortgage securing those obligations, such as obligations under a guarantee. Contingent obligations have priority from the date of recording of the mortgage, in the full amount of the contingent obligation identified in the mortgage, if the maximum amount of the contingent obligation secured by the mortgage is stated in the mortgage. [PL 1993, c. 229, §3 (NEW).]

B. "Future advances" means debts or obligations secured by a mortgage that arise subsequent to the execution and recording of the mortgage; except that the term does not include protective advances or contingent obligations. The term "future advances" includes only those advances made to or for the account of debtors designated in the mortgage. Future advances have priority as provided in this section. [PL 1993, c. 229, §3 (NEW).]

C. "Protective advances" means advances made by a mortgagee that are necessary to protect the mortgagee's security interest, to collect amounts due to the mortgagee or represent interest earned on an obligation secured by the mortgage. Protective advances have priority from the date of recording of a mortgage. [PL 1993, c. 229, §3 (NEW).]

[PL 1993, c. 229, §3 (NEW).]

2. Authorization. An interest in real property that may be conveyed as security for a debt or other obligation may be mortgaged to secure future advances up to a total amount outstanding from time to time as stated in the mortgage instrument. Future advances secured by such a mortgage instrument have priority over persons who, subsequent to the recording of the mortgage, acquire any rights in or liens upon the mortgaged real estate, in accordance with subsection 5, only if the mortgage instrument states that it secures future advances and specifies the total amount of debts or obligations, including future advances, that it may secure from time to time.

[PL 1993, c. 229, §3 (NEW).]

3. Applicability limited. This section may not be construed to affect or otherwise change existing law that allows mortgages to secure existing debts or obligations, debts or obligations created simultaneously with the execution of the mortgage, contingent obligations, protective advances, accrued interest and other debts or obligations that may be secured by a mortgage under existing law, but if such a mortgage states no or nominal consideration and does not expressly provide for future advances, the mortgage does not afford security for any advances made subsequent to the execution of the mortgage, other than protective advances.

[PL 1993, c. 229, §3 (NEW).]

4. Validity; requirements. A mortgage securing future advances remains valid and retains its priority even if no funds have been advanced or all future advances have been repaid as long as an agreement regarding future advances remains in effect. Upon termination of the agreement regarding

future advances and repayment of all amounts secured by the mortgage, the mortgage must be discharged.

[PL 1993, c. 229, §3 (NEW).]

5. Priority. Future advances secured by a mortgage have priority over the rights of all persons who, subsequent to the recording of such a mortgage, acquire any rights in or liens upon the mortgaged real estate to the extent that the aggregate amount of all debts or obligations secured at any one time, including future advances but excluding protective advances, does not exceed the total amount stated in the mortgage, subject to the following.

A. The mortgagor or a successor in interest may file in the same recording office in which the original mortgage is filed and send to the mortgagee by registered mail, return receipt requested, a written notice limiting the amount of future advances, other than advances made pursuant to a commitment as defined in Title 11, section 9-1102, subsection (68), secured by that mortgage to not less than the amount actually advanced as of the end of the 3rd business day following the delivery of the notice. [PL 1999, c. 699, Pt. D, §21 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

B. A person who, subsequent to the recording of such a mortgage, acquires any rights in or liens upon the mortgaged real estate and has perfected those rights by all required filings or recordings may send to the mortgagee by registered mail, return receipt requested, a written notice stating that future advances made by the mortgagee after the end of the 3rd business day following receipt of the notice are junior to that person's rights in or liens upon the mortgaged real estate, except that the written notice does not affect the priority of advances made pursuant to a real property construction or improvement financing agreement as defined in the United States Internal Revenue Code of 1986, Section 6323(c) and any amendments as of December 31, 1991. [PL 1993, c. 229, §3 (NEW).]

For purposes of this subsection, an advance made pursuant to a credit card or a negotiable instrument drawn against a credit account secured by a mortgage is deemed to have been made on the earlier of the date on the negotiable instrument or credit card voucher and the date the debtor received value in exchange for the negotiable instrument or credit card voucher.

[PL 1999, c. 699, Pt. D, §21 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

6. Amount of future advances in excess of mortgage amount. Until repaid, the amount by which a future advance causes the aggregate amount of all debts or obligations secured at any one time, exclusive of protective advances, to exceed the total amount stated in the mortgage does not have priority over persons who, subsequent to the recording of the mortgage, acquire any rights in or liens upon the mortgaged real estate. The mortgagee may credit repayments first to amounts exceeding the total amount of secured debts or obligations stated in the mortgage.

[PL 1993, c. 229, §3 (NEW).]

7. Application. This section applies to mortgages that are recorded on or after January 1, 1994. [PL 1993, c. 229, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 229, §3 (NEW). PL 1999, c. 699, §D21 (AMD). PL 1999, c. 699, §D30 (AFF).

§506. Undocumented mortgage agreements

In a residential mortgage loan closing, a buyer, seller or settlement agent may not knowingly be a party to a financial or other arrangement not reflected in the loan settlement statement if the effect of that arrangement is to substantially overstate the contract sales price. Any violation of this section constitutes a violation of the Maine Unfair Trade Practices Act. [PL 2005, c. 161, §1 (NEW).]

REVISOR'S NOTE: §506. Disclosure regarding private mortgage insurance (As enacted by PL 2005, c. 211, §1 is REALLOCATED TO TITLE 33, SECTION 507)

SECTION HISTORY

RR 2005, c. 1, §16 (RAL). PL 2005, c. 161, §1 (NEW). PL 2005, c. 211, §1 (NEW).

§507. Disclosure regarding private mortgage insurance (REALLOCATED FROM TITLE 33, SECTION 506)

With respect to a mortgage loan on residential real property for which the processor or underwriter of that loan also engages in the business of private mortgage insurance, a supervised lender, as defined in Title 9-A, section 1-301, subsection 39, or a loan broker, as defined in Title 9-A, section 10-102, shall disclose to the loan applicant at the time of application the fact that the processor or underwriter is also in the business of private mortgage insurance. Failure to provide the disclosure required by this section does not annul, alter or affect the validity or enforceability of the mortgage loan. [PL 2011, c. 691, Pt. A, §38 (AMD).]

SECTION HISTORY

RR 2005, c. 1, §16 (RAL). PL 2011, c. 691, Pt. A, §38 (AMD).

§508. Nominee mortgagees

1. Authority presumed. A person or entity that is named as nominee to hold a mortgage for another person or entity, in an instrument creating or assigning the mortgage, is presumed to have the authority to execute an assignment, partial release, discharge or other instrument that affects the title to the mortgaged property unless the person or entity on whose behalf the nominee is named:

A. Explicitly negates such authority within the instrument in which the nominee is named; or [PL 2015, c. 289, §1 (NEW).]

B. Executes a separate instrument that explicitly negates such authority and that is recorded in the registry of deeds within the county or district in which the mortgaged property is located. [PL 2015, c. 289, §1 (NEW).]

[PL 2015, c. 289, §1 (NEW).]

2. Instrument valid. An assignment, partial release, discharge or other instrument affecting the title to mortgaged property or any interest in the property that is otherwise valid and that is executed by a nominee mortgagee with authority as provided in subsection 1 is valid even if the assignment, partial release, discharge or other instrument does not state the authority of the nominee mortgagee to take the action.

[PL 2015, c. 289, §1 (NEW).]

3. Statement not a limitation of authority. A statement in an instrument described in this section to the effect that, for purposes of recording, the nominee mortgagee is the mortgagee of record, or any statement of similar meaning, may not be considered to be a limitation upon the authority of the nominee mortgagee.

[PL 2015, c. 289, §1 (NEW).]

4. Application. This section applies exclusively to any discharge or partial release issued prior to the effective date of this section, whether made by a nominee mortgagee or by a subsequent assignee; to discharges or partial releases issued on or subsequent to the effective date of this section, whether made by a nominee mortgagee or by a subsequent assignee; and to any assignment or other instrument affecting title to a mortgaged property that is the subject of a foreclosure judgment or other legal judgment affecting title to a mortgaged property for which, as of the effective date of this section, either the period for appeal has run with no appeal having been filed or all rights of appeal have been exhausted.

[PL 2015, c. 289, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 289, §1 (NEW).

SUBCHAPTER 1-A

FUNDED SETTLEMENT ACT

§521. Short title

This subchapter may be known and cited as the "Funded Settlement Act". [PL 1999, c. 145, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 145, §1 (NEW).

§522. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 145, §1 (NEW).]

1. Disbursement of loan funds. "Disbursement of loan funds" means the delivery of the loan funds by the lender to the settlement agent in one or more of the following forms:

A. Cash; [PL 1999, c. 145, §1 (NEW).]

B. Wired funds or electronic transfer; [PL 1999, c. 145, §1 (NEW).]

C. Certified check; [PL 1999, c. 145, §1 (NEW).]

D. Checks issued by a governmental entity or instrumentality; [PL 1999, c. 145, §1 (NEW).]

E. Cashier's check, teller's check or any transfer of funds by check or otherwise that is finally collected and unconditionally available to the settlement agent; [PL 1999, c. 145, §1 (NEW).]

F. Checks or other drafts drawn by a state-chartered or federally chartered financial institution; [PL 1999, c. 145, §1 (NEW).]

G. Checks or other drafts drawn by a state-chartered or federally chartered credit union; or [PL 1999, c. 145, §1 (NEW).]

H. Checks issued by an insurance company licensed and regulated by the Bureau of Insurance. [PL 1999, c. 145, §1 (NEW).]

[PL 1999, c. 145, §1 (NEW).]

2. Disbursement of settlement proceeds. "Disbursement of settlement proceeds" means the payment or sending of all proceeds of the transaction to the person or account designated to receive the proceeds.

[PL 1999, c. 145, §1 (NEW).]

3. Lender. "Lender" means a person regularly engaged in making loans secured by mortgages on real estate and to whom the debt is initially payable on the face of the loan documents. A person is regularly engaged in making such loans if the person made 5 or more loans subject to this subchapter in the preceding calendar year or has made 5 or more such loans in the then current calendar year.

[PL 1999, c. 145, §1 (NEW).]

4. Loan closing. "Loan closing" means that time agreed upon by the borrower and lender when the execution of the loan documents by the borrower and the receipt of those executed documents by the lender or settlement agent occur.

[PL 1999, c. 145, §1 (NEW).]

5. Loan documents. "Loan documents" means the note evidencing the debt due the lender, the mortgage securing the debt due to the lender and any other documents required by the lender to be executed by the borrower as a part of the transaction and includes any documents that may reasonably be required by the lender as a condition to disbursement of the settlement proceeds.

[PL 1999, c. 145, §1 (NEW).]

6. Loan funds. "Loan funds" means the proceeds of the loan to be disbursed by the lender to others at loan closing.

[PL 1999, c. 145, §1 (NEW).]

7. Settlement. "Settlement" means the time when the settlement agent has received the loan funds, loan documents and other documents and funds to carry out the terms of the contract between the parties and the settlement agent reasonably determines that all conditions for disbursement of the settlement proceeds as required by applicable law or such contracts have been satisfied. "Parties" as used in this subsection means the seller, purchaser, borrower, lender and the settlement agent.

[PL 1999, c. 145, §1 (NEW).]

8. Settlement agent. "Settlement agent" means the person responsible for conducting the settlement and disbursement of the settlement proceeds and includes an individual, corporation, partnership or other entity conducting the settlement and disbursement of loan proceeds. The lender may be the settlement agent.

[PL 1999, c. 145, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 145, §1 (NEW).

§523. Applicability

This subchapter applies to transactions: [PL 1999, c. 145, §1 (NEW).]

1. Purposes. That are incurred primarily for personal, family or household purposes;
[PL 1999, c. 145, §1 (NEW).]

2. Not open-end credit. That are not open-end credit as that term is defined in Title 9-A, section 1-301, subsection 26;
[PL 1999, c. 145, §1 (NEW).]

3. Not involving multiple advances. That do not contemplate multiple advances of funds as set forth in or required by the terms of the loan documents;
[PL 1999, c. 145, §1 (NEW).]

4. Location of lender or closing. When the lending office or branch from which the loan is made is located in this State or the loan closing occurs within this State; and
[PL 1999, c. 145, §1 (NEW).]

5. Secured by mortgages. That are secured by mortgages on real estate containing not more than 4 residential dwelling units.
[PL 1999, c. 145, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 145, §1 (NEW).

§524. Duty of lender

The lender shall cause, at or before loan closing, disbursement of loan funds to the settlement agent; however, in the case of any loan when a right of rescission applies and has not been exercised, the lender shall cause disbursement of loan funds to the settlement agent prior to noon of the first business

day after the expiration of the rescission period required under the federal Truth-in-Lending Act, 15 United States Code, Section 1601, et seq. and the state truth-in-lending provisions, Title 9-A, Article 8-A, as applicable. [PL 2011, c. 427, Pt. D, §23 (AMD).]

SECTION HISTORY

PL 1999, c. 145, §1 (NEW). PL 2011, c. 427, Pt. D, §23 (AMD).

§525. Duty of settlement agent

The settlement agent shall cause recordation of any deed, mortgage or other documents required to be recorded and shall cause disbursement of settlement proceeds within 2 business days of settlement or, when any right of rescission applies pursuant to the federal Truth-in-Lending Act, 15 United States Code, Section 1601 et seq. or the state truth-in-lending provisions, Title 9-A, Article 8-A, as applicable, at the time that the settlement agent reasonably determines that such right of rescission has not been exercised. [PL 2011, c. 427, Pt. D, §24 (AMD).]

SECTION HISTORY

PL 1999, c. 145, §1 (NEW). PL 2011, c. 427, Pt. D, §24 (AMD).

§526. Penalty

1. Consumer remedies. A lender or settlement agent who violates any provision of this subchapter and causes actual damage to a consumer is subject to a civil action by the aggrieved consumer in which the consumer has the right to recover the greater of actual damages in an amount determined by the court or, except as provided in subsection 2, an amount determined by the court not less than \$250 nor more than \$1,000, plus costs of the action together with reasonable attorney's fees. [PL 1999, c. 145, §1 (NEW).]

2. Bona fide error. Liability under subsection 1 is limited to actual damages, plus costs of the action together with reasonable attorney's fees, if the lender or settlement agent shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error. [PL 1999, c. 145, §1 (NEW).]

3. Limitation of actions. An action may not be brought pursuant to this subchapter more than 2 years after the violation occurred. [PL 1999, c. 145, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 145, §1 (NEW).

§527. Enforcement

With respect to lenders that are supervised financial organizations as that term is defined in Title 9-A, section 1-301, subsection 38-A, a violation of this subchapter is deemed an anticompetitive and deceptive practice and the Superintendent of Financial Institutions may take appropriate action to ensure compliance with this subchapter. With respect to all other supervised lenders, as that term is defined in Title 9-A, section 1-301, subsection 39, the Superintendent of Consumer Credit Protection may take such action. [PL 2021, c. 245, Pt. A, §14 (AMD).]

SECTION HISTORY

PL 1999, c. 145, §1 (NEW). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2021, c. 245, Pt. A, §14 (AMD).

§528. Privacy duties of settlement agents

A settlement agent shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of

Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the settlement agent is a financial institution as defined in those regulations. This section is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24. [PL 2001, c. 262, Pt. E, §5 (NEW).]

SECTION HISTORY

PL 2001, c. 262, §E5 (NEW).

SUBCHAPTER 2

DISCHARGE OF MORTGAGES

§551. Entry on record; neglect to discharge

A mortgage only may be discharged by a written instrument acknowledging the satisfaction thereof and signed and acknowledged by the mortgagee or by the mortgagee's duly authorized officer or agent, personal representative or assignee. The instrument must recite the name or identity of the mortgagee and mortgagor, or their successors in interest and the record location of the mortgage discharged. The instrument, when recorded, has the same effect as a deed of release duly acknowledged and recorded. [PL 1999, c. 230, §1 (AMD); PL 1999, c. 230, §2 (AFF).]

Within 60 days after full performance of the conditions of the mortgage, the mortgagee shall record a valid and complete release of mortgage together with any instrument of assignment necessary to establish the mortgagee's record ownership of the mortgage. Within 30 days after receiving the recorded release of the mortgage from the registry of deeds, the mortgagee shall send the release by first class mail to the mortgagor's address as listed in the mortgage agreement or to an address specified in writing by the mortgagor for this purpose. As used in this paragraph, the term "mortgagee" means both the owner of the mortgage at the time it is satisfied and any servicer who receives the final payment satisfying the debt. If a release is not transmitted to the registry of deeds within 60 days, the owner and any such servicer are jointly and severally liable to an aggrieved party for damages equal to exemplary damages of \$200 per week after expiration of the 60 days, up to an aggregate maximum of \$5,000 for all aggrieved parties or the actual loss sustained by the aggrieved party, whichever is greater. If multiple aggrieved parties seek exemplary damages, the court shall equitably allocate the maximum amount. If the release is not sent by first class mail to the mortgagor's address as listed in the mortgage agreement or to an address specified in writing by the mortgagor for this purpose within 30 days after receiving the recorded release, the mortgagee is liable to an aggrieved party for damages equal to exemplary damages of \$500. The mortgagee is also liable for court costs and reasonable attorney's fees in any successful action to enforce the liability imposed under this paragraph. The mortgagee may charge the mortgagor for any recording fees incurred in recording the release of mortgage and any postage fees incurred in sending the release to the mortgagor. [PL 2011, c. 146, §1 (AMD).]

With respect to a mortgage securing an open-end line of credit, the 60-day period to deliver a release commences after the mortgagor delivers to the address designated for payments under the line of credit a written request to terminate the line and the mortgage together with payment in full of all amounts secured by the mortgage. The mortgagee may designate in writing a different address for delivery of written notices under this paragraph. [PL 1999, c. 230, §1 (NEW); PL 1999, c. 230, §2 (AFF).]

All discharges of recorded mortgages, attachments or liens of any nature must be recorded by a written instrument and, except for termination statements filed pursuant to Title 11, section 9-1513, acknowledged in same manner as other instruments presented for record and no such discharges may be permitted by entry in the margin of the instrument to be discharged. [PL 1999, c. 699, Pt. D, §22 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

SECTION HISTORY

PL 1973, c. 18 (AMD). PL 1973, c. 625, §226 (AMD). PL 1973, c. 788, §166 (AMD). PL 1977, c. 100, §§1,2 (AMD). PL 1999, c. 230, §1 (AMD). PL 1999, c. 230, §2 (AFF). PL 1999, c. 699, §D22 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2011, c. 146, §1 (AMD).

§552. Validation

All marginal discharges of mortgages recorded prior to April 1, 1974, duly attested by the register of deeds as being recorded from discharge in margin of original mortgage, are validated and have the same effect as if made as provided in section 551. [PL 1997, c. 103, §1 (AMD).]

SECTION HISTORY

PL 1997, c. 103, §1 (AMD).

§553. Discharge by attorney

(REPEALED)

SECTION HISTORY

PL 1993, c. 534, §1 (RP).

§553-A. Discharge by attorney

1. Affidavit. A recorded mortgage on a residential owner-occupied one-to-4-family dwelling may be discharged in the office of the registry of deeds by an attorney-at-law licensed to practice in the State if the mortgagee, after receipt of payment of the mortgage in accordance with the payoff statement furnished to the mortgagor by the mortgagee, fails to make that discharge or to execute and acknowledge a deed of release of the mortgage. The attorney shall execute and record an affidavit in the registry of deeds affirming that:

A. The affiant is an attorney-at-law in good standing and licensed to practice in the State; [PL 1993, c. 534, §2 (NEW).]

B. The affidavit is made at the request of the mortgagor or the mortgagor's executor, administrator, successor, assignee or transferee or the transferee's mortgagee; [PL 1993, c. 534, §2 (NEW).]

C. The mortgagee has provided a payoff statement with respect to the loan secured by the mortgage; [PL 1993, c. 534, §2 (NEW).]

D. The mortgagee has received payment that has been proved by a bank check, certified check or attorney client funds account check negotiated by the mortgagee or by evidence of receipt of payment by the mortgagee; [PL 1993, c. 534, §2 (NEW).]

E. More than 30 days have elapsed since the payment was received by the mortgagee; and [PL 1993, c. 534, §2 (NEW).]

F. The mortgagee has received written notification by certified mail 15 days in advance, sent to the mortgagee's last known address, that the affiant intends to execute and record an affidavit in accordance with this section, enclosing a copy of the proposed affidavit; the mortgagee has not delivered a discharge or deed of release in response to the notification; and the mortgagor has complied with any request made by the mortgagee for additional payment at least 15 days before the date of the affidavit. [PL 1993, c. 534, §2 (NEW).]

[PL 1993, c. 534, §2 (NEW).]

2. Name; address; mortgagee; mortgagor. The affidavit must include the names and addresses of the mortgagor and the mortgagee, the date of the mortgage, the title reference and similar information with respect to recorded assignment of the mortgage.

[PL 1993, c. 534, §2 (NEW).]

3. Copy. The affiant shall attach to the affidavit the following, certifying that each copy is a true copy of the original document:

A. Photostatic copies of the documentary evidence that payment has been received by the mortgagee, including the mortgagee's endorsement of a bank check, certified check or attorney client funds account check; and [PL 1993, c. 534, §2 (NEW).]

B. A photostatic copy of the payoff statement if that statement is made in writing. [PL 1993, c. 534, §2 (NEW).]

[PL 1993, c. 534, §2 (NEW).]

4. Effect. An affidavit recorded under this section has the same effect as a recorded discharge.

[PL 1993, c. 534, §2 (NEW).]

5. Exception. A mortgage may not be discharged as provided by this section if the holder of the mortgage at the time a discharge is sought is a financial institution or credit union authorized to do business in the State as defined in Title 9-B, section 131, subsection 12-A or 17-A.

[PL 1995, c. 94, §1 (AMD).]

SECTION HISTORY

PL 1993, c. 534, §2 (NEW). PL 1995, c. 94, §1 (AMD).

CHAPTER 10

UNIT OWNERSHIP

SUBCHAPTER 1

UNIT OWNERSHIP

§560. Short title

This chapter shall be known as the "Unit Ownership Act." [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§561. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1977, c. 696, §258 (RPR).]

1. Association of unit owners. "Association of unit owners" means all of the unit owners acting as a group in accordance with the bylaws and declaration.

[PL 1965, c. 357 (NEW).]

2. Building. "Building" means a building or buildings containing one or more units and comprising a part of the property, and designated with a name.

[PL 1971, c. 73, §1 (AMD).]

3. Common areas and facilities. "Common areas and facilities", unless otherwise provided in the declaration, means and includes:

- A. The land on which the building is located; [PL 1965, c. 357 (NEW).]
 - B. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building; [PL 1965, c. 357 (NEW).]
 - C. The basements, yards, gardens, parking areas and storage spaces; [PL 1965, c. 357 (NEW).]
 - D. The premises for the lodging of janitors or persons in charge of the property; [PL 1965, c. 357 (NEW).]
 - E. Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating; [PL 1965, c. 357 (NEW).]
 - F. The elevators, tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus and installations existing for common use; [PL 1965, c. 357 (NEW).]
 - G. Such community and commercial facilities as may be provided for in the declaration; and [PL 1965, c. 357 (NEW).]
 - H. All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use. [PL 1965, c. 357 (NEW).]
- [PL 1965, c. 357 (NEW).]

4. Common expenses. "Common expenses" means and includes:

- A. Expenses of administration, maintenance, repair or replacement of the common areas and facilities; [PL 1965, c. 357 (NEW).]
 - B. Expenses declared common expenses by provisions of this chapter, or by the declaration or the bylaws; [PL 1965, c. 357 (NEW).]
 - C. Expenses agreed upon as common expenses by the association of unit owners and lawfully assessed against the unit owners in accordance with the bylaws. [PL 1965, c. 357 (NEW).]
- [PL 1965, c. 357 (NEW).]

5. Common profits. "Common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses. [PL 1965, c. 357 (NEW).]

6. Declaration. "Declaration" means the instrument by which the property is recorded, in the manner provided for the recording of deeds. [PL 1965, c. 357 (NEW).]

7. Limited common areas and facilities. "Limited common areas and facilities" means and includes those common areas and facilities designated in the declaration as reserved for use of a certain unit or certain units to the exclusion of the other units. [PL 1965, c. 357 (NEW).]

8. Majority or majority of unit owners. "Majority or majority of unit owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities as specified in the declaration. Any specified percentage of unit owners means such percentage in the aggregate of such undivided ownership, and for all voting purposes, as provided, each unit owner shall have a vote equal to such percentage. [PL 1965, c. 357 (NEW).]

9. Person. "Person" means individual, corporation, partnership, association, trustee or other legal entity. [PL 1965, c. 357 (NEW).]

10. Property. "Property" means and includes the land, the building, all improvements and structures thereon, all owned in fee simple absolute, or leased as provided in section 579 and all

easements, rights and appurtenances belonging thereto, which have been or are intended to be submitted to the provisions of this chapter.

[PL 1965, c. 357 (NEW).]

11. Unit. "Unit" means a part of the property including one or more rooms or enclosed spaces located on one or more floors or a part or parts thereof in a building, intended for any type of independent use, and with a direct exit to a public street or highway or to a common area leading to such street or highway.

[PL 1965, c. 357 (NEW).]

12. Unit number. "Unit number" means the number, letter, or combination thereof, designating the unit in the declaration.

[PL 1965, c. 357 (NEW).]

13. Unit owner. "Unit owner" means the person or persons owning a unit in fee simple absolute, or leasing a unit as provided, and an undivided interest in the fee simple, or leased estate, of the common areas and facilities in the percentage specified and established in the declaration.

[PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW). PL 1971, c. 73, §1 (AMD). PL 1977, c. 696, §258 (AMD).

§562. Application

This chapter shall be applicable only to property, the sole owner or all of the owners of which submit the same to the provisions of this chapter by duly executing and recording a declaration as provided. [PL 1977, c. 696, §259 (AMD).]

SECTION HISTORY

PL 1965, c. 357 (NEW). PL 1977, c. 696, §259 (AMD).

§563. Status of units

Each unit, together with its undivided interest in the common areas and facilities, shall for all purposes constitute real property. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§564. Ownership of units

Each unit owner shall be entitled to the exclusive ownership and possession of his unit. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§565. Common elements

1. Percentage of ownership. Each unit owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration. Such percentage shall be computed by taking as a basis the fair value of the unit at the date of the declaration in relation to the fair value of all the units having an interest in the common areas and facilities.

[PL 1965, c. 357 (NEW).]

2. Permanent character. The percentage of the undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended declaration duly recorded. The percentage of the undivided interest in the common areas and facilities shall not be

separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

[PL 1965, c. 357 (NEW).]

3. Undivided. The common areas and facilities shall remain undivided and no unit owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this chapter. Any covenant to the contrary shall be null and void. [PL 1965, c. 357 (NEW).]

4. Use. Each unit owner may use the common areas and facilities in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other unit owners.

[PL 1965, c. 357 (NEW).]

5. Repairs. The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided and in the declaration and in the bylaws.

[PL 1965, c. 357 (NEW).]

6. Access for repair. The association of unit owners shall have the irrevocable right, to be exercised by the manager or board of directors, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit or units.

[PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§566. Compliance with bylaws and rules and regulations

Each unit owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, and with the covenants, conditions and restrictions set forth in the declaration or in the deed to his unit. Failure to so comply shall be ground for an action to recover damages or for injunctive relief, or both, maintainable by the manager or board of directors on behalf of the association of unit owners or, in a proper case, by an aggrieved unit owner. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§567. Certain work prohibited

No unit owner shall do any work which may jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement, right, appurtenance or other hereditament constituting a common area and facility without the unanimous consent of all the other unit owners. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§568. Common profits and expenses

The common profits of the property shall be distributed among, and the common expenses shall be charged to the unit owners according to the percentage of the undivided interest in the common areas and facilities. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§569. Contents of declaration

The declaration shall contain the following information: [PL 1965, c. 357 (NEW).]

1. Description of land. Description of the land on which the buildings and improvements are, or are to be, located together with the title of and reference to a survey of such land prepared and certified substantially correct by a licensed surveyor or engineer and recorded simultaneously with such declaration and attached to the floor plans as provided.

[PL 1965, c. 357 (NEW).]

2. Description of building. Description of the building, stating the number of stories and basements, the number of units and the principal materials of which it is, or is to be, constructed.

[PL 1965, c. 357 (NEW).]

3. Identification number of units. The identification number of each unit, and a statement of its location, approximate area, number of rooms and immediate common area to which it has access, and any other data necessary for its proper identification.

[PL 1965, c. 357 (NEW).]

4. Description of areas. Description of the common areas and facilities.

[PL 1965, c. 357 (NEW).]

5. Description of limited areas. Description of the limited common areas and facilities, if any, stating to which unit or units their use is reserved.

[PL 1965, c. 357 (NEW).]

6. Percentage of ownership. Indication of the percentage of undivided interest in the common areas and facilities appertaining to each unit and its owner. The total percentage of the undivided interests of all of the units shall equal one hundred.

[PL 1965, c. 357 (NEW).]

7. Purposes. Statement of the purposes for which the building and each of the units are intended, including restrictions, if any, as to use.

[PL 1965, c. 357 (NEW).]

8. Who to receive service of process. The name of a person to receive service of process in the cases provided.

[PL 1965, c. 357 (NEW).]

9. Bylaws. A copy of the bylaws.

[PL 1965, c. 357 (NEW).]

10. Further details. Any further details in connection with the property which the persons executing the declaration may deem desirable to set forth consistent with this chapter.

[PL 1965, c. 357 (NEW).]

11. Method of amending declaration. The method by which the declaration may be amended, consistent with this chapter.

[PL 1965, c. 357 (NEW).]

12. Name. The name of the building.

[PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§570. Contents of deeds of units

Deeds of units shall include the following particulars: [PL 1965, c. 357 (NEW).]

1. Description of land. Description of the land as provided in section 569, or date, title of and reference to the survey describing such land.

[PL 1965, c. 357 (NEW).]

2. Date and record of declaration. The date of the most recent declaration and the volume and page of the registry of deeds where recorded.

[PL 1965, c. 357 (NEW).]

3. Identification number. The identification number of the unit in the declaration and title of and reference to the floor plans describing any other data necessary for its proper identification.

[PL 1965, c. 357 (NEW).]

4. Percentage of interest. The percentage of undivided interest appertaining to the unit in the common areas and facilities.

[PL 1965, c. 357 (NEW).]

5. Further details. Any further details which the grantor and grantee may deem desirable to set forth consistent with the declaration and this chapter.

[PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§571. Recording

1. Recording. The declaration, any amendment or amendments thereto, any subsequent declaration, the bylaws, any amendment or amendments thereto and any instrument by which the provisions of this chapter may be waived, shall be acknowledged and recorded and shall not be of legal effect until duly recorded in the registry of deeds of the county in which the units lie. Such instruments shall be indexed in the grantor volume under the name of the building and shall contain a reference to the file number of the floor plans of the building affected thereby.

[PL 1965, c. 357 (NEW).]

2. Revised declaration. After the original declaration or a subsequent declaration of the bylaws contained therein has been modified or amended a total of 5 times, the board of directors shall prepare a new revised declaration with revised bylaws attached thereto, incorporating all modifications and amendments to date, which instrument shall be recorded forthwith.

[PL 1965, c. 357 (NEW).]

3. Floor plans. Simultaneously with the recording of the original declaration there shall be filed in the registry of deeds of the county in which the units lie a set of the floor plans of the building showing the layout, location, unit numbers and dimensions of the units, stating the name of the building, containing a reference to the original declaration, the date thereof and volume and page of recording and bearing the verified statement of a registered architect or licensed professional engineer certifying that the floor plans are an accurate copy of portions of the plans of the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings. Attached to the floor plans shall be a survey of the land upon which the buildings and improvements are located. Such plans shall be kept by the register of deeds in a separate file for each building, numbered serially in the order of receipt and designated "unit ownership." In the event the floor plans are modified, new floor plans shall be prepared and recorded, containing all the identifications and references of the original floor plans, numbered identically as the original floor plans, filed therewith and designated "unit ownership -- floor plans modified (indicate date)." A floor plan need not be prepared or recorded of any building which contains only one unit.

[PL 1971, c. 73, §2 (AMD).]

4. Conveyance of any legal interest. Each conveyance of any legal interest in a unit shall be recorded and indexed similarly to the conveyance of any interest in real property. No instrument conveying or purporting to convey such an interest shall be effectual against any other person but the grantor and his heirs until duly recorded in the registry of deeds of the county in which the unit lies. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW). PL 1971, c. 73, §2 (AMD).

§572. Mortgage and liens affecting a unit at time of first conveyance

At the time of the first conveyance of each unit, every mortgage and other lien affecting such unit, including the percentage of undivided interest of the unit in the common areas and facilities, shall be paid and satisfied of record, or the apartment being conveyed and its percentage of undivided interest in the common areas and facilities shall be released therefrom by partial release duly recorded. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§573. Withdrawal

The unit owners may remove a property from the provisions of this chapter by an instrument to that effect, duly recorded, containing the signatures of 90% of the unit owners, provided the holders of all liens affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to an undivided interest in the property. Upon removal of the property from this chapter, the unit owners shall be deemed to own the property as tenants in common with undivided interests in the percentage of undivided interests previously owned by such owner in the common areas and facilities. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§574. Subsequent resubmission

The removal provided for in section 573 shall not bar the subsequent resubmission of the property to the provisions of this chapter. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§575. Bylaws

The administration of every property shall be governed by bylaws, a copy of which shall be annexed to the declaration and made a part thereof. No modification of or amendment to the bylaws shall be of legal effect until set forth in an amendment to the declaration and such amendment is duly recorded. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§576. Contents of bylaws

The bylaws shall provide for the following: [PL 1965, c. 357 (NEW).]

1. Board of directors. The election from among the unit owners of a board of directors, the number of persons constituting and the term of office of such board; a provision that the terms of at least 1/3 of such board shall expire annually; the powers and duties of the board; the compensation, if

any, of the directors; the method of removal from such board; powers of the board in engaging the services of a manager or managing agent.

[PL 1965, c. 357 (NEW).]

2. Meetings. Method of calling meetings of the unit owners; what percentage, if other than a majority, of unit owners shall constitute a quorum.

[PL 1965, c. 357 (NEW).]

3. President. Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of unit owners.

[PL 1965, c. 357 (NEW).]

4. Secretary. Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.

[PL 1965, c. 357 (NEW).]

5. Treasurer. Election of a treasurer who shall keep the financial records and books of account.

[PL 1965, c. 357 (NEW).]

6. Repairs. Maintenance, repair and replacement of the common areas and facilities and payments therefor, including the method of approving payment vouchers.

[PL 1965, c. 357 (NEW).]

7. Expenses. Manner of collecting from the unit owners their share of the common expenses.

[PL 1965, c. 357 (NEW).]

8. Personnel. Designation and removal of personnel necessary for the maintenance, repair and replacement of the common areas and facilities.

[PL 1965, c. 357 (NEW).]

9. Rules and regulations. Method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities.

[PL 1965, c. 357 (NEW).]

10. Restrictions. Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common areas and facilities not set forth in the declaration as are designed to prevent unreasonable interference with the use of their respective units and of the common areas and facilities by the several unit owners. An association of unit owners may not include in its bylaws or declaration, or any rule adopted pursuant to the bylaws or declaration, or any deed a restriction that prohibits a unit owner from displaying on that unit owner's private property a sign that supports or opposes a candidate for public office or a referendum question during the period from 6 weeks prior to the date that a primary or general election or special election is held regarding that candidate or referendum question to one week after the election for that political candidate or vote for that referendum question is held.

[PL 2015, c. 271, §1 (AMD).]

11. Amend bylaws. A provision that 75% of the unit owners may at any time modify or amend the bylaws, but that no amendment shall be contrary to the requirements of this section.

[PL 1965, c. 357 (NEW).]

12. Other provisions. Other provisions deemed necessary for the administration of the property consistent with this chapter.

[PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW). PL 2015, c. 271, §1 (AMD).

§577. Books of receipts and expenditures; availability for examination

The manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the unit owners at convenient hours of weekdays. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§578. Waiver of use of common elements; abandonment of unit

No unit owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§579. Separate taxation

Taxes, assessments, including special assessments, and other charges of this State or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority shall be assessed against and collected on each individual unit, each of which shall be carried on the tax books as a separate and distinct entity for that purpose and not on the building or property as a whole. Neither the building, the property nor any of the common areas and facilities shall be deemed to be a parcel, but each unit shall be deemed to have an undivided interest therein and assessments against any such unit shall include such proportionate undivided interest. In the event the land or the building, including common areas and facilities, is separately owned, and leased to the unit owner for a period of not less than 50 years, and such lease, duly recorded, provides that the lessee shall pay all such taxes, such unit and its percentages of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be separately assessed and taxed as aforesaid. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§580. Lien for common changes

1. Liens. Subsequent to recording the declaration as provided in this chapter, and while the property remains subject to this chapter, liens or encumbrances shall arise or be created only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership, provided no labor performed or materials furnished with the consent or at the request of a unit owner or his agent shall be the basis for the filing of a mechanics lien against the unit or any other property of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if authorized by the association of unit owners, the manager or board of directors, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a mechanics lien against each of the units and shall be subject to subsection 2. [PL 1965, c. 357 (NEW).]

2. Individual payments. If a lien against 2 or more units becomes effective, the owner of any such unit may remove his unit and his percentage of undivided interest in the common areas and facilities appurtenant to his unit from the lien by payment of the fractional or proportional amount attributable to his unit. Such individual payment shall be computed by reference to the percentages

appearing in the declaration. Subsequent to any such payment, discharge or other satisfaction, such unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

[PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§581. Foreclosure

All sums assessed by the association of unit owners, but unpaid for the share of the common expenses chargeable to any unit shall constitute a lien on such unit prior to all other liens, except only tax liens on the unit in favor of any assessing unit and special district, including any state and federal tax liens, and all sums unpaid on mortgages of record. Such lien may be claimed 60 days after the due date of the assessment. It shall be signed by the manager or one of the members of the board of directors and shall be perfected by filing it in the registry of deeds of the county in which the unit lies, and by leaving a true and attested copy thereof with the unit owner against whom such lien is claimed or at his usual place of abode, or, if such unit owner resides outside the municipality in which the unit lies, by mailing such copy to him at the place where he resides. Such lien shall be limited and discharged in accordance with the general statutes. Such lien may be foreclosed by action by the manager or board of directors, acting on behalf of the unit owners, in like manner as a mortgage of real property including reimbursement for costs and reasonable attorneys' fees. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the bylaws and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the unit owners, shall have power, unless prohibited by the declaration, to bid in the unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. Where a mortgagee or a purchaser at a foreclosure sale obtains title to a unit, such acquirer of title, his heirs, successors and assigns, shall not be liable for the entire unpaid share of the common expenses or assessments by the association of unit owners chargeable to such unit which became due prior to the acquisition of title to such unit by such acquirer, but such expenses or assessments shall become common expenses collectible from all of the unit owners including such acquirer, his heirs, successors and assigns. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§582. Voluntary conveyance

In a voluntary conveyance the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Any such grantee shall be entitled to a statement from the manager or board of directors, setting forth the amount of such unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§583. Insurance

The manager or board of directors shall, to the extent required by the declaration, bylaws or direction of a majority of the unit owners, insure the building against loss or damage by fire and other hazards, without prejudice to the right of each unit owner to insure his own unit for his own benefit. Such insurance coverage shall be written on the property in the name of such manager or the board of directors of the association of unit owners, as trustee for each of the unit owners in the percentages established in the declaration. Premiums shall be common expenses. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§584. Repair and reconstruction

Except as otherwise provided, damage to or destruction of the building shall be promptly repaired and restored by the manager or board of directors, using the proceeds of insurance, if any, on the building for that purpose and the unit owners shall be liable for assessment for any deficiency, provided if there is substantially total destruction of the property and 3/4 of the unit owners vote not to proceed with repair or restoration, the property remaining shall be deemed to be owned in common by the unit owners, and each unit owner shall own that percentage of the undivided interest in common as he previously owned in the common areas and facilities. Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property; and the property shall be subject to an action for partition at the action of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the unit owners in accordance with their interests therein, after first paying all liens out of each of the respective interests. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§585. Actions

Without limiting the rights of any unit owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors, on behalf of 2 or more of the unit owners, with respect to any cause of action relating to the common areas and facilities, or more than one unit. Service of process on 2 or more unit owners in any action relating to the common areas and facilities, or more than one unit, may be made on the person designated in the declaration to receive service of process. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§586. Users subject to land

All unit owners, tenants of such owners, employees of owners and tenants, or any other persons who may in any manner use property or any part thereof submitted to the provisions of this chapter shall be subject to this chapter and to the declaration and bylaws of the association of unit owners. [PL 1965, c. 357 (NEW).]

All agreements, decisions and determinations lawfully made by the association of unit owners in accordance with the voting percentages established in this chapter, declaration or bylaws, shall be binding on all unit owners. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§587. Loans

Savings banks, trust and banking companies and savings and loan associations may make loans under this chapter to individuals or corporations to be secured by a first mortgage of a unit together with its undivided interest in the common areas and facilities, owned under the provisions of this chapter, to the extent that each of them may make loans secured by real estate mortgages, and subject to the applicable conditions and limitations imposed by law. [PL 1965, c. 357 (NEW).]

SECTION HISTORY

PL 1965, c. 357 (NEW).

§588. Time shares

(REPEALED)

SECTION HISTORY

PL 1979, c. 484 (NEW). PL 1983, c. 248, §2 (RP).

SUBCHAPTER 1-A

MEMBERSHIP CAMPING

§589. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 390 (NEW).]

1. Blanket encumbrance. "Blanket encumbrance" means any mortgage, deed of trust, option to purchase, vendor's lien or interest under a contract or agreement of sale or other material financing lien or encumbrance granted by the membership camping operator which secures or evidences the obligation to pay money or to sell or convey any campgrounds located in this State which are made available to purchasers by the membership camping operator, or any portion thereof, and which authorizes, permits or requires the foreclosure or other disposition of the campground affected. [PL 1985, c. 390 (NEW).]

2. Campground. "Campground" means real property owned or operated by a membership camping operator which is available for camping by purchasers of membership camping contracts. [PL 1985, c. 390 (NEW).]

3. Camping site. "Camping site" means a space designed and promoted for the purpose of locating a trailer, tent, tent trailer, pickup camper or other similar device used for camping. [PL 1985, c. 390 (NEW).]

4. Membership camping contract. "Membership camping contract" means an agreement offered or sold within the State evidencing a purchaser's right or license to use the camping or outdoor recreation facilities of a membership camping operator in each of 3 or more years, including renewal options. [PL 1985, c. 390 (NEW).]

5. Membership camping contract broker. "Membership camping contract broker" means a person who resells a membership camping contract to a new purchaser on behalf of the prior purchaser. "Membership camping contract broker" does not include a membership camping operator or his agent. [PL 1985, c. 390 (NEW).]

6. Membership camping operator. "Membership camping operator" means any person who offers camping or outdoor recreational opportunities through the use of camping sites and who solicits membership camping contracts paid for in cash, by installment or periodic payments, including annual fees, by which the purchasers of memberships obtain the right to use camping sites or other camping

or recreational facilities of the membership camping operator. "Membership camping operator" does not include manufactured housing communities as defined in Title 10, section 9081. A membership camping operator is not a landlord pursuant to the landlord and tenant laws as provided in Title 14. [PL 2017, c. 210, Pt. B, §40 (AMD).]

7. Person. "Person" means any individual, corporation, partnership, trust, association or other organization. [PL 1985, c. 390 (NEW).]

8. Purchaser. "Purchaser" means a person who enters into a membership camping contract and obtains the right to use the facilities of a membership camping operator. A purchaser is not a tenant pursuant to the landlord and tenant laws as provided in Title 14. [PL 2013, c. 209, §5 (AMD).]

9. Reciprocal program. "Reciprocal program" means any arrangement allowing purchasers to use camping sites, facilities or other properties owned or operated by any person other than the membership camping operator with whom the purchaser has entered into a membership camping contract. [PL 1985, c. 390 (NEW).]

10. Sale or sell. "Sale" or "sell" means entering into, or other disposition, of a membership camping contract for value, but the term of value does not include a fee to offset the reasonable costs of transfer of a membership camping contract. [PL 1985, c. 390 (NEW).]

11. Seller. "Seller" means a membership camping operator. [PL 1985, c. 390 (NEW).]

SECTION HISTORY

PL 1985, c. 390 (NEW). PL 2013, c. 209, §5 (AMD). PL 2017, c. 210, Pt. B, §40 (AMD).

§589-A. Requirements of membership camping

1. Specific disclosures. No membership camping contract may be offered or sold by a membership camping operator unless, prior to the execution of the membership camping contract, the purchaser is provided, at no cost to the purchaser, with a written statement containing the following information, all of which shall be current to a point not more than 60 days prior to the date of delivery to the purchaser.

A. The front cover or first page shall contain only the following in the order stated:

- (1) The words "membership camping operator's disclosure statement" printed in bold-faced type of a minimum size of 10 points;
- (2) The name and principal business address of the membership camping operator;
- (3) A statement that the membership camping operator is in the business of offering for sale membership camping contracts;
- (4) The following in printed bold-faced type of a minimum size of 10 points:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN PURCHASING A MEMBERSHIP CAMPING CONTRACT. STATE LAW REQUIRES THAT THESE DISCLOSURES BE MADE , BUT NO STATE AGENCY OR OFFICIAL HAS REVIEWED THE INFORMATION CONTAINED IN THIS BOOKLET. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. IF YOU ARE THINKING OF PURCHASING A MEMBERSHIP CAMPGROUND CONTRACT, YOU SHOULD REVIEW ALL REFERENCES MADE IN THIS BOOKLET, EXHIBITS, CONTRACT DOCUMENTS AND SALES MATERIALS.

THE MEMBERSHIP CAMPING OPERATOR IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT OR THIS DISCLOSURE STATEMENT; and

(5) The following language, printed in bold-faced type of a minimum size of 10 points, shall also appear on the cover page of the disclosure statement after the appearance of the items required in this paragraph:

SHOULD YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT, YOU HAVE THE UNQUALIFIED RIGHT TO CANCEL THAT CONTRACT. THIS RIGHT OF CANCELLATION IS INCAPABLE OF WAIVER AND SHALL EXPIRE AT MIDNIGHT ON THE 7TH CALENDAR DAY FOLLOWING THE DATE OF THE EXECUTED CONTRACT OR WITHIN 7 CALENDAR DAYS OF THE RECEIPT OF THIS STATEMENT, WHICHEVER OCCURS LATER. TO CANCEL THE MEMBERSHIP CAMPING CONTRACT, YOU MUST HAND DELIVER OR MAIL, POSTAGE PREPAID, WRITTEN NOTICE OF YOUR INTENTION TO CANCEL TO THE MEMBERSHIP CAMPING OPERATOR AT HIS PRINCIPAL BUSINESS ADDRESS LISTED IN THE MEMBERSHIP CAMPING CONTRACT. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO RETURN ALL MONEY PAID BY YOU IN CONNECTION WITH THE EXECUTION OF THE MEMBERSHIP CAMPING CONTRACT WITHIN 20 CALENDAR DAYS FROM THE PROPER AND TIMELY CANCELLATION OF THE CONTRACT. [PL 1985, c. 390 (NEW).]

B. The following pages shall contain, in the following order:

(1) A brief description of the membership camping operator's experience in the membership camping business, including the number of years the operator has been in the membership camping business;

(2) A brief description of the nature of the purchaser's right or license to use the membership camping operator's property or facilities;

(3) The location of each of the membership camping operator's parks and a brief description for each park of the significant facilities then available for use by purchasers and those which are represented to purchasers as being planned, together with a brief description of any significant facilities that are or will be available to nonpurchasers or nonmembers. Significant facilities include, but are not limited to, each of the following: The number of camping sites in each park, the number of camping sites in each park with full or partial hookups, swimming pools, tennis courts, recreation buildings, restrooms and showers, laundry rooms, trading posts and grocery stores. "Partial hookups" means those hookups with at least one of the following connections: Electricity; water and sewage connections;

(4) A brief description of the effect on the purchaser's membership rights if a subsequent holder, successor, assign or other person later acquires the campground through foreclosure, bankruptcy sale, deed or other conveyance. This description shall include a description of any nondisturbance agreement or bond and its effects on the purchaser's rights and a description of the legal document that evidences the purchaser's rights, followed by a statement in capital letters as follows:

NOTICE: YOUR RIGHTS UNDER THIS CONTRACT MAY BE AFFECTED BY A SUBSEQUENT HOLDER, SUCCESSOR, ASSIGN OR PERSON WHO LATER ACQUIRES THE CAMPGROUND. THIS STATEMENT IS ONLY SUMMARY IN NATURE. YOU SHOULD ASK YOUR ATTORNEY TO EXPLAIN IT TO YOU MORE FULLY;

(5) A statement in capital letters as follows:

NOTICE: PURCHASE A MEMBERSHIP CAMPING CONTRACT ONLY ON THE BASIS OF EXISTING FACILITIES. CONSTRUCTION OF PLANNED FACILITIES IS SOMETIMES DELAYED OR TERMINATED FOR A VARIETY OF REASONS;

(6) A brief description of the membership camping operator's ownership of, or right to use, the camping properties represented to be available for use by purchasers, together with the duration of any lease, license, franchise or reciprocal agreement entitling the membership camping operator to use the property and any material provisions of any agreements which restrict a purchaser's use of the property;

(7) A summary of, or notice that attached to this disclosure is a copy of the rules, restrictions or covenants regulating the purchaser's use of the membership camping operator's properties, including a statement of whether and how the rules, restrictions or covenants may be changed;

(8) A brief description of all payments of a purchaser under a membership camping contract, including initial fees and any further fees, charges or assessments, together with any provisions for changing the payments;

(9) A description of any restraints on the transfer of the membership camping contract by the purchaser;

(10) A brief description of the policies relating to the availability of camping sites and whether reservations are required;

(11) A brief description of any grounds for forfeiture of a purchaser's membership camping contract;

(12) A copy of the membership camping contract form; and

(13) A statement describing all material terms and conditions of any reciprocal program represented to be available to purchasers, including whether the purchaser's participation in the reciprocal program is dependent upon the continued affiliation of the membership camping operator with the reciprocal program and whether the membership camping operator reserves the right to terminate that affiliation. [PL 1985, c. 390 (NEW).]

[PL 1985, c. 390 (NEW).]

2. Contract provisions. The contract shall include provisions stating the manner in which the rights of the purchaser may be affected if a subsequent holder, successor, assign or other person later acquires the campground through foreclosure, bankruptcy sale or other conveyance.

Any holder, successor, assign or person who acquires the campground through foreclosure or deed takes the campground subject to the condition that he may not materially diminish the purchaser's use of the campground as outlined in the contract between the purchaser and seller.

[PL 1985, c. 390 (NEW).]

3. Signature and date. A membership camping contract shall be dated and signed by the purchaser and the membership camping operator. The contract shall contain, in the immediate proximity of the space reserved for the signature of the purchaser, a conspicuous statement in a size equal to at least 10 point bold type as follows:

YOU, THE PURCHASER, MAY CANCEL THIS CONTRACT AT ANY TIME WITHIN 7 DAYS FOLLOWING THE DATE OF EXECUTION OF THE CONTRACT OR THE RECEIPT OF A DISCLOSURE STATEMENT FROM THE MEMBERSHIP CAMPING OPERATOR, WHICHEVER EVENT OCCURS LATER. TO CANCEL THE CONTRACT, HAND DELIVER OR MAIL A POSTAGE PREPAID WRITTEN CANCELLATION TO THE MEMBERSHIP CAMPING OPERATOR AT THE ADDRESS LISTED IN THE DISCLOSURE STATEMENT OR ON THIS CONTRACT. THE MEMBERSHIP CAMPING CONTRACT SHALL CONTAIN THE NAME AND ADDRESS OF THE MEMBERSHIP CAMPING OPERATOR.

[PL 1985, c. 390 (NEW).]

4. Cancellation of contract. Any purchaser or prospective purchaser of a membership camping contract may cancel a membership camping contract by delivering in hand or mailing a postage prepaid written notice to the membership camping operator of the purchaser's cancellation of the contract within 7 calendar days after the date any contract is executed or within 7 calendar days after the delivery of the current written disclosure statement required by subsection 1, whichever event is later.

[PL 1985, c. 390 (NEW).]

5. Membership camping operator's refund obligation. If the membership camping operator is given written notice of cancellation of the membership contract pursuant to subsection 4, he must deliver or mail postage prepaid to the purchaser within 20 days of the effective date of the written notice of cancellation the full amount of any payment or down payment made or consideration given under the membership camping contract.

[PL 1985, c. 390 (NEW).]

6. Wrongful retention; damages; burden of proof. The following provisions apply when a membership camping operator fails to perform his refund obligation under subsection 5:

A. If the membership camping operator fails to return the full amount of any payment or downpayment made or consideration given within the 20-day period as described in subsection 5, it shall be presumed that he is willfully and wrongfully retaining the payment, down payment or other consideration; [PL 1985, c. 390 (NEW).]

B. The willful retention of a payment, down payment or other consideration in violation of this subchapter shall render the membership camping operator liable for double the amount of that portion of the payment, downpayment or other consideration wrongfully withheld from the purchaser together with reasonable attorney's fees and court costs; and [PL 1985, c. 390 (NEW).]

C. In any court action brought by a purchaser under this section, the membership camping operator shall bear the burden of proving that his withholding of the payment, downpayment or other consideration or any portion of it was not wrongful. [PL 1985, c. 390 (NEW).]

[PL 1985, c. 390 (NEW).]

7. Membership camping operators located outside the State. This subchapter shall apply to offers or sale of membership camping contracts within this State, even if the membership camping operator or purchaser is located outside of this State.

[PL 1985, c. 390 (NEW).]

SECTION HISTORY

PL 1985, c. 390 (NEW).

§589-B. Membership camping contract brokers; fees; escrow accounts; disclosures to new purchaser; notice of cancellation to purchaser

1. Fees; escrow accounts. A membership camping contract broker shall not receive any fee, including a listing fee, for selling a membership camping contract until a sale is completed. A fee may be paid into an escrow account at the time a purchaser is obtained.

[PL 1985, c. 390 (NEW).]

2. Disclosures to new purchaser. The broker shall inform the new purchaser in writing of the following:

A. The risks of purchasing a membership camping contract without visiting at least one of the membership camping operator's parks; [PL 1985, c. 390 (NEW).]

B. That the membership camping operator may have a valid reason for not transferring the contract to the new purchaser, such as the new purchaser may be in default in payments on contract or

annual dues or that the new purchaser does not meet the same credit standards applied to other new purchasers; [PL 1985, c. 390 (NEW).]

C. That there may have been changes in the rules concerning the rights and obligations of the membership camping operator or its members, including changes with respect to annual dues, fees or assessments or that some camping properties or facilities may have been withdrawn; and [PL 1985, c. 390 (NEW).]

D. Any material changes or risks to the purchaser known to the broker. [PL 1985, c. 390 (NEW).]
[PL 1985, c. 390 (NEW).]

3. Notice of right to cancel contract. Every broker shall provide in writing the following notice of right to cancel the contract to the new purchaser in not less than 10 point type:

YOU MAY CANCEL YOUR CONTRACT OF PURCHASE, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN 7 BUSINESS DAYS FROM THE ABOVE DATE OF PURCHASE BY HAND DELIVERING OR MAILING A POSTAGE PREPAID NOTICE OF CANCELLATION TO:

.....
(Name and address of broker)

[PL 1985, c. 390 (NEW).]

4. Broker's refund obligation. If the broker is given written notice of cancellation of the contract of purchase pursuant to subsection 3, the broker must deliver or mail postage prepaid to the purchaser within 20 days of the effective date of the written notice of cancellation, the full amount of any payment or down payment made or consideration given under the contract of purchase.
[PL 1985, c. 390 (NEW).]

5. Wrongful retention; damages; burden of proof. The following provisions apply when a membership camping broker fails to perform his refund obligation under subsection 4.

A. If the broker fails to return the full amount of any payment or down payment made or consideration given within the 20-day period as described in subsection 4, it shall be presumed that the broker is willfully and wrongfully retaining the payment, down payment or other consideration.
[PL 1985, c. 390 (NEW).]

B. The willful retention of a payment, down payment or other consideration in violation of this subchapter shall render the broker liable for double the amount of that portion of the payment, down payment or other consideration wrongfully withheld from the purchaser, together with reasonable attorney's fees and court costs. [PL 1985, c. 390 (NEW).]

C. In any court action brought by a purchaser under this section, the broker shall bear the burden of proving that his withholding of the payment, down payment or other consideration, or any portion of it, was not wrongful. [PL 1985, c. 390 (NEW).]

[PL 1985, c. 390 (NEW).]

SECTION HISTORY

PL 1985, c. 390 (NEW).

§589-C. Violation

1. Violation. Any violation of this subchapter is a violation of Title 5, chapter 10.
[PL 2013, c. 424, Pt. F, §1 (AMD).]

2. Intentional violation. Any intentional violation of this subchapter is a Class E crime.
[RR 1993, c. 1, §102 (COR).]

3. Subsequent violations. Any violation of this subchapter constitutes a civil violation for which a forfeiture not to exceed \$100 may be adjudged in the case of a first violation and a forfeiture not to exceed \$500 may be adjudged in the case of 2nd and subsequent violations.
[RR 1993, c. 1, §102 (COR).]

SECTION HISTORY

PL 1985, c. 390 (NEW). RR 1993, c. 1, §102 (COR). PL 2013, c. 424, Pt. F, §1 (AMD).

CHAPTER 10-A

TIME SHARES

§591. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 248, §3 (NEW).]

1. Manager. "Manager" means any person, other than all time-share owners or the association, designated in or employed pursuant to the time-share instrument or project instrument to manage the time-share units.
[PL 1983, c. 248, §3 (NEW).]

2. Managing entity. "Managing entity" means the manager or, if there is no manager, the association of unit owners.
[PL 1983, c. 248, §3 (NEW).]

3. Project. "Project" means real property subject to a project instrument containing more than one unit. A project may include units that are not time-share units.
[PL 1983, c. 248, §3 (NEW).]

4. Project instrument. "Project instrument" means one or more recordable documents by whatever name denominated, applying to the whole of a project and containing restrictions or covenants regulating the use, occupancy or disposition of units in a project, including any amendments to the document, but excluding any law, ordinance or governmental regulation.
[PL 1983, c. 248, §3 (NEW).]

5. Purchaser. "Purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a time share other than as security for an obligation.
[PL 1983, c. 248, §3 (NEW).]

6. Time share. "Time share" means a time-share estate or a time-share license.
[PL 1983, c. 248, §3 (NEW).]

7. Time-share estate. "Time-share estate" means any interest in a unit or any of several units under which the exclusive right of use, possession or occupancy of the unit circulates among the various time-share owners in the unit in accordance with a fixed time schedule on a periodically recurring basis for periods of time established by the schedule coupled with a freehold estate or an estate for years in a time-share property or a specified portion thereof.
[PL 1983, c. 248, §3 (NEW).]

8. Time-share instrument. "Time-share instrument" means one or more documents, by whatever name denominated, creating or regulating time shares.
[PL 1983, c. 248, §3 (NEW).]

9. Time-share license. "Time-share license" means a right to occupy a unit or any of several units during 3 or more separated time periods over a period of at least 3 years, including renewal options, not coupled with a freehold estate or an estate for years.
[PL 1983, c. 248, §3 (NEW).]

10. Time-share owner. "Time-share owner" means a person who is an owner or co-owner of a time share other than as security for an obligation.
[PL 1983, c. 248, §3 (NEW).]

11. Time-share property. "Time-share property" means one or more time-share units subject to the same time-share instrument, together with any other real estate or rights appurtenant to those units.
[PL 1983, c. 248, §3 (NEW).]

12. Time-share unit. "Time-share unit" means a unit in which time shares exist.
[PL 1983, c. 248, §3 (NEW).]

13. Unit. "Unit" means real property or a portion thereof designated for separate use.
[PL 1983, c. 248, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 248, §3 (NEW).

§592. Requirements of time shares

1. Specific disclosures. No time share may be conveyed by a developer or conveyed for the first time unless, prior to that conveyance or the execution of an agreement for the purchase, whichever is earlier, the purchaser is provided, at no cost to the purchaser, with a written statement containing the following information, all of which shall be current to a point not more than 60 days prior to the date of delivery to the purchaser.

A. The front cover or first page must contain only:

(1) The name and principal address of the developer and of the project and the location of the time-share property; and

(2) The following statements in conspicuous type.

(a) THIS CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A TIME SHARE. STATE OF MAINE LAW REQUIRES THAT THESE DISCLOSURES BE MADE BUT NO STATE AGENCY OR OFFICIAL HAS REVIEWED THE INFORMATION CONTAINED IN THIS BOOKLET.

(b) YOU MAY CANCEL THE PURCHASE TRANSACTION WITHIN TEN CALENDAR DAYS FOLLOWING THE DATE OF EXECUTION OF THE CONTRACT OR THE RECEIPT OF A CURRENT WRITTEN STATEMENT, WHICHEVER IS LATER.

(c) THE STATEMENTS CONTAINED INSIDE ARE ONLY SUMMARY IN NATURE. IF YOU ARE THINKING OF BUYING A UNIT, YOU SHOULD TALK TO YOUR ATTORNEY AND LOOK AT ALL EXHIBITS, INCLUDING THE DECLARATION, PROJECT INSTRUMENT FLOOR PLAN, PLOT PLAN, BYLAWS AND CONTRACTS.

(d) YOU SHOULD ASK YOUR ATTORNEY AND THE DEVELOPER TO TELL YOU WHAT WILL HAPPEN TO YOUR DEPOSIT, INTEREST IN THE UNIT, OR COSTS AND EXPENSES IF THE DEVELOPER OR OWNER IS DECLARED BANKRUPT. OBTAIN THE ANSWER FROM THE DEVELOPER IN WRITING. [PL 1997, c. 83, §1 (AMD).]

- B. The following pages shall contain, in the following order:
- (1) A general description of the time-share property and the time-share units, including, without limitation, the number and types of units in the time-share property and in any project of which it is a part and the schedule of commencement and completion of construction of all buildings, units, amenities and improvements;
 - (2) The maximum number of units that may become part of the time-share property, a statement of the maximum number of time shares that may be created or that there is no maximum, and the proportion of units the developer intends to rent or market in blocks of units to investors;
 - (3) Copies and a brief narrative description of the significant features of the project instrument and time-share instrument and any documents referred to therein, other than the survey and floor plans; the bylaws; rules; copies of any contracts and leases to be signed by purchasers at closing; and a brief narrative description of any contracts or leases, the term of which will or may extend beyond the period of developer control of the association;
 - (4) Any current balance sheet and a projected budget for the association, if there is an association, for one year after the date of the first transfer to a purchaser, and thereafter the current budget, a statement of who prepared the budget and a statement of the budgetary assumptions concerning occupancy and inflation factors. The budget shall include, without limitation:
 - (a) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;
 - (b) A statement of any other reserves;
 - (c) The projected common expense assessment by category of expenditures for the association; and
 - (d) The projected monthly common expense assessment for each type of unit;
 - (5) Any services not reflected in the budget that the developer provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit and each time-share estate;
 - (6) Any initial or special fee due from the purchaser at or before closing, together with a description of the purpose of the fee and method of its calculation;
 - (7) A description and a statement of the effect on the time-share owners of any liens, defects or encumbrances on or affecting the title to the project and each time-share unit;
 - (8) A description of any financing offered by the developer;
 - (9) The terms and significant limitations of any warranties provided by the developer, including statutory warranties and limitations on the enforcement thereof or on damages;
 - (10) A statement that:
 - (a) Within 10 calendar days after receipt of the current written statement or execution of a contract, whichever is later, a purchaser may cancel any conveyance or contract for purchase of a unit from the developer; and
 - (b) If the purchaser elects to cancel, the purchaser may do so by hand delivering a notice of cancellation or by mailing the notice by prepaid United States mail to the developer. The cancellation must be without penalty and any deposit made by the purchaser must be promptly refunded in its entirety;

(11) A statement of any unsatisfied judgments against the association, developer or managing entity, the status of any pending suits to which the association, developer or managing entity is a party and the status of any pending suits material to the property of which the developer has actual knowledge;

(12) A statement that any deposit made in connection with the purchase of a unit will be returned to the purchaser if the purchaser cancels the contract within 10 calendar days after receipt of the written statement or contract;

(13) Any restraints on transfer of time shares or portions thereof;

(14) A description of the insurance coverage provided for the benefit of the time-share owners;

(15) Any current or expected fees or charges to be paid by time-share owners for the use of the common elements and other facilities related to the project;

(16) All unusual and material circumstances, features and characteristics of the project and the units;

(17) The projected common expense assessment for each time share and whether those assessments may vary seasonally;

(18) The extent to which the time-share owners of a unit are jointly and severally liable for the payment of real estate taxes and all assessments and other charges levied against that unit; and

(19) The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other time-share owners of the same time-share unit. [PL 1997, c. 83, §2 (AMD).]

[PL 1997, c. 83, §§1, 2 (AMD).]

2. Restraint upon partition of time-share units. No action for partition of any unit in which time shares are created may lie.

[PL 1983, c. 248, §3 (NEW).]

3. Cancellation of contract. Any purchaser or prospective purchaser of a time share may cancel a contract or conveyance of a time share by delivering or mailing a postage prepaid written notice of the purchaser's intention to cancel within 10 calendar days after the date of any contract or conveyance or within 10 calendar days after delivery of the current written statement required by subsection 1, whichever is later.

[PL 1997, c. 83, §3 (AMD).]

4. Time share located outside State. This section shall apply to offers or sales within this State of time shares in property, even if the project is located outside of this State.

[PL 1983, c. 248, §3 (NEW).]

5. Application with respect to foreclosures of mortgages. This section shall not apply to offers or sales by financial institutions as defined in Title 9-B of time shares in property with respect to foreclosure of any mortgage or the delivery of any deed in lieu of that foreclosure.

[PL 1983, c. 248, §3 (NEW).]

6. Violation. Any violation of this section shall be a violation of Title 5, chapter 10.

[PL 1983, c. 248, §3 (NEW).]

7. Completion of construction; escrow requirement. Notwithstanding chapter 31, a developer of a time-share project may convey a time-share to a purchaser prior to the time-share unit containing the time-share being substantially completed, as long as the developer deposits all funds or other consideration received from or on behalf of the purchaser into an escrow account subject to an escrow agreement with an independent escrow agent.

A. The escrow agreement must provide that the funds or other consideration may be released only as provided in this paragraph.

(1) If the purchaser gives a valid notice of cancellation pursuant to this section or is otherwise entitled to cancel the sale, the funds or other consideration received from or on behalf of the purchaser must be returned to the purchaser.

(2) If the purchaser defaults in the performance of any obligation relating to the purchase or ownership of the time-share following the expiration of the cancellation period set out in subsection 1, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other consideration and shall provide a copy of the affidavit to the purchaser who has defaulted. If, within 7 calendar days of mailing the affidavit, the developer has not received from the purchaser a written notice of a dispute between the purchaser and the developer or a claim to the escrowed funds or other consideration, the funds or other consideration received from or on behalf of the purchaser must be immediately released to the developer.

(3) If no cancellation or default has occurred, the escrow agent may release the funds or other consideration upon presentation of an affidavit by the developer that:

(a) The cancellation period has expired; and

(b) A certificate or statement of substantial completion has been executed by an engineer or architect or a certificate of occupancy has been issued by the municipal building official for the time-share unit containing the time-share. [PL 2009, c. 261, Pt. B, §15 (AMD).]

B. In lieu of any escrow required by this section, the escrow agent may accept a surety bond issued by a company authorized and licensed to do business in this State in an amount equal to or in excess of the funds that would otherwise be placed in the escrow account pursuant to this section. [PL 1999, c. 478, §1 (NEW).]

C. As used in this subsection, "independent escrow agent" means a financial institution whose accounts are insured by a governmental agency or instrumentality; an attorney; or a licensed title insurance company, in which:

(1) The escrow agent is not a relative or an employee of the developer or managing entity or of any officer, director, affiliate or subsidiary of the developer or managing entity;

(2) There is no financial relationship, other than the payment of fiduciary fees or as otherwise provided in this section, between the escrow agent and the developer or managing entity or any officer, director, affiliate or subsidiary of the developer or managing entity; and

(3) Compensation paid by the developer to the escrow agent for services rendered is not paid from funds in the escrow account. [PL 1999, c. 478, §1 (NEW).]

D. For purposes of paragraph C, an independent escrow agent may not be disqualified to serve as escrow agent solely because:

(1) The escrow agent provides the developer or managing entity with routine banking services that do not include construction or receivables financing or any other lending activities;

(2) A nonemployee, attorney-client relationship exists between the developer or managing entity and the escrow agent; or

(3) The escrow agent performs closings for the developer or issues owner's or lender's title insurance commitments or policies in connection with such closings. [PL 1999, c. 478, §1 (NEW).]

[PL 2009, c. 261, Pt. B, §15 (AMD).]

SECTION HISTORY

PL 1983, c. 248, §3 (NEW). PL 1997, c. 83, §§1-3 (AMD). PL 1999, c. 478, §1 (AMD). PL 2009, c. 261, Pt. B, §15 (AMD).

§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. [PL 1983, c. 407, §1 (NEW).]

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.

[PL 1983, c. 407, §1 (NEW).]

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 must be separately assessed and taxed. In addition to other factors relevant to the valuation of a time-share estate considered by the assessor, the assessor may consider the real property value of the time-share estate declared in the declaration of value, if any, submitted under Title 36, section 4641-D. The filing and discharge of tax liens on more than one time-share estate owned by the same person are governed by Title 36, section 942-A.

[PL 2005, c. 607, §1 (AMD); PL 2005, c. 607, §3 (AFF).]

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.

[PL 1983, c. 407, §1 (NEW).]

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

If required by an ordinance enacted by the municipal officers, the managing entity shall collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates. The ordinance must also require that the municipality send the managing entity a tax bill and information necessary to identify the assessed value of each time-share unit. Nothing in this subsection prevents a municipality from sending separate tax bills to each time-share owner.

Any managing entity that collects taxes shall maintain an escrow account and pay the taxes as provided in subsection 5.

[PL 1991, c. 197, §1 (AMD).]

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 money collected or received for taxes in the escrow account within 10 days after collection or receipt. The escrow account must 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 shall place a lien on those time-share estates whose owners have not contributed to the escrow account as provided in section 594, and pay the outstanding amount no later than 30 days after the date it has collected the taxes and costs from the delinquent owner or has foreclosed the lien and sold the time-share estate to a new owner or 10 months from the date of commitment, whichever is earlier. If requested by the municipality, the

managing entity shall provide a list identifying those owners and their interests, including the periods of ownership, 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, 942-A and 943 to collect delinquent taxes on time-share estates, whenever a notice called for by Title 36, section 942, 942-A 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 that 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 is entitled to receive \$5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

[PL 2005, c. 607, §2 (AMD); PL 2005, c. 607, §3 (AFF).]

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

[RR 2011, c. 2, §36 (COR).]

7. Effect of foreclosure. A governmental entity that acquires ownership of a time-share estate for reasons of tax delinquency, including, but not limited to, the automatic foreclosure of a tax lien, may not be required to pay for the share of common expenses attributable to the time-share estate during the period the governmental entity owns the time-share estate if the governmental entity does not use the time-share estate. Use by a governmental entity includes, without limitation, leasing or renting the time-share estate. Any unpaid common expenses attributable to the time-share estate accruing during the period of ownership of the time-share estate by the governmental entity may be charged by the owners' association or managing entity to the purchaser of a foreclosed time-share estate when the purchaser acquires title to the unit from the governmental entity. The governmental entity shall disclose in writing to a prospective purchaser of the time-share estate that the purchaser may be charged for the common expenses attributable to the time-share estate accruing during the period of the governmental entity's ownership.

[PL 2005, c. 275, §1 (NEW); PL 2005, c. 275, §2 (AFF).]

SECTION HISTORY

PL 1983, c. 407, §1 (NEW). PL 1987, c. 358, §§1,2 (AMD). PL 1991, c. 197, §§1,2 (AMD). PL 2003, c. 229, §1 (AMD). PL 2005, c. 275, §1 (AMD). PL 2005, c. 275, §2 (AFF). PL 2005, c. 607, §§1,2 (AMD). PL 2005, c. 607, §3 (AFF). RR 2011, c. 2, §36 (COR).

§593-A. Utility billing for time-share estates

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Assessment" means any rate, fee or charge assessed or imposed by a utility for the provision of its service to time-share units, other than service that is metered or otherwise measured and billed on an individual time-share owner basis. [PL 2003, c. 526, §1 (NEW).]

B. "Utility" means a public utility as defined in Title 35-A, section 102, sanitary district established under Title 38, chapter 11 or sewer district as defined in Title 38, section 1032, subsection 3 or 4. [PL 2013, c. 555, §5 (AMD).]

[PL 2013, c. 555, §5 (AMD).]

2. Authority of managing entities. Notwithstanding section 593, subsection 2, when a utility provides services to time-share units, the managing entity may collect and receive money from the time-share owners for the purpose of paying the assessment.

[PL 2003, c. 526, §1 (NEW).]

3. Authority of utility to require assessment collection. Notwithstanding section 593, subsection 2, on written request of a utility, a managing entity shall collect and receive money from the time-share owners in accordance with this subsection for the purpose of paying assessments.

A. The utility shall provide the managing entity a combined or total utility bill and any additional information that may be reasonably useful for the managing entity to allocate the cost of utility service to the time-share owners. [PL 2003, c. 526, §1 (NEW).]

B. The managing entity shall maintain an escrow account with a financial institution licensed by the State and deposit any money collected or received for the utility's assessments in the escrow account within 10 days after collection or receipt. The escrow account must be established in the names of both the managing entity and the utility. A withdrawal may not be made from the escrow account without the written agreement of the utility. [PL 2003, c. 526, §1 (NEW).]

C. Prior to the delinquency date established by the utility, the managing entity shall pay to the utility all money deposited in the escrow account under paragraph B for the purpose of paying the assessment. If the amount paid from the escrow account is not sufficient to discharge all assessments due and owing:

(1) The managing entity shall pay the difference and, in accordance with section 594, place a lien on those time-share estates whose owners have not contributed their apportioned share to the escrow account; or

(2) At the request of the utility, the managing entity shall provide a list identifying the delinquent owners and their interests, including periods of ownership, and the utility may proceed to collect the assessments from those interests as allowed by law. If the utility uses any lien procedure available to it under law to collect delinquent assessments on time-share estates, any required notice of the lien that the utility sends to a time-share estate owner must also be given to the managing entity or left at the managing entity's last and usual place of abode or the utility must 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 that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the utility may receive \$5 plus all certified mail, return receipt requested fees and the cost of any photocopying. [PL 2003, c. 526, §1 (NEW).]

[PL 2003, c. 526, §1 (NEW).]

4. Exercise of other utility authority not precluded. Nothing in this section limits the authority of a utility and a managing entity to make other mutually acceptable arrangements for collection of assessments. Nothing in this section limits the authority of a utility to take any other action available under law to collect and recover assessments.

[PL 2003, c. 526, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 526, §1 (NEW). PL 2013, c. 555, §5 (AMD).

§594. Liens for assessment

1. Lien created. 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. A lien against a time-share estate may be foreclosed as provided in section 595, subsection 1, and a lien against a time-share license may be foreclosed as provided in section 595, subsection 2. Unless the project 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. The managing entity shall record notice of a lien on a time-share estate in the registry of

deeds in the county in which the time-share estate is located. A notice of a lien on a time-share license must be recorded in the public records for the filing of security interests governed by the Uniform Commercial Code. If there is more than one lien, they may be listed in one filing. 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.

[PL 2005, c. 572, §1 (RPR).]

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; [RR 2009, c. 2, §92 (COR).]

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; [PL 1983, c. 407, §1 (NEW).]

C. Liens for real estate taxes and other governmental assessments or charges against the time share; and [PL 1983, c. 407, §1 (NEW).]

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. [PL 1983, c. 407, §1 (NEW).]

[RR 2009, c. 2, §92 (COR).]

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.

[PL 1983, c. 407, §1 (NEW).]

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.

[PL 1983, c. 407, §1 (NEW).]

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.

[PL 1983, c. 407, §1 (NEW).]

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.

[PL 1983, c. 407, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 407, §1 (NEW). PL 2005, c. 572, §1 (AMD). RR 2009, c. 2, §92 (COR).

§595. Foreclosure or commercial sale of timeshare

1. Nonjudicial foreclosure of time-share estate. A time-share owner may grant to a financial institution or other person a mortgage with a power of sale on that owner's time-share estate that is governed by the terms of this section. The foreclosure of a mortgage with a power of sale or a lien from an assessment created pursuant to section 594 must be conducted pursuant to this section. The provisions of Title 14, chapter 713 do not apply to any such foreclosure.

In the event of a breach of the conditions of the power of sale mortgage or the failure of the time-share owner to pay the assessments as and when due and owing the following procedure must be followed.

A. Upon default, and after all applicable cure periods have expired, the person seeking to foreclose shall provide written notice of the default to the time-share owner at the owner's last known address by certified mail, return receipt requested, and by first class mail and provide a reasonable opportunity to cure of not less than 30 days from the date of the mailing of the notice letter. [PL 2005, c. 572, §2 (NEW).]

B. If, after expiration of the 30-day period under paragraph A, the time-share owner has not cured the default in the manner prescribed, the person seeking to foreclose shall conduct a public auction under the conditions described in this paragraph.

(1) Notice under this paragraph must be given as follows.

(a) Notice of the sale must be published once in each of 3 successive weeks in a newspaper with a general circulation in the town in which the time-share property is situated. The first 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.

(b) A written notice of the time, date and place of the auction must be mailed to the last known address of the time-share owner of record by certified mail, return receipt requested, and by first class mail at least 30 days prior to the date of sale. The notice to the time-share owner must include the following language: "You are hereby notified that you 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." The notice of sale also must be sent by certified mail, return receipt requested, to all persons having a lien on the time-share estate at least 30 days prior to the date of the foreclosure sale.

(c) The notice must contain:

- (i) The name of the time-share owner;
- (ii) The date, time and place of the foreclosure sale;
- (iii) A general description of the time-share estate; and
- (iv) The terms of the sale.

If more than one time-share estate is to be included in the foreclosure sale, all such time-share estates may be combined into one notice of sale, with one property description, as described in division (d) or (e).

(d) The notice of foreclosure for foreclosing on the lien of a time-share estate must be printed in substantially the following form:

NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33,
SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED

By virtue of the project instrument of the(name and address of time-share property) and Title 33, section 594 establishing a lien for failure to pay assessments on the time-share estate (or estates, if more than one) held by the time-share owner (or owners, if more than one) listed below, the time-share estate (or estates, if more than one) will be sold at Public Auction commencing at on , 20.. at, Maine. (For each time-share estate, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the deed.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be.

The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed.....

Lienholder or authorized agent.

(e) For foreclosure of a mortgage lien containing a power of sale on a time-share estate, a notice of sale must be printed in substantially the following form:

NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33, SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED

By virtue of Title 33, section 595 and in execution of the power of sale contained in a certain mortgage (or mortgages, if more than one) on the time-share estate (or estates, if more than one) given by the time-share owner (or owners, if more than one) set forth below for breach of the conditions of said mortgage (or mortgages, if more than one) and for the purpose of foreclosing, the same will be sold at Public Auction commencing at on, 20.. at, Maine, being all and singular the premises described in said mortgage (or mortgages, if more than one). (For each mortgage, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the mortgage.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed

Holder of Mortgage or authorized agent.

(f) The notice of sale in the forms described in divisions (d) and (e), published in accordance with the provisions of this section, together with such other or further notice, if any, constitutes sufficient notice of the sale.

(2) The foreclosure sale must be conducted pursuant to this subparagraph.

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

(b) The foreclosure sale must be by public auction, conducted by an auctioneer or attorney licensed to practice in the State. At the discretion of the auctioneer or attorney, the reading of the names of the time-share owners, if more than one, the description of time-share estates, if more than one, and the recording information, if more than one instrument, may be dispensed with.

(c) All rights of redemption of the time-share owner are extinguished upon sale of a time-share estate.

(d) The managing entity, the foreclosing person or any time-share owner may bid at the foreclosure sale. The successful buyer at the foreclosure sale takes title to the time-share estate free and clear of any outstanding assessments owed by the prior time-share owner to the managing entity. A purchaser at a sale is not required to complete the purchase if there are liens and encumbrances, other than those included in the notice of sale, that are not stated at the sale and included in the foreclosing person's contract with the purchaser.

(e) Upon closing, the foreclosing person shall provide the buyer with a foreclosure deed or other appropriate instrument transferring the rights to the time-share estate and an affidavit attesting that all requirements of the foreclosure pursuant to this section have been met. The time-share estate is deemed to have been sold, and the instrument conveying the time-share estate must transfer the time-share estate, subject to municipal or other public taxes and to any liens and encumbrances recorded prior to the recording of the mortgage or the lien for assessments.

(f) The buyer shall record the foreclosure deed or other instrument with the appropriate registry of deeds no more than 30 days after the foreclosure sale date.

(g) Within 30 days after the closing and transfer of the foreclosure deed or other instrument and affidavit, the foreclosing person shall mail a notice detailing the results of the foreclosure sale to the last known address of the former time-share owner and all parties that held a junior interest to that of the foreclosing person. [PL 2007, c. 466, Pt. A, §55 (AMD).]

[PL 2007, c. 466, Pt. A, §55 (AMD).]

2. Foreclosure of lien or security interest on time-share license. In the case of a time-share license, the following must be conducted by public or private sale in accordance with the provisions of Title 11, section 9-1610:

A. The foreclosure of a lien on a time-share estate pursuant to section 594 for failure to pay assessments when due; or [PL 2005, c. 572, §2 (NEW).]

B. The exercise of the rights of a holder of a security interest in a time-share license for breach of the terms of the instrument granting the security interest. [PL 2005, c. 572, §2 (NEW).]

All rights of redemption of a time-share owner are extinguished upon the consummation of the sale proceedings. The managing entity, the foreclosing person or any time-share owner may bid at the sale or may enter into agreements for the purchase of one or more time-share licenses following the completion of sale proceedings. The successful buyer takes title to the time-share license free and clear of any outstanding assessments owed by the prior time-share owner to the managing entity.

[PL 2005, c. 572, §2 (NEW).]

3. Foreclosure of mortgage not containing power of sale. In the event of a breach of the conditions of a mortgage on a time-share estate that does not contain a power of sale, the holder of the mortgage may conduct a nonjudicial foreclosure of the interest of the time-share owner in the time-share estate pursuant to subsection 1 if, at the same time the holder gives written notice of default to the time-share owner as provided in subsection 1, paragraph A, the holder also gives written notice to the time-share owner stating that unless the time-share owner objects in writing to the nonjudicial foreclosure within the 30-day period required by subsection 1, paragraph A, the holder will proceed to conduct the foreclosure pursuant to subsection 1. The holder must explain in the notice that the time-share owner has the right to a judicial foreclosure conducted pursuant to Title 14, chapter 713 if the owner asserts the objection within the specified time period and must include with the notice an objection form together with an envelope addressed to the holder. Failure of a time-share owner to object as required by this subsection in a timely manner is deemed a waiver of the owner's right to a judicial foreclosure pursuant to Title 14, chapter 713, which may include judicial foreclosure by way of court action.

[PL 2005, c. 572, §2 (NEW).]

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

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

[PL 2005, c. 572, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 572, §2 (NEW). PL 2007, c. 466, Pt. A, §55 (AMD).

CHAPTER 11

REGISTER OF DEEDS

SUBCHAPTER 1

PERSONNEL OF OFFICE

§601. Election of register; vacancies

A register of deeds shall be elected for each county and in each registry district by the legally qualified voters thereof, who shall serve for a term of 4 years. [PL 1975, c. 445, §1 (RPR).]

Vacancies caused by death, resignation, removal from the county, permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or any other reason must be filled for the unexpired term by election as provided for in section 602 at the next general election, as defined in Title 21-A, section 1, subsection 19, after their occurrence. In the meantime, the Governor may fill vacancies by appointment, and the person so appointed shall hold office until the first day of January next after the election. Until a vacancy is filled by appointment by the Governor, the deputy register serves as acting register as provided in section 605. [PL 1995, c. 683, §8 (AMD).]

In the case of a vacancy in the term of a register of deeds who was nominated by primary election before the general election, the register of deeds appointed by the Governor must be enrolled in the same political party as the register of deeds whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted by the county committee of the political party from which the appointment is to be made. [PL 1995, c. 245, §7 (NEW).]

SECTION HISTORY

PL 1971, c. 230, §1 (AMD). PL 1975, c. 445, §1 (RPR). PL 1975, c. 771, §374 (AMD). PL 1981, c. 698, §166 (AMD). PL 1989, c. 502, §B40 (AMD). PL 1995, c. 245, §7 (AMD). PL 1995, c. 683, §8 (AMD).

§602. Examination of lists by Governor; certificates; tenure

The meetings for such election shall be notified, held and regulated and the votes received, sorted, counted, declared and recorded in the same manner as votes for Representatives, and fair copies of the lists of votes shall be attested by the municipal officers and clerks of towns and sealed up in open town meeting, and town clerks shall cause them to be delivered into the office of the Secretary of State. The Governor shall open and examine the same and the list of votes of citizens in the military service returned to said office. He has the same power to correct errors as is conferred by Title 21-A. He shall forthwith issue certificates of election to such persons as have a plurality of all the votes for each county or registry district. The person thus elected and giving the bond required in section 603 approved by the county commissioners shall hold his office for 4 years from the first day of the next January and until another is chosen and qualified. [PL 1985, c. 614, §28 (AMD).]

SECTION HISTORY

PL 1975, c. 771, §375 (AMD). PL 1985, c. 614, §28 (AMD).

§603. Bond

Each register shall give bond with sufficient sureties to the county in the sum of \$2,000 for the faithful discharge of his duties.

§604. Salaries

Registers of deeds in the several counties shall receive annual salaries as set forth in Title 30-A, section 2. [PL 1987, c. 737, Pt. C, §§74, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §8, 10 (AMD).]

The salaries of the registers of deeds shall be in full compensation for the performance of all official duties and no other fees or compensation shall be allowed them. All registers, except in the western district of Oxford County, shall devote their entire time to the duties of the office. They shall account monthly under oath to the county treasurers for all fees received by them or payable to them by virtue of the office, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties monthly by the 15th day of the following month. They may make abstracts and copies from the records and furnish the same to persons calling for them and may charge a reasonable fee for such service, but shall not give an opinion upon the title to real estate. [PL 1981, c. 40, §6 (AMD).]

Registers shall photocopy each warranty or quitclaim deed received and send the copy to the assessors of the appropriate municipality within 30 days of recordation. They may charge a reasonable fee for such service. [PL 1979, c. 710, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 710, §§1,2 (AMD). PL 1981, c. 40, §6 (AMD). PL 1987, c. 737, §§C74,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD).

§605. Deputy; oath and duties

Each register shall appoint a deputy register of deeds subject to the requirements of Title 30-A, section 501; the deputy register shall be sworn. He shall give bond to the county for the faithful discharge of his duties in such sum as the county commissioners order and with such sureties as they approve in writing thereon. The premium of the bond shall be met by the county. The deputy register shall receive an annual salary as established by the register and approved by the county commissioners. In case of sickness, absence or any temporary disability of the register, such deputy shall make and sign for him all certificates and make all entries and minutes required to be signed or made by the register. Such certificates, entries and minutes shall be as valid as if made by the register. [PL 1987, c. 737, Pt. C, §§75, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §8, 10 (AMD).]

In case of vacancy in the office of register, in any county or registry district, the deputy register then holding such office pursuant to this section shall assume the title of acting register, be sworn as such by a dedimus justice and thereafter perform all duties and services required of a register of deeds during such vacancy, complete all unfinished business, receive the same compensation and be subject to the same liabilities as a register of deeds and his certificate shall have the same effect as if made by the register. [PL 1975, c. 445, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 445, §2 (AMD). PL 1977, c. 67, §9 (AMD). PL 1981, c. 279, §20 (AMD). PL 1981, c. 394, §8 (AMD). PL 1981, c. 698, §167 (AMD). PL 1987, c. 737, §§C75,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD).

§606. Clerk of courts as register**(REPEALED)**

SECTION HISTORY

PL 1971, c. 230, §2 (RPR). PL 1975, c. 445, §3 (RPR). PL 1981, c. 279, §21 (RP).

§607. Assistant**(REPEALED)**

SECTION HISTORY

PL 1981, c. 698, §168 (RP).

§608. Removal of register for misconduct or incapacity

When on presentment of the grand jury or information of the Attorney General to the Superior Court, any register of deeds, by default, confession, demurrer or verdict, after due notice, is found guilty of misconduct in his office or incapable of discharging its duties, the court shall enter judgment for his removal from office and issue a writ to the sheriff to take possession of all the books and papers belonging thereto and deliver them to the register of deeds. [PL 1981, c. 698, §169 (AMD).]

SECTION HISTORY

PL 1981, c. 698, §169 (AMD).

§609. Successors may complete records and grant certificates

The newly appointed or elected register or any successor within 5 years after the original vacancy occurred shall complete, compare and certify any unfinished record or certificate required by law and make all requisite certificates upon deeds and other papers recorded, which the removed predecessor should have done if such records and certificates had been completed by the predecessor, which certificates shall be as effectual in law as if made by the predecessor; for doing this, the minutes made by the predecessor upon such deeds or other papers and the entries made by the predecessor in the books required to be kept for such purposes shall be sufficient authority. If payment for such services has been made to the predecessor, the newly appointed or elected register or any successor shall be paid for them out of the county treasury, and the former register and the former register's sureties shall refund such payments to the county treasury, to be recovered by a civil action upon the former register's official bond. [PL 1981, c. 502, Pt. B, §41 (AMD).]

SECTION HISTORY

PL 1989, c. 502, §B41 (AMD).

§610. Certificates, conditions and requisites of

No such certificate shall be made, except upon comparison of the original instrument with the record thereof, by the register making the certificate, and such certificate shall state the date when it was made, the fact of comparison and the date when the original instrument was left for record, but shall be only prima facie evidence of the last fact.

§611. Recording officer not to draft or aid in drafting recorded instrument

No city, town, county or state officer whose duty is to record conveyances of any kind, assignments, certificates or other documents or papers whatsoever shall draft or aid in drafting any conveyance, assignment, certificate or other document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by any complainant by a civil action for his benefit or by indictment for the benefit of the county.

SUBCHAPTER 2

RECORDS AND RECORDING

§651. Records; index

The records and indexes in each registry office must be made and kept for public inspection on at least one of the following media: white, acid-free paper, microfilm, microfiche, or digital image stored on magnetic or optical media. The register shall make an alphabetical index to the records without charge to the county so that the same surnames are recorded together and shall show in addition to the names of the parties and the nature of the instrument, the date of the instrument, the date of its record and the name of the city, town or unincorporated place where the land conveyed is situated. As often as every 10 years the register shall revise and consolidate the index in such manner that all deeds recorded since the last revision of the index are indexed so that the same surnames appear together and all names are in alphabetical order. The revised and consolidated index must contain all data as to each and every deed or other instrument referred to in this section. If it becomes necessary to revise, renew or replace any index, the new index must be made in conformity with this section. [PL 2003, c. 55, §1 (RPR).]

When the register of deeds is required by law or common practice to make a note in the margin of a record, it is determined sufficient if the note is made to the index in such a fashion that the note becomes a permanent part of the indexing of the record to which the marginal note is required to be made. [PL 2003, c. 55, §1 (NEW).]

The register shall prepare, or have prepared, a microfilm record of each page of every instrument, plan or other document recorded in the registry office. The microfilm record made must be stored in a fireproof area. When original record books or plans are considered by the register to be in a condition that warrants withdrawal from regular use, the register may make a true copy of the contents of the record or may provide suitable means for reading the microfilm, microfiche or digital image stored on magnetic or optical media of the instruments withdrawn. The records and certified copies made either from the true copy or from images stored as provided in this section must be received in all courts of law with the same legal effect as those contained in the original. [PL 2003, c. 55, §1 (RPR).]

Notwithstanding Title 1, section 408-A, this chapter governs fees for copying records maintained under this chapter. [PL 2011, c. 662, §21 (AMD).]

SECTION HISTORY

PL 1965, c. 215 (AMD). PL 2003, c. 55, §1 (RPR). PL 2009, c. 575, §1 (AMD). PL 2011, c. 662, §21 (AMD).

§651-A. Grantor, grantee names; form of indexing

No instrument executed on or after October 1, 1983, may be accepted by a register of deeds for recording unless beneath the signature of the grantor, grantee, if it appears on the instrument, and the person taking the acknowledgement, the name of each signer is typed or printed. Names used for indexing must be indexed as typed or printed under each signature. A name may be typed or printed under a signature at the registry of deeds by the person bringing the instrument to the registry, as long as the name is typed or printed on the instrument prior to the certification on the instrument under section 653 of the time when the instrument was received. The register of deeds may return documents that are not legible for recording and archival purposes. [PL 1993, c. 230, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 57 (NEW). PL 1983, c. 530, §8 (AMD). PL 1993, c. 230, §1 (AMD).

§651-B. Privacy protection

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the data elements described in this paragraph:

- (1) Social security number;
- (2) Driver's license number or state identification card number;
- (3) Account number, credit card number or debit card number if circumstances exist such that the number could be used without additional identifying information, access codes or passwords;
- (4) Account passwords or personal identification numbers or other access codes; or
- (5) Any of the data elements contained in subparagraphs (1) to (4) when not in connection with the individual's first name, or first initial, and last name if the information included would be sufficient to permit a person to fraudulently assume or attempt to assume the identity of the person whose information was included. [PL 2007, c. 626, §1 (NEW).]

[PL 2007, c. 626, §1 (NEW).]

2. Personal information on registry's website. If a document that includes an individual's personal information is recorded with a register of deeds and is available on the registry's publicly accessible website, the individual may request that the register of deeds redact that personal information from the record available on the website. The register shall establish a procedure by which individuals make such requests at no fee to the requesting individual. The register shall comply with an individual's request to redact personal information.

[PL 2007, c. 626, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 626, §1 (NEW).

§652. Recording plans

The county commissioners shall provide, at the expense of the several counties, suitable storage for plans with a minimum size of 11 by 17 and a maximum of 24 by 36 inches in dimension, for the preservation of such plans. [PL 2019, c. 439, §1 (AMD).]

A plan may not be accepted for recording unless all of the following criteria are met. The plan must: [PL 2019, c. 439, §1 (AMD).]

1. Materials. For a plan dated before January 1, 2020, be drawn upon strong linen cloth or polyester film with archival photographic image or white 20-pound paper. For a plan dated on or after January 1, 2020, the plan must be submitted on white paper with a minimum weight of 20 pounds; [PL 2019, c. 439, §1 (AMD).]

2. Seals. Be embossed, sealed or both, with the seal of an architect, professional engineer or professional land surveyor; [PL 2019, c. 439, §1 (AMD).]

3. Signature. Contain the signature and address of the person who prepared the plan; [PL 1991, c. 497, §1 (NEW).]

4. Recording information. Provide a register's block no smaller than 3 by 3 inches for recording the county, date, time, plan book and page or file number and register's attest; and [PL 2019, c. 439, §1 (AMD).]

5. Title. Provide a title block containing the name of the plan, the record owner's name and address, the location by street and town and the date of the plan. [PL 1991, c. 497, §1 (NEW).]

Paper plans submitted for recording must be rolled and not folded. The register may return plans that are not legible for recording and archival purposes and the processing of which may damage county equipment or resources. The register shall permanently file the original, create a digital image of the plan at a minimum of 300 dots per inch or 300 pixels per inch and maintain a copy for public inspection in paper or digital image form. Each plan must be microfilmed for archival purposes. Each register shall maintain an index of all plans on record in the register's office. [PL 2019, c. 439, §1 (AMD).]

The several registers shall establish, and thereafter adhere to, reasonable standards for the implementation of reproducing copies of original plans as recorded. Reproduction must be on a scale of one to one and must be accomplished with the least possible error and distortion. Methods of reproduction must be to standards in keeping with accepted engineering and survey practices. [PL 1991, c. 497, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 448 (AMD). PL 1973, c. 485 (AMD). PL 1991, c. 497, §1 (RPR). PL 2001, c. 667, §C18 (AMD). PL 2003, c. 55, §2 (AMD). PL 2019, c. 439, §1 (AMD).

§653. Time of recording; verification

A register shall, at the time of receiving a deed or instrument for record, certify on the deed or instrument the day and the hour and minute when it was received and the book number and page number where the document is located. If the deed or instrument does not have sufficient room on the page or pages for the location of the recording information so that the register is required to add an additional page for the placement of the recording information, the register may charge in addition to any other fees allowed by law a fee of \$2 for each page the register is required to add. An instrument is considered recorded at the time when it was received and that time must be entered on the record. The register shall enter that time, the names of the grantor and grantee and the name of the town or unincorporated place as shown by the instrument in which the property affected is located in a record kept for that purpose and open to inspection in business hours. The register may not permit a deed or instrument for the conveyance of real estate to be altered, amended or withdrawn until it is fully recorded and examined. The record must be verified as a true record of the original document by comparing the indexing record and the copy kept for public inspection, as described in section 651, to the original document before the original document is allowed to leave the registry office. [PL 2003, c. 55, §3 (RPR).]

SECTION HISTORY

PL 1983, c. 15 (RPR). PL 2003, c. 55, §3 (RPR).

§654. Miscellaneous records

Registers shall receive and record all certificates in equitable proceedings, copies of judgments and decrees certified by the clerk of courts in the county where the complaint is pending or the judgment or decree is rendered, certified copies of the proceedings of any court, corporation, municipal body or other tribunal through or by which the right of eminent domain has been or may be exercised to affect the title to real estate, copies of portions of wills devising real estate situated in their respective counties or districts and all other instruments that they are by law required to record. They shall receive all copies of seizures on execution and special attachments made and attested by any officer of real property situate in their respective counties or districts and certify on them the time when they are received, and certificates of advertised stallions and copies of processes against domestic corporations filed for service by officers in the registry, keep them on file for the inspection of parties interested and enter them in suitable records properly indexed. [PL 2003, c. 55, §4 (AMD).]

SECTION HISTORY

PL 2003, c. 55, §4 (AMD).

§654-A. Certain county records of deeds to be copied; legal effect**(REPEALED)**

SECTION HISTORY

PL 1965, c. 425, §20A (NEW). PL 2003, c. 55, §5 (RP).

§655. Town records to State Archivist for safekeeping

All persons, other than registers of deeds, having possession of or owning the records of the original proprietors of any town or plantation in this State, may deliver the same to the State Archivist for preservation and safekeeping. [PL 1973, c. 28, §14 (AMD).]

SECTION HISTORY

PL 1965, c. 441, §6 (AMD). PL 1969, c. 318, §14 (AMD). PL 1973, c. 28, §14 (AMD).

§656. Owner of original records reimbursed for safekeeping**(REPEALED)**

SECTION HISTORY

PL 1965, c. 441, §7 (AMD). PL 1969, c. 318, §15 (AMD). PL 1973, c. 28, §15 (RP).

§657. Filing of subdivision plats; penalty

Whoever lots or causes to be lotted for the purpose of sale any tract of land shall, before making any deed of such land or any part thereof, file with the register of deeds for the county or registry district wherein such land is situated an accurate plan of such property, which plan shall give such courses, angles and distances as will be sufficient to enable a skillful surveyor to locate any lot shown thereby. If such party, after request by any interested party or by the register of deeds, fails to comply with this section, he shall be liable to a penalty of not more than \$50, to be recovered in a civil action in the name of the register of deeds for the benefit of the county.

§658. Recording of releases or waivers of conditions

Whenever land has been lotted in accordance with section 657 and lots described therein have been conveyed by deeds of conveyance containing one or more uniform conditions which restrict the full and unqualified enjoyment of the right or estate granted, the grantor may subsequently by a writing under seal and by the grantor signed and acknowledged and recorded in the registry of deeds for the county or registry district in which the land lies, release and waive one or more of such conditions by reference to lot numbers, block numbers, section numbers or other apt description. Such release and waiver need not state a consideration and need not contain the names of the grantees or present owners of the respective parcels. Such release and waiver shall thereafter accrue to the respective individual benefit of the owners of the parcels described in such release and waiver and may be used by them as a bar to any action by the said grantor for breach of any such condition thus released and waived. Such writing shall not in any way affect or impair like conditions in respect to other deeds of lots shown on such plans and not included in such release and waiver, and such writing shall not in any way affect or impair other conditions contained in deeds of the parcels referred to in such release and waiver.

§659. Duplicates of plans in court files

Whenever in the settlement of any disputed line or in the division of any estate any plans are made for filing in the office of the clerk of courts or the register of probate, duplicate plans shall in all cases be filed in the registry of deeds.

§660. Plans of townships; copies; filing and indexing

The county commissioners shall, at the expense of their respective counties, procure such plans of the townships in their counties as may be in existence. If the original plans are not in existence or can

not be had at a reasonable price, they shall procure copies of the most authentic plans known to exist. All copies must be on the best quality of linen paper backed with cloth or polyester film with archival photographic image. Suitable filing cases must be provided in each registry of deeds for the reception and preservation of the plans and a suitable index of the plans must be made, having at least both alphabetical and chronological arrangement, and must be revised whenever new plans for recording are received. [PL 2003, c. 55, §6 (AMD).]

SECTION HISTORY

PL 2003, c. 55, §6 (AMD).

§661. Plans deemed of interest to county

The county commissioners may at their discretion procure such plans, other than township plans, of properties within their counties, either originals or copies, as they deem for the interest of their counties to have preserved on the files of the registry of deeds. This section shall not be construed to allow the purchase of any plan which the proprietor of any estate is required by law to file with the register of deeds.

§662. Plans showing allotment of lands in cities and towns

The municipal officers of a city or town may, and upon the written request of 3 or more taxpayers of the city or town shall, cause any plans in the possession of the city or town or otherwise available, showing the allotment of lands in the city or town, to be recorded in the registry of deeds in the county or registry district in which any such city or town is situated. The plans must be recorded and kept in accordance with the provisions of section 652. [PL 2003, c. 55, §7 (AMD).]

SECTION HISTORY

PL 2003, c. 55, §7 (AMD).

§662-A. Municipal land control ordinances

(REPEALED)

SECTION HISTORY

PL 1973, c. 177 (NEW). PL 1973, c. 788, §167 (AMD). PL 1981, c. 216, §3 (RP).

§663. Copies of transfers of lands in unorganized territory sent to State Tax Assessor

In each county containing lands in unorganized territory, so called, the register of deeds shall transmit to the State Tax Assessor certified copies of the record of all transfers of lands in unorganized territory made after the 20th day of March, 1907, within 10 days after such record is made. Such copies shall be placed on file and retained for future reference by the State Tax Assessor.

§664. Notices of federal tax liens

(REPEALED)

SECTION HISTORY

PL 1981, c. 279, §22 (AMD). PL 1987, c. 645, §2 (RP).

§665. Farm owner may name lands for filing and recording

The owner of any farm lands may designate a specific name for such lands and the said name together with a description of said farm lands according to the latest authentic survey thereof may be filed with the register of deeds of the county wherein the said lands or a part thereof are situated. The name together with the description of the lands shall be recorded by the register of deeds under section 651. The register of deeds shall be paid the fee set in section 751. No 2 names so designated and recorded may be alike in the same county. [PL 1981, c. 279, §§ 23, 23-A (AMD).]

SECTION HISTORY

PL 1981, c. 279, §§23,23A (AMD).

§666. Transfer of named farm lands

Whenever any owner of farm lands, the name of which has been recorded as provided in section 665 transfers by deed or otherwise the whole of such farm lands, such transfer may include the registered name thereof. If the owner shall transfer only a portion of such farm lands, then the registered name thereof shall not be transferred to the purchaser, unless so stated in the deed of conveyance.

§667. Conservation restrictions; defined

(REPEALED)

SECTION HISTORY

PL 1969, c. 566, §1 (NEW). PL 1985, c. 395, §1 (RP).

§668. -- acquisition, effect, recording and release

(REPEALED)

SECTION HISTORY

PL 1969, c. 566, §2 (NEW). PL 1983, c. 458, §13 (AMD). PL 1985, c. 395, §2 (RP).

§669. Copies of bankruptcy orders and decrees

At any time after a petition in bankruptcy is filed, or a decree of adjudication or an order approving the trustee's bond is made, pursuant to the Federal Bankruptcy Act of 1898, as amended, the bankrupt, trustee, receiver, custodian, referee or any creditor may record a certified copy of such petition, with the schedules omitted, or of such decree or order in the registry of deeds for any county or district wherein the bankrupt owns or has an interest in any land. [PL 1971, c. 68 (NEW).]

SECTION HISTORY

PL 1971, c. 68 (NEW).

§670. Facsimile signature of the register and deputy register of deeds

A facsimile of the signature of the register or deputy register of deeds imprinted at his direction upon any deed or other instrument that is customarily recorded at the registry of deeds, including plans and the like, shall have the same validity as his signature. [PL 1979, c. 179 (NEW).]

SECTION HISTORY

PL 1979, c. 179 (NEW).

SUBCHAPTER 3

LOCATION OF OFFICES

§701. Office in shire town

The register of deeds in each county in which there is but one register shall keep his office in the shire town.

§702. Western district office in Oxford County

(REPEALED)

SECTION HISTORY

PL 2017, c. 330, §1 (AMD). MRSA T. 33 §702 (RP).

§703. Northern district office in Aroostook County

All that part of the County of Aroostook lying north of a line commencing at the southeast corner of Township F, in the first range, west from the east line of the State, thence west on the south line of said township and the south line of Township K in the 2nd range, to Township number 15 in the 3rd range, thence north to the northeast corner of Township number 15 in the 3rd range, thence west to the northwest corner of Township number 15 in the 3rd range, thence south to the southwest corner of Township number 15 in the 3rd range, thence west to the northwest corner of Township number 14 in the 4th range, thence south to the southwest corner of Township number 14 in the 4th range, thence west on the dividing line of Townships 13 and 14 to the 7th range line, thence north to the northeast corner of Township number 14 in the 8th range, thence west to the west line of the State, compose the northern registry district of Aroostook County. The register shall keep his office in the Town of Fort Kent.

SUBCHAPTER 4**FEES****§751. Schedule**

Except as provided in any other provision of law, registers of deeds shall receive the following fees for: [PL 1993, c. 560, §3 (AMD).]

1. Instruments generally. Receiving, recording and indexing any instrument that may be recorded and for which a specific fee is not set forth in this section or in any other section, the sum of \$19 for the first record page and \$2 for each additional record page or portion of an additional record page. In addition, if more than 4 names are to be indexed, a fee of \$1 must be paid for each additional name, counting all grantors and grantees; [PL 2013, c. 370, §1 (AMD).]

1-A. Divorce decrees or abstracts.
[PL 1991, c. 497, §3 (RP).]

2. Discharge.
[PL 1981, c. 279, §26 (RP).]

3. Municipal quitclaim deed.
[PL 1977, c. 145, §3 (RP).]

4. Copy of writ of attachment in unincorporated place.
[PL 1977, c. 145, §4 (RP).]

5. Certain corporation certificates.
[PL 1973, c. 625, §228 (RP).]

6. Copy of process against domestic corporation.
[PL 1977, c. 145, §5 (RP).]

7. Organization of nonprofit corporation.
[PL 1979, c. 541, Pt. A, §208 (RP).]

8. Federal liens.
[PL 1991, c. 497, §4 (RP).]

9. Plans. Recording, indexing and preserving plans, the sum of \$21; [PL 2013, c. 370, §2 (AMD).]

10. Municipal and unorganized territory tax liens.

[PL 1991, c. 497, §5 (RP).]

11. Mortgage foreclosure.

[PL 1977, c. 145, §9 (RP).]

12. District liens.

[PL 1991, c. 497, §6 (RP).]

13. Secured transactions.

[PL 1991, c. 497, §7 (RP).]

13-A. Previously recorded instrument. An instrument satisfying, releasing, discharging, assigning, subordinating, continuing, amending or extending an instrument previously recorded in the county in which recording is requested must make reference to only one previously recorded instrument, or a fee of \$13 for each additional previously recorded instrument referred to must be paid. [PL 2005, c. 246, §3 (AMD).]

14. Abstracts and copies.

[PL 2011, c. 378, §1 (RP).]

14-A. Bail liens.

[PL 1991, c. 497, §9 (RP).]

14-B. Paper copies. Making paper copies of records at the office of the register of deeds as follows:

A. Five dollars per page for paper copies of plans; and [PL 2013, c. 370, §3 (AMD).]

B. One dollar per page for other paper copies; [PL 2013, c. 370, §3 (AMD).]

C. [PL 2013, c. 370, §3 (RP).]

[PL 2013, c. 370, §3 (AMD).]

14-C. Abstracts and copies.

[PL 2011, c. 508, §2 (RP).]

14-D. Downloads of 1,000 or more consecutive electronic images or electronic abstracts from a county registry of deeds. Acquiring downloads of 1,000 or more consecutive electronic images or electronic abstracts from a county registry of deeds equipped to provide downloads of images or electronic abstracts, 5¢ per image or electronic abstract; [PL 2013, c. 370, §4 (NEW).]

14-E. Electronic images, printed images or electronic abstracts from a county registry of deeds website. Acquiring electronic images, printed images or electronic abstracts from a county registry of deeds website as follows:

A. No charge for the first 500 images or electronic abstracts, or a combination of the first 500 images and electronic abstracts, acquired by a person in a calendar year; and [PL 2013, c. 370, §5 (NEW).]

B. Fifty cents per image or electronic abstract for each subsequent image or electronic abstract after 500 acquired in the same calendar year; and [PL 2013, c. 370, §5 (NEW).]

[PL 2013, c. 370, §5 (NEW).]

15. When payable. Fees provided by this section shall be paid when the instrument is offered for record, except that fees payable by the State shall be paid monthly by the department or agencies requesting the recording, upon rendition of bills by the register of deeds. Said bills shall be paid within 10 days of receipt of same by the department or agencies.

[PL 1971, c. 321 (RPR).]

SECTION HISTORY

PL 1965, c. 265 (AMD). PL 1971, c. 321 (RPR). PL 1973, c. 226 (AMD). PL 1973, c. 625, §§228,230 (AMD). PL 1975, c. 198, §§1-6 (AMD). PL 1977, c. 145, §§1-11 (AMD). PL 1977, c. 422, §1 (AMD). PL 1979, c. 72, §3 (AMD). PL 1979, c. 541, §A208 (AMD). PL 1979, c. 666, §4 (AMD). PL 1981, c. 279, §§24-31 (AMD). PL 1981, c. 557, §§2,3 (AMD). PL 1983, c. 795, §6 (AMD). PL 1987, c. 645, §3 (AMD). PL 1991, c. 497, §§2-9 (AMD). PL 1993, c. 560, §3 (AMD). PL 2003, c. 55, §§8,9 (AMD). PL 2005, c. 246, §§1-3 (AMD). PL 2009, c. 575, §2 (AMD). PL 2011, c. 378, §§1, 2 (AMD). PL 2011, c. 508, §§1, 2 (AMD). PL 2013, c. 370, §§1-5 (AMD).

§752. Records preservation surcharge

1. Surcharge. In addition to any other fees required by law, a register of deeds may collect a surcharge of \$3 per document for all records that are recorded in the registry of deeds, except those recorded by agencies of State Government, including quasi-independent state entities as defined in Title 5, section 12021, subsection 5, and municipalities.

[PL 2017, c. 116, §1 (AMD).]

2. Account. The surcharge imposed in subsection 1 must be transferred to the county treasurer who shall deposit it in a separate nonlapsing account within 30 days of receipt. Money in the account is not available for use as a general revenue of the county. Interest earned on the account must be credited to the account.

[PL 1997, c. 503, §1 (NEW).]

3. Expenditures from account. The money in the account established in subsection 2 must be used for the restoration, re-creation and preservation of the records recorded in the office of the register of deeds, including preservation by creation of a digital image stored on magnetic or optical media. The money may not be used for initial recording of documents.

[PL 2005, c. 584, §1 (AMD).]

4. Repeal.

[PL 2003, c. 294, §2 (RP).]

5. Annual report. The register of deeds for each county shall report annually to the joint standing committee of the Legislature having jurisdiction over state and local government matters on the amount of surcharge funds raised and expended and the use of those funds. The registers of deeds may jointly prepare and submit the report required under this subsection, as long as the required information is separately described for each county.

[PL 2003, c. 294, §3 (NEW).]

6. Misappropriation of funds; penalty. Any county that uses funds from the records preservation surcharge account established in subsection 2 for any purpose that is not in accordance with the standards established in subsection 3 commits a civil violation for which a fine of \$100 per day from the date of the withdrawal to the date the money is restored to the account must be adjudged. Fines must be paid out of the county budget and be deposited in the account established in subsection 2.

[PL 2005, c. 584, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 503, §1 (NEW). PL 2001, c. 317, §1 (AMD). PL 2003, c. 294, §§1-3 (AMD). PL 2005, c. 584, §§1,2 (AMD). PL 2017, c. 116, §1 (AMD).

§753. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 370, §6 (NEW).]

1. Electronic abstract. "Electronic abstract" means the digital indexing information for a document.

[PL 2013, c. 370, §6 (NEW).]

2. Image. "Image" means a digital capture of an individual page of a document or plan filed in a county registry of deeds.

[PL 2013, c. 370, §6 (NEW).]

3. Person. "Person" means a person, corporation, partnership or other entity.

[PL 2013, c. 370, §6 (NEW).]

SECTION HISTORY

PL 2013, c. 370, §6 (NEW).

CHAPTER 12

SHORT FORM DEEDS ACT

§761. Statutory forms; incorporation by reference; title

The forms set forth in section 775 may be used and shall be sufficient for their respective purposes. They shall be known as "Statutory Short Form Deeds" and may be referred to as such. They may be altered as circumstances require, and the authorization of such forms shall not prevent the use of other forms. Wherever the phrase, "incorporation by reference" is used in this chapter, the method of incorporation as indicated in said forms shall be sufficient, but shall not preclude other methods. This chapter may be cited as the "Short Form Deeds Act". [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§762. Rules and definitions

For the purpose of avoiding the unnecessary use of words in deeds or other instruments relating to real estate, whether the statutory short form or other forms are used, the rules and definitions contained in sections 763 to 774 shall apply to all such instruments executed or delivered on or after January 1, 1968. [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§763. Warranty deed

A deed in substance following the form entitled "Warranty Deed" shall when duly executed have the force and effect of a deed in fee simple to the grantee, his heirs and assigns, his and their use and behoof forever, with covenants on the part of the grantor, for himself, with the grantee, his heirs and assigns, that, at the time of the delivery of such deed, he was lawfully seized in fee of the premises, that they were free of all encumbrances, that he had good right to sell and convey the same to the grantee to hold as aforesaid, and that he and his heirs shall and will warrant and defend the same to the grantee, his heirs and assigns forever, against the lawful claims and demands of all persons. [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§764. Warranty covenants

In a conveyance of real estate the words "warranty covenants" shall have the full force, meaning and effect of the following words: "The grantor covenants with the said grantee, his heirs and assigns

that he is lawfully seized in fee of the premises, that they are free of all encumbrances, that he had good right to sell and convey the same to the said grantee to hold as aforesaid, and that he and his heirs shall and will warrant and defend the same to the said grantee, his heirs and assigns forever, against the lawful claims and demands of all persons." [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§765. Quitclaim deed with covenant

A deed in substance following the form entitled "Quitclaim Deed With Covenant" shall when duly executed have the force and effect of a deed in fee simple to the grantee, his heirs and assigns forever, with covenant on the part of the grantor, for himself, with the grantee, his heirs and assigns forever, that at the time of the delivery of such deed the grantor covenants with the grantee, his heirs and assigns, that he will warrant and forever defend the premises to the said grantee, his heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under him. [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§766. Quitclaim covenant or limited covenant

In a conveyance of real estate the words "quitclaim covenant" shall have the full force, meaning and effect of the following words: "The grantor covenants with the grantee, his heirs and assigns that he will warrant and forever defend the premises to the said grantee, his heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under him." [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§767. Mortgage deed

A deed in substance following the form entitled "Mortgage Deed" when duly executed has the force and effect of a mortgage deed to the grantee, the grantee's heirs and assigns, to the grantee and their use and behoof forever, with covenants on the part of the grantor, for the grantor, with the grantee, the grantee's heirs and assigns, that at the time of the delivery of such mortgage deed the grantor was lawfully seized in fee of the premises, that they were free of all encumbrances, that the grantor had good right to sell and convey the same to the grantee to hold as aforesaid, and that the grantor and the grantor's heirs shall and will warrant and defend the same to the said grantee, the grantee's heirs and assigns forever, against the lawful claims and demands of all persons; and with mortgage covenants and upon the statutory condition as defined in sections 768 and 769 to secure the payment of the money or the performance of any obligation therein specified. The parties may insert in such mortgage any other lawful agreement or condition. If section 504 or Title 9-B, section 429 or a mortgage loan or mortgage note requires the payment of interest on a mandatory escrow account, that requirement must be stated in the mortgage deed. [PL 1991, c. 118, §2 (AMD).]

SECTION HISTORY

PL 1967, c. 377 (NEW). PL 1991, c. 118, §2 (AMD).

§768. Mortgage covenants

In a conveyance of real estate the words "mortgage covenants" shall have the full force, meaning and effect of the following words, and shall be applied and construed accordingly: "The grantor covenants with the grantee, his heirs and assigns that he is lawfully seized in fee of the premises, that

they are free of all encumbrances, that he has good right to sell and convey the same to the said grantee to hold as aforesaid and that he and his heirs shall and will warrant and defend the same to the said grantee, his heirs and assigns forever, against the lawful claims and demands of all persons." [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§769. Statutory condition in mortgage

The following "condition" shall be known as the "Statutory Condition," and may be incorporated in any mortgage by reference: [PL 1967, c. 377 (NEW).]

Condition

Provided nevertheless, except as otherwise specifically stated in the mortgage, that if the mortgagor, his heirs, executors or administrators pay to the mortgagee, his heirs, executors, administrators or assigns the principal and interest secured by the mortgage, and shall perform any obligation secured at the time provided in the note, mortgage or other instrument or any extension thereof, and shall perform the condition of any prior mortgage, and until such payment and performance shall pay when due and payable all taxes, charges and assessments to whomsoever and whenever laid or assessed, whether on the mortgaged premises or on any interest therein or on the debt or obligation secured thereby; and shall keep the buildings on said premises insured against fire in a sum not less than the amount secured by the mortgage or as otherwise provided therein for insurance for the benefit of the mortgagee and his executors, administrators and assigns, in such form and at such insurance offices as they shall approve, and, at least 2 days before the expiration of any policy on said premises, shall deliver to him or them a new and sufficient policy to take the place of the one so expiring, and shall not commit nor suffer any strip or waste of the granted premises, nor commit any breach of any covenant contained in the mortgage or in any prior mortgage, then the mortgage deed, as also the mortgage note or notes shall be void, otherwise shall remain in full force. [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§770. Assignment of mortgage; words of transfer

In an assignment of a mortgage of real estate the word "assign" shall be a sufficient word to transfer the mortgage, without the words "sell, transfer and convey." [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§771. Grant as a word of conveyance

In a conveyance of real estate the word "grant" or the word "convey" shall be a sufficient word of conveyance without the use of the words "give, grant, bargain, sell and convey", and no covenant shall be implied from the use of the word "grant" or "convey". In a release of real estate the word "release" shall be a sufficient word to convey the estate which the grantor has. [PL 1967, c. 377 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW).

§772. Words of inheritance; habendum

1. Words of inheritance; habendum. In a conveyance or reservation of real estate, the terms "heirs," "successors," "assigns," "forever" or other technical words of inheritance, or an habendum clause, are not necessary to convey or reserve an estate in fee. A conveyance or reservation of real estate, whether made before or after the effective date of this section, must be construed to convey or

reserve an estate in fee simple, unless a different intention is clearly expressed in the instrument by a statement that the interest conveyed or reserved is an interest other than an estate in fee, by a limiting of the duration of the interest to a period less than perpetual duration or by an explicit restriction of the interest to the use and benefit only of the person or persons to whom it is conveyed or reserved. The omission of technical words of inheritance may not be construed to evidence an intention to convey or reserve an interest other than an estate in fee simple, even if such words are used elsewhere in the same instrument.

[PL 2013, c. 90, §1 (AMD).]

2. Preservation of rights. A person claiming an interest in real estate by reason of the omission of technical words of inheritance or the lack of an habendum clause in a deed that conveyed or reserved a property interest before October 7, 1967 may preserve that claim by commencing a civil action for the recovery of that property in the Superior Court or the District Court in the county or division in which the property is located on or before December 31, 2002.

[PL 1999, c. 69, §1 (NEW).]

3. Limitation. After December 31, 2002, a person may not commence a civil action for the recovery of property or enter that property under a claim of right based on the absence of an habendum clause or technical words of inheritance in any deed.

[PL 1999, c. 69, §1 (NEW).]

4. Construction of laws. This section may not be construed to extend the period for bringing of an action or for the doing of any other required act under any statute of limitations.

[PL 1999, c. 69, §1 (NEW).]

5. Liberal construction. This section must be liberally construed to effect the legislative purpose of clarifying title to land currently encumbered by ancient deeds that lacked technical words of inheritance or an habendum clause.

[PL 1999, c. 69, §1 (NEW).]

SECTION HISTORY

PL 1967, c. 377 (NEW). PL 1969, c. 344, §1 (AMD). PL 1999, c. 69, §1 (RPR). PL 2013, c. 90, §1 (AMD).

§772-A. Effect of release

1. Testimonium clause. A deed or other instrument executed after the effective date of this subsection that includes the following language: "[name] (wife or husband) of said Grantor, joins as Grantor and releases all rights by descent and all other rights" or similar language within the testimonium clause conveys any and all interests of the joining spouse to the property described in the deed or other instrument. This subsection applies to a deed or other instrument even if the joining spouse is not set forth in the beginning of the deed as a grantor to the conveyance.

This subsection does not apply to a deed dated before the effective date of this subsection that contains language in the testimonium clause as described in this subsection until November 1, 2000, at which time this subsection applies unless notice of a claim of right, title or interest is recorded in the registry of deeds for the county in which the land is located and an action is commenced on or before November 1, 2000 in any court with jurisdiction to adjudicate this action.

[PL 1999, c. 343, §1 (NEW).]

2. Filing of notice. In order for the notice specified in subsection 1 to be effective, it must contain an adequate description of the property in which the right, title or interest is claimed; a reference to the deed or other instrument on which the claim is based; the name of the current record owner of the property; and must be duly verified by oath taken by any person authorized to perform notarial acts. The register of deeds for the county in which the land is located shall accept all such notices presented that describe property located in the county and shall enter and record them in the same manner that

deeds and other instruments are recorded and may charge the same fee for the recording of these notices as is charged for recording deeds. In indexing the notice, the register of deeds shall enter it in the grantee index of deeds under the name of the claimant appearing in the notice and in the grantor index of deeds under the name of the record owner appearing in the notice. Within a reasonable time after recording the notice, the register of deeds shall enter upon the margin of the record of the deed or other instrument on which the claim is based the volume and page in which the record of the notice may be found. The person filing the notice shall deliver or mail a copy of the notice to the current record owner of the property at the last known address of that owner.

[PL 1999, c. 343, §1 (NEW).]

3. Persons under disability; time limits not extended. Disability or lack of knowledge of any kind does not extend the time limits provided in this section.

[PL 1999, c. 343, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 367, §2 (NEW). PL 1999, c. 343, §1 (RPR).

§773. Easements, privileges and appurtenances belonging to granted estate

In a conveyance of real estate all rights, easements, privileges and appurtenances belonging to the granted estate shall be included in the conveyance, unless the contrary shall be stated in the deed. [PL 1969, c. 83 (AMD).]

SECTION HISTORY

PL 1967, c. 377 (NEW). PL 1969, c. 83 (AMD).

§774. Seals not required

All deeds and other instruments, including powers of attorney, for the conveyances of real property in this State or any interest therein, and otherwise valid except that the same omitted to state any consideration therefor or that the same were not sealed by the grantors or any of them, shall be valid.

[PL 1969, c. 344, §2 (RPR).]

SECTION HISTORY

PL 1967, c. 377 (NEW). PL 1969, c. 344, §2 (RPR).

§775. Appendix

Statutory short forms of instruments relating to real estate are as follows: [PL 1967, c. 377 (NEW).]

Forms: [PL 1967, c. 377 (NEW).]

1. Warranty Deed

[PL 1967, c. 377 (NEW).]

2. Quitclaim Deed with Covenant

[PL 1967, c. 377 (NEW).]

3. Deed of Executor, Administrator, Trustee, Guardian, Conservator, Receiver or Commissioner
[PL 1967, c. 377 (NEW).]

3-A. Deed of Distribution by Personal Representative (Intestate)
[PL 1981, c. 367, §3 (NEW).]

3-B. Deed of Distribution by Personal Representative (Testate)
[PL 1981, c. 367, §3 (NEW).]

3-C. Deed of Sale by Personal Representative (Intestate)
[PL 1981, c. 367, §3 (NEW).]

3-D. Deed of Sale by Personal Representative (Testate)
[PL 1981, c. 367, §3 (NEW).]

4. Quitclaim Deed Without Covenant or Release Deed
[PL 1967, c. 377 (NEW).]

5. Mortgage Deed
[PL 1967, c. 377 (NEW).]

6. Partial Release of Mortgage
[PL 1967, c. 377 (NEW).]

7. Assignment of Mortgage
[PL 1967, c. 377 (NEW).]

8. Discharge of Mortgage
[PL 1967, c. 377 (NEW).]

9. Deed from Individual to Himself and Another as Joint Tenants
[PL 1967, c. 377 (NEW).]

10. Deed from Multiple Grantors to Joint Tenants
[PL 1975, c. 623, §51-E (AMD).]

11. Municipal Quitclaim Deed
[PL 1967, c. 377 (NEW).]

Forms of Acknowledgments:

1 Warranty Deed

A.B. of, County,, (being unmarried), for consideration paid, grant to C.D. of, County,, with Warranty Covenants, the land in, County, Maine.

(description and encumbrances, if any)

E.F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §4 (AMD).]

2 Quitclaim Deed With Covenant

A.B. of, County,, (being unmarried) for consideration paid, grant to C.D. of, County,, with quitclaim covenant the land in, County,

(description and encumbrances, if any)

E.F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §5 (AMD).]

3 Deed of Personal Representative, Trustee, Conservator, Receiver, Commissioner, Executor, Administrator, Guardian or Other Specified Authorized Representative.

A.B., personal representative of the estate of C.D., ("trustee of", "conservator of", "receiver of the estate of", "commissioner", "executor of the will of", "administrator of the estate of", "guardian of", or "other specified authorized representative of") by the power conferred by law, and every other power, for dollars paid, grant to E.F. of County,, the land in, County,

(description)

(with appropriate release of spouse)

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §6 (RPR).]

3-A Deed of Distribution by Personal Representative (Intestate)

A.B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased, as shown by the probate records of County, Maine, by the powers conferred by law, and every other power, (in distribution of the estate) grants to E.F. of, County,, whose mailing address is, being the person(s) entitled to distribution, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §7 (NEW).]

3-B Deed of Distribution by Personal Representative (Testate)

A.B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased, whose will was duly admitted to probate in the Probate Court for County, Maine, by the power conferred by law, and every other power, (in distribution of the estate) grants to E.F. of, County,, whose mailing address is, being the person(s) entitled to distribution, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §7 (NEW).]

3-C Deed of Sale by Personal Representative (Intestate)

A.B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased (intestate), as shown by the probate records of County, Maine, and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale, by the power conferred by the Probate Code, and every other power, for consideration paid grants to E.F. of, County,, whose mailing address is, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §7 (NEW).]

3-D Deed of Sale by Personal Representative (Testate)

A.B., of, County,, duly appointed and acting personal representative of the estate of C.D., deceased (testate), as shown by the probate records of County, Maine, (and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale) (and not having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale, such notice not being required under the terms of the decedent's will), by the power conferred by the Probate Code, and every other power, for consideration paid grants to E.F. of, County,, whose mailing address is, the real property in, County, Maine, described as follows:

(description)

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §7 (NEW).]

4 Quitclaim Deed Without Covenant or Release Deed

A.B. of, County,, (being unmarried) for consideration paid, release to C.D. of, County,, the land in, County,

(description)

E.F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §8 (AMD).]

5 Mortgage Deed

A.B. of, County,, (being unmarried) for consideration paid, grant to C.D. of, County,, with mortgage covenants, to secure the payment of dollars in years with per cent interest per annum, payable in installments, as provided in note of even date, the land in, County,

(description and encumbrances, if any)

This mortgage is upon the statutory condition, for any breach of which the mortgagee shall have the remedies provided by law.

E.F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §9 (AMD).]

6 Partial Release of Mortgage

C.D., the holder of a mortgage by A.B. to C.D., dated, recorded in the County Registry of Deeds, Book, Page, for consideration paid, release to A.B., all interest acquired under said mortgage in the following described portion of the mortgaged premises:

(description)

Witness hand and seal this day of (here add acknowledgment) [PL 1969, c. 344, §3 (AMD).]

7 Assignment of Mortgage

C.D., holder of a mortgage from A.B. to C.D., dated, recorded in the County Registry of Deeds, Book, Page, assign said mortgage and the note and claim secured thereby to E.F.

Witness hand and seal this day of (here add acknowledgment) [PL 1969, c. 344, §3 (AMD).]

8 Discharge of Mortgage

C.D., holder of a mortgage from A.B. to C.D., dated, recorded in the County Registry of Deeds, Book, Page, acknowledge satisfaction of the same.

Witness hand and seal this day of (here add acknowledgment) [PL 1969, c. 344, §3 (AMD).]

9 Deed from Individual to Himself and Another as Joint Tenants

A.B. of, County,, (being unmarried) for consideration paid, grant to said A.B. and C.D. of, County,, with warranty covenants (or "quitclaim covenant") as joint tenants, the land in, County,

(description and encumbrances, if any)

E.F., spouse of the grantor, releases all rights in the premises being conveyed.

Witness hand and seal this day of (here add acknowledgment) [PL 1981, c. 367, §10 (AMD).]

10 Deed from Multiple Grantors to Joint Tenants

A.B. and C.D. (and E.F.), of, County,, for consideration paid, grant to W.X. of, County, and Y.Z. of, County,, with warranty covenants (or with "quitclaim covenant") as joint tenants, the land in, County (description and encumbrances, if any)

A.B. and C.D., husband and wife, (and E.F., and M.N., spouse of E.F.) (both) release all rights in the premises being conveyed (or I.J., spouse of A.B. and K.L., spouse of C.D., both release all rights in the premises being conveyed).

Witness our hands and seals this day of (here add acknowledgment) [PL 1981, c. 367, §11 (AMD).]

11 Municipal Quitclaim Deed

The Inhabitants of the Municipality of, a body corporate, located at, County,, for consideration paid, release to of, County,, the land in, County,

(description and encumbrances, if any)

The said Inhabitants of the municipality of have caused this instrument to be signed in its corporate name by, its, duly authorized, this day of (here add acknowledgment) [PL 1967, c. 377 (NEW).]

12 Acknowledgment of Individual Acting in His Own Right

State of

County of, ss (Date)

Then personally appeared the above named A. (and B.) and (severally) acknowledged the foregoing instrument to be his (or their) free act and deed.

Before me,

.....
Notary Public [PL 1987, c. 736, §52 (AMD).]

13 Acknowledgment of an Attorney

State of

County of, ss (Date)

Then the above named, who signed the foregoing instrument as the attorney of the above named (grantor), personally appeared and acknowledged the same to be his free act and deed.

Before me,

.....
Notary Public [PL 1987, c. 736, §52 (AMD).]

14 Acknowledgment of an Officer of a Corporation

State of

County of, ss (Date)

Then personally appeared the above named (name of the officer who signed the deed, with his title), and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

.....
Notary Public [PL 1987, c. 736, §52 (AMD).]

15 Acknowledgment of an Executor, Administrator, Trustee, Guardian, Conservator, Receiver or Commissioner

State of

County of, ss (Date)

Then personally appeared the above named A. (and B.) in his (their) said capacity and (severally) acknowledged the foregoing instrument to be his (their) free act and deed.

Before me,

.....
Notary Public [PL 1987, c. 736, §52 (AMD).]

SECTION HISTORY

PL 1967, c. 377 (NEW). PL 1969, c. 344, §3 (AMD). PL 1975, c. 104, §§1,2 (AMD). PL 1975, c. 623, §§51E,51F (AMD). PL 1981, c. 367, §§3-11 (AMD). PL 1987, c. 736, §52 (AMD).

CHAPTER 13

COORDINATE SYSTEM

§801. Definition

(REPEALED)

SECTION HISTORY

PL 1981, c. 156 (RPR). PL 1999, c. 689, §1 (AMD). PL 1999, c. 689, §7 (AFF). PL 2011, c. 126, §1 (RP).

§801-A. Definitions

The systems of plane coordinates that have been established by the National Ocean Survey, and the National Geodetic Survey, or their successors, and the State for defining and stating the geographic positions of locations of points on the surface of the earth within the State are hereafter to be known and designated as the Maine Coordinate System of 1927, the Maine Coordinate System of 1983 and the Maine Coordinate System of 2000. For the purpose of the use of these systems, the State is divided into the "East Zone," "West Zone," "Maine 2000 West Zone," "Maine 2000 Central Zone," and "Maine 2000 East Zone" as follows. [PL 2011, c. 126, §2 (NEW).]

1. East Zone. The area included in the following counties constitutes the East Zone: Aroostook, Hancock, Knox, Penobscot, Piscataquis, Waldo and Washington. [PL 2011, c. 126, §2 (NEW).]

2. West Zone. The area included in the following counties constitutes the West Zone: Androscoggin, Cumberland, Franklin, Kennebec, Lincoln, Oxford, Sagadahoc, Somerset and York. [PL 2011, c. 126, §2 (NEW).]

3. Maine 2000 West Zone. The Maine 2000 West Zone is the area bounded by the following: beginning at the point determined by the intersection of the Maine state line and the county line between Aroostook and Somerset counties, thence following the Somerset County line easterly to the northwest corner of the Somerset and Piscataquis county line, thence southerly along this county line to the northeast corner of the Athens town line, thence westerly along the town line between Brighton Plantation and Athens to the westerly corner of Athens, and continuing southerly to the southwest corner of the town of Athens where it meets the Cornville town line, thence westerly along the Cornville - Solon town line to the intersection of the Cornville - Madison town line, thence southerly and westerly following the Madison town line to the intersection of the Norridgewock - Skowhegan town line, thence southerly along the Skowhegan town line to the Fairfield town line, thence easterly along the Fairfield town line to the Clinton town line, being determined by the Kennebec River, thence southerly along the Kennebec River to the Augusta city line, thence easterly along the city line to the Windsor town line, thence southerly along the Augusta - Windsor town line to the northwest corner of the Lincoln County line, thence southerly along the westerly Lincoln County line to the boundary of the State of Maine as determined by maritime law, thence following the state boundary southwesterly to the Maine - New Hampshire state line, thence following the state boundary on the westerly side of the State to the point of beginning. [PL 2011, c. 126, §2 (NEW).]

4. Maine 2000 Central Zone. The Maine 2000 Central Zone is the area bounded by the following: beginning at the point determined by the intersection of the Maine state line and the county line between Aroostook and Somerset counties, thence northeasterly along the state line to the intersection of the

Fort Kent - Frenchville town line, thence southerly along this town line to the intersection with the New Canada Plantation - T17 R5 WELS town line, thence continuing southerly along town lines to the northeast corner of Penobscot County, thence continuing southerly along the Penobscot County line to the intersection of the Woodville - Mattawamkeag town line (being determined by the Penobscot River), thence along the Penobscot River to the Enfield - Lincoln town line, thence southeasterly along the Enfield - Lincoln town line and the Enfield - Lowell town line, thence westerly to the northeast corner of the town of Passadumkeag, thence south-southeasterly along town lines to the intersection of the Hancock County line, thence southerly along the county line to the intersection of the Otis - Mariaville town line, thence southerly along the Otis - Mariaville town line to the Ellsworth city line, thence southerly along the Ellsworth city line to the intersection of the Surry - Trenton town line, thence southerly along the easterly town lines of Surry, Blue Hill, Brooklin, Deer Isle and Stonington to the Knox County line, thence following the Knox County line to the boundary of the State of Maine as determined by maritime law, thence following the state boundary westerly to the intersection of the Sagadahoc - Lincoln county line, thence northerly along the easterly boundary of the Maine 2000 West Zone, as defined, to the point of beginning.

[PL 2011, c. 126, §2 (NEW).]

5. Maine 2000 East Zone. The Maine 2000 East Zone is the area bounded by the following: beginning at the point determined by the intersection of the Maine state line and the Fort Kent - Frenchville town line, thence continuing easterly and then southerly along the state line to the boundary of the State of Maine as determined by maritime law, thence following the state boundary westerly to the intersection of the Knox - Hancock county line, thence northerly along the easterly boundary of the Maine 2000 Central Zone, as defined, to the point of beginning.

[PL 2011, c. 126, §2 (NEW).]

SECTION HISTORY

PL 2011, c. 126, §2 (NEW).

§802. East, West, Maine 2000 West, Maine 2000 Central and Maine 2000 East zones

1. East Zone. As established for use in the East Zone, the Maine Coordinate System of 1927 or the Maine Coordinate System of 1983 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 1927 East Zone" or "Maine Coordinate System of 1983 East Zone."

[PL 2011, c. 126, §3 (NEW).]

2. West Zone. As established for use in the West Zone, the Maine Coordinate System of 1927 or the Maine Coordinate System of 1983 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 1927 West Zone" or "Maine Coordinate System of 1983 West Zone."

[PL 2011, c. 126, §3 (NEW).]

3. Maine 2000 West Zone. As established for use in the Maine 2000 West Zone, the Maine Coordinate System of 2000 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 2000 West Zone."

[PL 2011, c. 126, §3 (NEW).]

4. Maine 2000 Central Zone. As established for use in the Maine 2000 Central Zone, the Maine Coordinate System of 2000 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 2000 Central Zone."

[PL 2011, c. 126, §3 (NEW).]

5. Maine 2000 East Zone. As established for use in the Maine 2000 East Zone, the Maine Coordinate System of 2000 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 2000 East Zone."

[PL 2011, c. 126, §3 (NEW).]

SECTION HISTORY

PL 1981, c. 156 (RPR). PL 1999, c. 689, §1 (AMD). PL 1999, c. 689, §7 (AFF). PL 2011, c. 126, §3 (RPR).

§803. Plane coordinates of a point

The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of such point in the appropriate zone of this system, must consist of 2 distances expressed in United States Survey feet and decimal feet or international meters and decimal meters when using the Maine Coordinate System of 1927, the Maine Coordinate System of 1983 or the Maine Coordinate System of 2000. One of these distances, to be known as the "x-coordinate" or "Easting Coordinate," gives the position in an east-and-west direction; the other, to be known as the "y-coordinate" or "Northing Coordinate," gives the position in a north-and-south direction. These coordinates must be made to depend upon and conform to plane rectangular coordinate values for the monumented points of the North American Horizontal Geodetic Control Network as published by the National Ocean Survey and the National Geodetic Survey, or their successors, and whose plane coordinates have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to any of the Maine Coordinate Systems. [PL 2011, c. 126, §4 (AMD).]

SECTION HISTORY

PL 1981, c. 156 (RPR). PL 1999, c. 689, §1 (AMD). PL 1999, c. 689, §7 (AFF). PL 2011, c. 126, §4 (AMD).

§803-A. Describing the location of any survey station or land boundary corner

For purposes of describing the location of any survey station or land boundary corner in the State, it shall be considered a complete, legal and satisfactory description of such location to give the position of the survey station or land boundary corner on the system of plane coordinates defined in this chapter. [PL 1981, c. 156 (NEW).]

Nothing contained in this chapter requires a purchaser or mortgagee of real property to rely wholly on a land description, any part of which depends exclusively upon any of the Maine Coordinate Systems. [PL 1999, c. 689, §2 (AMD); PL 1999, c. 689, §7 (AFF).]

SECTION HISTORY

PL 1981, c. 156 (NEW). PL 1999, c. 689, §2 (AMD). PL 1999, c. 689, §7 (AFF).

§804. Land extending from one zone to another

When any tract of land to be defined by a single description extends from one into another of the above coordinate zones, the positions of all points on its boundaries may be referred to any of the zones crossed, the zone that is used being specifically named in the description. [PL 1999, c. 689, §3 (AMD); PL 1999, c. 689, §7 (AFF).]

SECTION HISTORY

PL 1981, c. 156 (RPR). PL 1999, c. 689, §3 (AMD). PL 1999, c. 689, §7 (AFF).

§805. Technical definition

1. Maine Coordinate System of 1927. For purposes of more precisely defining the Maine Coordinate System of 1927, the following definition by the United States Coast and Geodetic Survey, now National Ocean Survey and the National Geodetic Survey, is adopted.

The "Maine Coordinate System of 1927 East Zone" is a transverse Mercator projection of the Clark spheroid of 1866, having a central meridian 68° 30' west of Greenwich, on which meridian the scale is

set one part in 10,000 too small. The origin of the coordinates is at the intersection of the meridian 68°30' west of Greenwich and the parallel 43°50' north latitude. This origin is given the coordinates: $x = 500,000$ feet and $y = 0$ feet. The "Maine Coordinate System of 1927 West Zone" is a transverse Mercator projection of the Clark spheroid of 1866, having central meridian 70°10' west of Greenwich on which meridian the scale is set one part in 30,000 too small. The origin of coordinates is at the intersection of the meridian 70°10' west of Greenwich and the parallel 42°50' north latitude. The origin is given the coordinates: $x = 500,000$ feet and $y = 0$ feet.

[PL 1981, c. 156 (NEW).]

2. Maine Coordinate System of 1983. For purposes of more precisely defining the Maine Coordinate System of 1983, the following definition by the National Ocean Survey and the National Geodetic Survey is adopted.

The "Maine Coordinate System of 1983 East Zone" is a transverse Mercator projection of the North American Datum of 1983, having a central meridian 68°30' west of Greenwich on which meridian the scale is set one part in 10,000 too small. The origin of coordinates is at the intersection of the meridian 68°30' west of Greenwich and the parallel 43°40' north latitude. This origin is given the coordinates: $x = 300,000$ meters and $y = 0$ meters.

The "Maine Coordinate System of 1983 West Zone" is a transverse Mercator projection of the North American Datum of 1983, having a central meridian 70°10' west of Greenwich, on which meridian the scale is set one part in 30,000 too small. The origin of coordinates is at the intersection of the meridian 70°10' west of Greenwich and the parallel 42°50' north latitude. This origin is given the coordinates: $x = 900,000$ meters and $y = 0$ meters.

[PL 1981, c. 156 (NEW).]

3. Maine Coordinate System of 2000. The Maine Coordinate System of 2000 is defined in accordance with the following:

A. The "Maine Coordinate System of 2000 West Zone" is a transverse Mercator projection of the North American Datum of 1983 (NAD83), as referenced to the most recent National Spatial Reference System as published by the National Geodetic Survey, having a central meridian 70° 22' 30" west of Greenwich on which meridian the scale is set one part in 50,000 too small. The origin of coordinates is at the intersection of the meridian 70° 22' 30" west of Greenwich and the parallel 42° 50' 00" north latitude. This origin is given the coordinates: Easting = $x = 300,000$ meters and Northing = $y = 0$ meters; [PL 1999, c. 689, §4 (NEW); PL 1999, c. 689, §7 (AFF).]

B. The "Maine Coordinate System of 2000 Central Zone" is a transverse Mercator projection of the North American Datum of 1983 (NAD83), as referenced to the most recent National Spatial Reference System as published by the National Geodetic Survey, having a central meridian 69° 07' 30" west of Greenwich on which meridian the scale is set one part in 50,000 too small. The origin of coordinates is at the intersection of the meridian 69° 07' 30" west of Greenwich and the parallel 43° 30' 00" north latitude. This origin is given the coordinates: Easting = $x = 500,000$ meters and Northing = $y = 0$ meters; and [PL 1999, c. 689, §4 (NEW); PL 1999, c. 689, §7 (AFF).]

C. The "Maine Coordinate System of 2000 East Zone" is a transverse Mercator projection of the North American Datum of 1983 (NAD83), as referenced to the most recent National Spatial Reference System as published by the National Geodetic Survey, having a central meridian 67° 52' 30" west of Greenwich on which meridian the scale is set one part in 50,000 too small. The origin of coordinates is at the intersection of the meridian 67° 52' 30" west of Greenwich and the parallel 43° 50' 00" north latitude. This origin is given the coordinates: Easting = $x = 700,000$ meters and Northing = $y = 0$ meters. [PL 1999, c. 689, §4 (NEW); PL 1999, c. 689, §7 (AFF).]

[PL 1999, c. 689, §4 (NEW); PL 1999, c. 689, §7 (AFF).]

SECTION HISTORY

PL 1981, c. 156 (RPR). PL 1999, c. 689, §4 (AMD). PL 1999, c. 689, §7 (AFF).

§806. Use in making official records of land boundaries

No coordinates based on any of the Maine Coordinate Systems and originating from established Federal Geodetic Control Committee of the United States Department of Commerce or predecessor or successor agency control points and purporting to define the position of a point on a land boundary may be presented to be recorded in any public land records or deed records, unless the survey method used for the determination of these coordinates is specifically described on the record plan or description of the survey. [PL 2011, c. 126, §5 (AMD).]

SECTION HISTORY

PL 1981, c. 156 (RPR). PL 2011, c. 126, §5 (AMD).

§807. Use of terms

The use of the "Maine Coordinate System of 1927 East Zone," "Maine Coordinate System of 1983 East Zone," "Maine Coordinate System of 1927 West Zone," "Maine Coordinate System of 1983 West Zone," "Maine Coordinate System of 2000 West Zone," "Maine Coordinate System of 2000 Central Zone" or "Maine Coordinate System of 2000 East Zone" on any map, report of survey, or other document is limited to coordinates based on the Maine Coordinate Systems as defined in this chapter. [PL 1999, c. 689, §5 (AMD); PL 1999, c. 689, §7 (AFF).]

SECTION HISTORY

PL 1981, c. 156 (RPR). PL 1999, c. 689, §5 (AMD). PL 1999, c. 689, §7 (AFF).

§807-A. Effective date

(REPEALED)

SECTION HISTORY

PL 1981, c. 156 (NEW). PL 1999, c. 689, §6 (RPR). PL 1999, c. 689, §7 (AFF). PL 2011, c. 126, §6 (RP).

§808. Use not mandatory

(REPEALED)

SECTION HISTORY

PL 1981, c. 156 (RP).

CHAPTER 15

TRUSTS

§851. Trust in lands requires writing

There can be no trust concerning lands, except trusts arising or resulting by implication of law, unless created or declared by some writing signed by the party or his attorney.

§851-A. Conveyances to or from trusts without naming trustee

1. Conveyance to a trust. In any conveyance of real property or any interest in real property in this State, if the grantee or one or more of the grantees is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantee, then the conveyance is deemed to have been made to all of the trustees of the trust in their capacity as trustees of the trust, as though they had been named as grantees instead of the trust.

[PL 1995, c. 523, §1 (NEW).]

2. Conveyance from a trust. In any conveyance of real property or any interest in real property in this State, if the grantor or one or more of the grantors is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantor, then the conveyance is deemed to have been made by all of the trustees of the trust who signed the instrument of conveyance as trustees of the trust, as though they had been named as grantors instead of the trust.

[PL 1995, c. 523, §1 (NEW).]

3. Preservation of claim. Any person who claims title to any real property or any interest in real property in this State by virtue of the failure of an instrument of conveyance delivered before the effective date of this section to name as grantor or as grantee any trustee of a trust may preserve that claim by recording a notice, within 2 years from the effective date of this section, in the registry of deeds where the instrument of conveyance is recorded. In order for the notice to be effective, it must contain the name and mailing address of the claimant, the names of the parties to the instrument of conveyance that is claimed to be defective, the book and page numbers where the instrument of conveyance is recorded and a statement of the purported defect on which the claim is based. The notice described in this subsection may be presented for recording by the claimant or by any other person acting on behalf of a claimant who is under a disability or is unable to assert a claim on the claimant's own behalf, but a disability or lack of knowledge of any kind does not suspend or extend the period for the recording of the notice.

[PL 1995, c. 523, §1 (NEW).]

4. Register's duties. The register of deeds shall enter upon the margin of the recorded instrument, described in a notice recorded as provided in subsection 3, the book and page numbers where the notice is recorded.

[PL 1995, c. 523, §1 (NEW).]

5. Application. This section does not apply to any trust that, as determined by the laws of its situs, is an entity capable of holding and conveying title in its own name.

[PL 1995, c. 523, §1 (NEW).]

6. Construction. Nothing contained in this section may be construed to recognize trusts created under the laws of this State as entities capable of holding or conveying title to real property in their own names. This section applies to conveyances made before, on or after the effective date of this section, but nothing contained in this section may be construed to suggest or require that any instrument delivered before the effective date of this section is invalid. Nothing contained in this section may be construed to extend the period for the commencement of an action or for the performance of any other required act under any statute of limitations.

[PL 1995, c. 523, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 523, §1 (NEW).

§852. Titles not defeated by trusts without notice or record

The title of a purchaser for a valuable consideration or a title derived from levy of an execution cannot be defeated by a trust, however declared or implied by law, unless the purchaser or creditor had notice thereof. When the instrument, creating or declaring it, is recorded in the registry where the land lies, that is to be regarded as such notice.

CHAPTER 17

JOINT TENANCIES

SUBCHAPTER 1**PERSONAL PROPERTY****§901. Corporate securities**

Certificates of stock in corporations, corporate bonds, corporate debentures and other corporate securities, not including shares in building and loan associations, record title to which is held in the name of 2 or more persons as joint tenants or under language indicating the intention that said property be held with the right of survivorship, shall be deemed to be held in an estate in joint tenancy with all the attributes and incidents of estates in joint tenancy created or existing at common law, and shall be deemed to be so held even though said property may have been transferred directly by a person to himself jointly with another or other persons.

§902. -- retroactive effect

Section 901 shall not apply to any such transfer made prior to August 20, 1951, unless the persons in whose names said securities have been issued or are held, file with the corporation issuing such securities or with its transfer agent or registrar an agreement indicating their intention that section 901 shall apply.

§903. -- existing tenancies not affected

Nothing in this subchapter shall be construed so as to affect the validity of any joint tenancy otherwise validly created.

§904. -- form of agreement

The following shall be a sufficient agreement to secure the application of section 901:

"We , , and , owners of shares of common (preferred) stock of company represented by certificate No. , owners of bonds No. , Series of company, owners of debentures No. , Series of company, owners of a certain promissory note dated , etc., signed by company, owners of (describe any other security) issued by company hereby agree that our ownership in the above-mentioned property shall be as joint tenants with rights of survivorship as such, and not as tenants in common, in accordance with the Revised Statutes of Maine, Title 33, sections 901 and 902."

SUBCHAPTER 2**REAL PROPERTY****§951. Joinder or severance; notice**

All or any of the tenants in common or joint tenants of lands may join or sever in personal actions for injuries done thereto, setting forth in the complaint the names of all other cotenants, if known, and the court may order notice to be given in such actions to all other cotenants known, and all or any of them at any time before final judgment may become plaintiffs in the action, and prosecute the action for the benefit of all concerned.

§952. Judgment; execution for share

The court shall enter judgment for the whole amount of the injury proved; but shall award execution only for the proportion thereof sustained by the plaintiffs. The remaining cotenants may afterwards jointly or severally intervene in the action and on motion obtain execution for their proportion of the damages adjudged therein.

§953. Recovery of rent or income from joint tenant

If any one or more of the joint tenants or tenants in common take the whole rents or income in the joint estate or more than their share, without the consent of their cotenants, and refuse for a reasonable time after demand to pay such cotenants their share thereof, any one or more of them may have an action against the refusing cotenants to recover their proportion thereof.

CHAPTER 19**GIFTS TO MINORS****(REPEALED)****§1001. Definitions****(REPEALED)**

SECTION HISTORY

PL 1967, c. 285, §§1-6 (AMD). PL 1969, c. 433, §95 (AMD). PL 1971, c. 598, §85 (AMD). PL 1973, c. 625, §231 (AMD). PL 1977, c. 696, §260 (AMD). PL 1987, c. 734, §1 (RP).

§1002. Manner of making gift**(REPEALED)**

SECTION HISTORY

PL 1967, c. 285, §7 (AMD). PL 1973, c. 107 (AMD). PL 1979, c. 663, §214 (AMD). PL 1987, c. 734, §1 (RP).

§1003. Effect of gift**(REPEALED)**

SECTION HISTORY

PL 1967, c. 285, §8 (AMD). PL 1987, c. 734, §1 (RP).

§1004. Powers and duties**(REPEALED)**

SECTION HISTORY

PL 1967, c. 285, §§9-12 (AMD). PL 1971, c. 622, §122 (AMD). PL 1973, c. 625, §232 (AMD). PL 1987, c. 734, §1 (RP).

§1005. Expenses, compensation, bond and liabilities**(REPEALED)**

SECTION HISTORY

PL 1987, c. 734, §1 (RP).

§1006. Exemption of 3rd persons from liability**(REPEALED)**

SECTION HISTORY

PL 1967, c. 285, §13 (AMD). PL 1987, c. 734, §1 (RP).

§1007. Resignation, death or removal; bond; successor

(REPEALED)

SECTION HISTORY

PL 1967, c. 285, §§14-17 (AMD). PL 1973, c. 625, §233 (AMD). PL 1987, c. 734, §1 (RP).

§1008. Accounting**(REPEALED)**

SECTION HISTORY

PL 1987, c. 734, §1 (RP).

§1009. Construction**(REPEALED)**

SECTION HISTORY

PL 1987, c. 734, §1 (RP).

§1010. Short title**(REPEALED)**

SECTION HISTORY

PL 1987, c. 734, §1 (RP).

CHAPTER 20**IMPROVIDENT TRANSFERS OF TITLE****§1021. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 699, §1 (NEW).]

1. Dependent. "Dependent," with respect to an elderly person, means wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, because the elderly person:

A. Suffers from a significant limitation in mobility, vision, hearing, emotional or mental functioning or the ability to read or write; or [PL 1987, c. 699, §1 (NEW).]

B. Is suffering or recovering from a major illness or is facing or recovering from major surgery. [PL 1987, c. 699, §1 (NEW).]
[PL 1987, c. 699, §1 (NEW).]

2. Elderly person. "Elderly person" means a person who is 60 years of age or older. [PL 1987, c. 699, §1 (NEW).]

3. Independent counsel. "Independent counsel" means an attorney retained by the elderly dependent person to represent only that person's interests in the transfer. [PL 1987, c. 699, §1 (NEW).]

4. Less than full consideration. "Less than full consideration," with respect to a transfer of property, means the transferee pays less than fair market value for the property or the transfer is supported by past consideration. [PL 1987, c. 699, §1 (NEW).]

5. Major transfer of personal property or money. "Major transfer of personal property or money" means a transfer of money or items of personal property which represent 10% or more of the elderly dependent person's estate.
[PL 1987, c. 699, §1 (NEW).]

6. Transfer. "Transfer" includes, but is not limited to, a transfer under the Uniform Real Property Transfer on Death Act, but does not include testamentary transfers, which are outside the scope of this chapter. For purposes of this chapter, a transfer under the Uniform Real Property Transfer on Death Act occurs when the deed is executed or recorded.
[PL 2017, c. 402, Pt. E, §1 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW). PL 1989, c. 238, §§1,4 (AMD). PL 2017, c. 402, Pt. E, §1 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§1022. Undue influence

1. Presumption. In any transfer of real estate or major transfer of personal property or money for less than full consideration or execution of a guaranty by an elderly person who is dependent on others to a person with whom the elderly dependent person has a confidential or fiduciary relationship, it is presumed that the transfer or execution was the result of undue influence, unless the elderly dependent person was represented in the transfer or execution by independent counsel. When the elderly dependent person successfully raises the presumption of undue influence by a preponderance of the evidence and when the transferee or person who benefits from the execution of a guaranty fails to rebut the presumption, the elderly dependent person is entitled to avoid the transfer or execution and entitled to the relief set forth in section 1024.
[PL 2003, c. 236, §1 (AMD).]

2. Confidential or fiduciary relationship. For the purpose of this section, the transfer of property or execution of a guaranty is deemed to have been made in the context of a confidential or fiduciary relationship if the transferee or person who benefits from the execution of a guaranty had a close relationship with the elderly dependent person prior to the transfer or execution. Confidential or fiduciary relationships include the following:

- A. A family relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, including relationships by marriage and adoption; [PL 2003, c. 236, §1 (AMD).]
- B. A fiduciary relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, such as with a guardian, conservator, trustee, accountant, broker or financial advisor; [PL 2003, c. 236, §1 (AMD).]
- C. A relationship between an elderly dependent person and a physician, nurse or other medical or health care provider; [PL 1987, c. 699, §1 (NEW).]
- D. A relationship between the elderly dependent person and a psychologist, social worker or counselor; [PL 1987, c. 699, §1 (NEW).]
- E. A relationship between the elderly dependent person and an attorney; [PL 1987, c. 699, §1 (NEW).]
- F. A relationship between the elderly dependent person and a priest, minister, rabbi or spiritual advisor; [PL 1987, c. 699, §1 (NEW).]
- G. A relationship between the elderly dependent person and a person who provides care or services to that person whether or not care or services are paid for by the elderly person; [PL 1987, c. 699, §1 (NEW).]

H. A relationship between an elderly dependent person and a friend or neighbor; or [PL 1987, c. 699, §1 (NEW).]

I. A relationship between an elderly dependent person and a person sharing the same living quarters. [PL 1987, c. 699, §1 (NEW).]

When any of these relationships exist and when a transfer or execution is made to a corporation or organization primarily on account of the membership, ownership or employment interest or for the benefit of the fiduciary or confidante, a fiduciary or confidential relationship with the corporation or organization is deemed to exist.

[PL 2003, c. 236, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW). PL 2003, c. 236, §1 (AMD).

§1023. Civil action; relief available

1. Civil action. A civil action may be brought to obtain relief under this chapter by an elderly dependent person, that person's legal representative or the personal representative of the estate of an elderly dependent person.

[PL 2003, c. 236, §2 (AMD).]

2. Relief available; protected transfers and executions. When a court finds that a transfer of property or execution of a guaranty was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer or execution, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property or a suit of a person who benefits from the execution of a guaranty on that guaranty, the court shall refuse to enforce the transfer or guaranty.

No relief obtained or granted under this section may in any way affect or limit the right, title and interest of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. No relief obtained or granted under this section may affect any mortgage deed to the extent of value given by the mortgagee.

[PL 2003, c. 236, §2 (AMD).]

3. Statute of limitations. The limitations imposed by Title 14, section 752, apply to all actions brought under this chapter.

[PL 1987, c. 699, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW). PL 1989, c. 238, §§2,4 (AMD). PL 2003, c. 236, §2 (AMD).

§1024. Other common law and statutory causes of action and relief still available

Nothing in this chapter may be construed to abrogate any other causes of action or relief at law or equity to which elderly dependent persons are entitled under other laws or at common law. [PL 1987, c. 699, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW).

§1025. Title practices

This chapter does not require that language showing compliance with this chapter be included in a deed and does not require that evidence of compliance with this chapter be recorded in the registry of

deeds. Any attempt to record such evidence is void and has no effect on title. [PL 1989, c. 238, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 238, §§3,4 (NEW).

CHAPTER 21

LOST GOODS

§1051. Duty of finder of money or goods worth \$3 or more

Whoever finds lost money or goods of the value of \$3 or more shall, if the owner is unknown, within 7 days give notice thereof in writing to the clerk of the town where the money or goods are found and post a notification thereof in some public place in said town. If the value is \$10 or more, the finder, in addition to the notice to the town clerk and the notification to be posted, shall, within one month after finding, publish a notice thereof in some newspaper published in the town, if any, otherwise in some newspaper published in the county.

§1052. Taking up stray beasts; notice

(REPEALED)

SECTION HISTORY

PL 2019, c. 437, §7 (RP).

§1053. Appraisal if value \$10 or more

A finder of lost goods of the value of \$10 or more shall, within 2 months after finding and before using the lost goods to the disadvantage of the owner, procure a warrant from the town clerk or a notary public, directed to 2 persons appointed by the clerk or notary, not interested except as inhabitants of the town, returnable at the clerk's office within 7 days from the date of the warrant, to appraise the goods under oath. [PL 2019, c. 437, §8 (AMD).]

SECTION HISTORY

PL 1995, c. 227, §2 (AMD). PL 2019, c. 437, §8 (AMD).

§1054. Restitution to appearing owner; money or goods

If the owner of lost money or goods appears within 6 months after notice to the town clerk under section 1051 is made by the finder and gives reasonable evidence of ownership to the finder, the owner must have restitution or the value of the lost money or goods, paying all necessary charges and reasonable compensation to the finder for keeping, to be adjudged by the district court if the owner and finder cannot agree. [PL 2019, c. 437, §9 (AMD).]

SECTION HISTORY

PL 1995, c. 227, §3 (AMD). PL 2019, c. 437, §9 (AMD).

§1055. – strays

(REPEALED)

SECTION HISTORY

PL 2019, c. 437, §10 (RP).

§1056. Finder's rights when no owner appears

If no owner appears within 6 months, such money or lost goods shall belong to the finder by paying 1/2 their value after deducting all necessary charges to the treasurer of said town; but if he neglects to pay it on demand, it may be recovered in an action brought by said treasurer in the name of the town.

§1057. Sale of strays when no owner appears

(REPEALED)

SECTION HISTORY

PL 2019, c. 437, §11 (RP).

§1058. Failure to give notice; penalty

If the finder of lost money or goods of the value of \$3 or more neglects to give notice to the town clerk and to cause the lost money or goods to be advertised as provided under section 1051, the finder forfeits to the owner the full value of the lost money or goods unless the finder delivers or accounts for the lost money or goods to the owner, in which case the finder must forfeit not more than \$20, 1/2 to the town and 1/2 to the prosecutor. [PL 2019, c. 437, §12 (AMD).]

SECTION HISTORY

PL 2019, c. 437, §12 (AMD).

§1059. Recovery of strays without paying charges; penalty

(REPEALED)

SECTION HISTORY

PL 2019, c. 437, §13 (RP).

§1060. Damages by animals; remedy; lien

(REPEALED)

SECTION HISTORY

PL 2019, c. 437, §13 (RP).

CHAPTER 23

UNSOLICITED MERCHANDISE

§1101. Unsolicited merchandise; duty of receiver

Where unsolicited merchandise is delivered to a person for whom it is intended, such person has a right to refuse to accept delivery of this merchandise or he may deem it to be a gift and use it or dispose of it in any manner without any obligation to the sender. [PL 1969, c. 12 (NEW).]

SECTION HISTORY

PL 1969, c. 12 (NEW).

CHAPTER 25

MAINE COASTAL ISLAND REGISTRY

§1201. Legislative intent, purpose

The Legislature finds that the ownership of many of Maine's coastal islands is uncertain. The Legislature prohibited the further sale of state-owned islands in 1913 but some of the land agent's

records of prior conveyances are missing or incomplete. In addition, title to many privately-owned islands was derived from ancient charters and grants. Subsequent grantees many times did not include such islands in grants or bequests or died intestate with no record of island holdings in their estates. Because of the large number of islands and ledges in Maine's coastal waters and the legal uncertainty with respect to the ownership of many such islands, unrealistic and perhaps fruitless expenditures of time and money, far exceeding all legal requirements of due diligence, would be necessary to search all subsequent conveyances from ancient charters and grants to establish State title to these islands. Therefore, in order to clarify and establish title to islands in Maine's coastal waters, to protect the State's ownership of its island resources for public use, to establish title to land that was once granted by the State of Maine, or by grant or charter before Maine became a State and subsequently owned by a person or persons who either died intestate without heirs or with heirs who abandoned the property, the Legislature directs the creation of a Coastal Island Registry and the following procedure to establish title to island property in Maine's coastal waters. [PL 1973, c. 616, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW).

§1202. Definitions

As used in this chapter the following words shall have the following meanings. [PL 1975, c. 509, §1 (RPR).]

1. Coastal island. "Coastal island" means a natural land formation protruding above the surface of and surrounded by Maine's coastal waters at mean high tide or any portion of such land formation. [PL 1975, c. 509, §1 (RPR).]

2. Coastal waters. "Coastal waters" means all waters of the State within the rise and fall of the tide and to the marine limits of the jurisdiction of the State. [PL 1975, c. 509, §1 (RPR).]

3. Person. "Person" shall include individuals, partnerships, corporations, municipalities and other legal entities but shall not include the State and its agencies or the Federal Government. [PL 1975, c. 509, §1 (RPR).]

4. Residential structure. "Residential structure" means a building used as a seasonal or year-round dwelling which was in existence on July 5, 1973. [PL 1975, c. 509, §1 (RPR).]

5. Traceable. "Traceable" means derived through successive transfers which were accomplished by written evidence of title or by intestate succession. No intestate succession shall be included without clear and convincing evidence supplied by the registrant showing the interest which passed into the registrant's chain of title by the succession. [PL 1975, c. 509, §1 (NEW).]

6. True owner. "True owner" means a person who holds title to a coastal island which is:

A. Traceable to that person from a written evidence of title which describes such island in sufficient detail to locate such coastal island on a map of the United States Coast and Geodetic Survey for Maine's coastal waters for use in 1972 and is dated prior to July 13, 1913; or [PL 1975, c. 509, §1 (NEW).]

B. By adverse possession. [PL 1975, c. 509, §1 (NEW).]
[PL 1975, c. 509, §1 (NEW).]

7. Written evidence of title. "Written evidence of title" means:

A. A deed, including tax and mortgage foreclosures, filed in the appropriate county registry of deeds; [PL 1975, c. 509, §1 (NEW).]

B. A record of a Maine probate proceeding; [PL 1975, c. 509, §1 (NEW).]

C. An order of a court of competent jurisdiction; or [PL 1975, c. 509, §1 (NEW).]

D. Other authenticated writing which creates, confirms or evidences ownership of the coastal island as determined by the Director of the Bureau of Parks and Lands or the director's designate, after consultation with the Attorney General. [PL 1975, c. 509, §1 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]
[PL 1975, c. 509, §1 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1973, c. 788, §167A (AMD). PL 1975, c. 509, §1 (RPR). PL 1995, c. 502, §E30 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§1203. Registry

There is herewith established and created a Coastal Island Registry which shall be an office within the Bureau of Parks and Lands which shall be organized in the manner the Director of the Bureau of Parks and Lands shall deem best suited to the accomplishment of the functions and purposes of this chapter. The Coastal Island Registry shall establish and maintain a listing and description of all coastal islands. Such description shall include the location and true owner or true owners of each coastal island. [PL 1975, c. 509, §2 (RPR); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

PL 1973, c. 460, §18 (AMD). PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §2 (RPR). PL 1995, c. 502, §E30 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§1204. -- duties

The Coastal Island Registry shall devise a system to number coastal islands and assign such numbers to all coastal islands. [PL 1975, c. 509, §3 (RPR).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §3 (RPR).

§1205. Registration

Each true owner, or authorized representative of such true owner, shall register the true owner's coastal island with the Coastal Island Registry whether or not such coastal island has been assigned a number under section 1204. Any group of islands assigned a single number under section 1204 as of February 28, 1974, and any group of islands unnumbered as of February 28, 1974 and subsequently assigned a single number under section 1204 shall be considered a single island for the purpose of this section. Each registration shall be filed on forms prescribed by the Coastal Island Registry which shall contain the following information: [PL 1975, c. 509, §4 (RPR).]

1. Name and address of owner. The name and address of the present true owner; [PL 1975, c. 509, §4 (RPR).]

2. Legal description. An accurate legal description of the island property, including the source of title, in sufficient detail to locate such coastal island on a map of the United States Coast and Geodetic Survey for Maine's coastal waters for use in 1972; [PL 1975, c. 509, §4 (RPR).]

3. Area. The island's area or acreage; [PL 1975, c. 509, §4 (RPR).]

4. Date of acquisition. The date acquired;
[PL 1975, c. 509, §4 (RPR).]

5. Other information. Other information necessary for the purposes of this chapter.
[PL 1975, c. 509, §4 (RPR).]

A registration fee of \$10 shall accompany each registration. After a true owner has registered a coastal island in accordance with this chapter, no heir, successor or assign of such owner need register such coastal island with the Coastal Island Registry. [PL 1975, c. 509, §4 (RPR).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §4 (RPR).

§1206. Filing and notice of failure to file

1. Filing of registration. The registration must be filed with the Coastal Island Registry on or before December 31, 1975. Any filing of a registration before January 1, 1975 with the Coastal Island Registry in accordance with the law in effect at the date of such filing shall be considered a valid filing for the purposes of section 1205 and this section.
[PL 1975, c. 509, §5 (NEW).]

2. Notice of failure to file. Notice of failure to file registration shall be mailed to every true owner, whose identity may reasonably be ascertained, at his last known address, after December 31, 1975.
[PL 1975, c. 509, §5 (NEW).]

3. Publication of notice. Notice shall be published setting forth all those coastal islands which remain unregistered, in the state paper and in 2 newspapers of general circulation within the State, once a week for 3 consecutive weeks in February, 1976.
[PL 1975, c. 509, §5 (NEW).]

4. Notice posted in registry of deeds. A copy of this notice shall be posted in each registry of deeds of each county and shall be published in each coastal county in a newspaper whose principal office is located in that county once a week for 3 consecutive weeks in February, 1976.
[PL 1975, c. 509, §5 (NEW).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §5 (RPR).

§1207. Title in State

Title to each and every coastal island that is not registered by the true owner or authorized representative of such true owner with the Coastal Island Registry on or before December 31, 1975, shall vest in the State of Maine on January 1, 1976, subject to the exceptions and conditions set forth in sections 1208 and 1210. [PL 1975, c. 509, §6 (RPR).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §6 (RPR).

§1208. Late registrations

Each and every coastal island which the true owner has failed to register shall be held in the possession, custody and control of the Bureau of Parks and Lands until such time as the true owner files a registration, in the same manner as required under section 1205, with the Coastal Island Registry. [PL 1975, c. 509, §7 (RPR); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

1. Penalty fee. A true owner who has not registered his coastal island on or before December 31, 1975, shall pay the sum of \$50 in addition to the \$10 registration fee.
[PL 1975, c. 509, §7 (NEW).]

2. Income. All income derived from coastal islands which are under the possession, custody and control of the Bureau of Parks and Lands shall not be redeemable by the true owner, but shall accrue to the Bureau of Parks and Lands to be used for the management of the public lands. Notwithstanding the foregoing, in the event a Public Lands Management Fund is established, such income shall be deposited in said fund.

[PL 1975, c. 509, §7 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §7 (RPR). PL 1995, c. 502, §E30 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§1209. Review of claims to coastal islands

The Director of the Bureau of Parks and Lands shall review each and every claim of true ownership made to a coastal island or islands under section 1205 or section 1208. An initial determination shall be made by the director after consultation with the Attorney General as to the validity of all such claims. The director shall notify in writing any person whose claim is initially determined to be not valid. [PL 1975, c. 509, §8 (RPR); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

Any person so notified shall have 30 days from the date of such notification to present evidence to substantiate his claim. The director shall make a final determination of the validity of such claim within 30 days of receipt of such evidence. If no evidence is forthcoming, the director's initial determination shall become final. [PL 1975, c. 509, §8 (RPR).]

Appeals from the final determination of the director under this section shall be taken in accordance with Rule 80C of the Maine Rules of Civil Procedure. [PL 1983, c. 480, Pt. B, §30 (AMD).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §8 (RPR). PL 1983, c. 480, §B30 (AMD). PL 1995, c. 502, §E30 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§1210. Exemption

Any coastal island that has 4 or more residential structures thereon is exempted from this chapter, provided that such property is on the tax rolls of a municipality or of the State. [PL 1975, c. 509, §9 (RPR).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1973, c. 788, §167B (AMD). PL 1975, c. 509, §9 (RPR).

§1211. Requirement for notice

1. Publication. The Secretary of State shall publish a notice setting forth the requirements of this chapter in a newspaper of general circulation in the State once a week for 3 consecutive weeks in December, 1973 and once a week for 3 consecutive weeks in July, 1974. [PL 1973, c. 616, §1 (NEW).]

2. Posting. A copy of this notice shall be posted in the registry of deeds of each coastal county in which islands are located. A list of all islands subject to this chapter shall be recorded in the registry of deeds for the county in which the islands are located. [PL 1973, c. 616, §1 (NEW).]

3. Other publication. A copy of this notice and a list of all islands within each coastal county in which the islands are located shall be published in a newspaper whose principal office is located in the

county in which the islands are located once a week for 3 consecutive weeks in December, 1973 and once a week for 3 consecutive weeks in July, 1974. If there is no newspaper whose principal office is located in the county, the list shall be published in a newspaper of state-wide circulation. [PL 1973, c. 616, §1 (NEW).]

4. Notice in tax bills. Municipal officers in municipalities with islands on their tax rolls shall insert a copy of this notice in tax bills for the calendar year 1974. [PL 1973, c. 616, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW).

§1212. List

Municipal officers shall submit a list of islands within their jurisdiction that are being taxed by the municipality to the Coastal Island Registry on or before December 31, 1973, together with the names and addresses of all record owners of islands with 3 or less residential structures thereon. [PL 1973, c. 616, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW).

§1213. Water boundaries

For the purposes of this chapter, the Department of Agriculture, Conservation and Forestry, Division of Geology, Natural Areas and Coastal Resources shall draw the water boundaries of the 8 coastal counties in order to determine in which registry of deeds the island must be registered. These lines must be drawn in accordance with the corporate charters of the counties as amended. In instances in which the charter does not clearly specify the seaward boundaries of the counties, the boundaries must be drawn in accordance with state law and the principles contained in the International Convention for the Contiguous and Territorial Sea in determining seaward boundaries between adjacent nation states. [PL 2013, c. 405, Pt. C, §17 (AMD).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 2011, c. 655, Pt. KK, §21 (AMD). PL 2011, c. 655, Pt. KK, §34 (AFF). PL 2013, c. 405, Pt. C, §17 (AMD).

§1214. Recordation

(REPEALED)

SECTION HISTORY

PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §10 (RP).

§1215. Rules and regulations

The Director of the Bureau of Parks and Lands is authorized to promulgate any rules and regulations concerning the organization of the Coastal Island Registry, the procedure by which registrations are to be presented to and reviewed by the Bureau of Parks and Lands and in any other area necessary to carry out the purpose of this chapter. [PL 1975, c. 509, §11 (RPR); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

PL 1973, c. 460, §18 (AMD). PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §11 (RPR). PL 1995, c. 502, §E30 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§1216. Limitation

Nothing in this chapter shall preclude the rights of the State to title to property under Title 18, section 1001, subsection 8 or in any action brought to quiet title with respect to island property. [PL 1973, c. 616, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 616, §1 (NEW).

§1217. Fees

All registration fees except those designated for registers of deeds shall be used to carry out the purposes of this chapter. The Director of the Bureau of Parks and Lands is authorized to accept funding from federal or other public or private sources to carry out the purposes of this chapter. [PL 1975, c. 509, §12 (AMD); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

PL 1973, c. 460, §18 (AMD). PL 1973, c. 616, §1 (NEW). PL 1975, c. 509, §12 (AMD). PL 1995, c. 502, §E30 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§1218. Fraudulent registration

Any person who knowingly registers a coastal island, not being the true owner of that island, with the intent of fraudulently obtaining an interest in that island, or with the purpose of deceiving the State as to ownership of that island or to otherwise deceive, deprive, obtain or misrepresent ownership of that island shall be guilty of a Class D crime. [PL 1977, c. 78, §190 (AMD).]

SECTION HISTORY

PL 1975, c. 509, §13 (NEW). PL 1977, c. 78, §190 (AMD).

CHAPTER 27

ABANDONED PROPERTY

(REPEALED)

SUBCHAPTER 1

GENERAL PROVISIONS AND TERMS FOR ABANDONMENT

(REPEALED)

§1301. Purpose

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1302. Definitions

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1303. Property subject to custody and control of the State

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §§1,2 (AMD). PL 1987, c. 323 (AMD). PL 1987, c. 691, §3 (RP).

§1304. Property held by financial institutions

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1979, c. 123, §§1,2 (AMD). PL 1983, c. 211, §3 (AMD). PL 1985, c. 755, §1 (AMD). PL 1987, c. 691, §3 (RP).

§1305. Property held by life insurers

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §4 (AMD). PL 1987, c. 691, §3 (RP).

§1306. Property held by other insurers

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §5 (AMD). PL 1987, c. 691, §3 (RP).

§1307. Property held by utilities

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §6 (AMD). PL 1987, c. 691, §3 (RP).

§1308. Property held by business associations

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §7 (AMD). PL 1987, c. 691, §3 (RP).

§1309. Property held in the course of dissolution

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1310. Property held by fiduciary

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §8 (AMD). PL 1987, c. 691, §3 (RP).

§1311. Property held by governmental agents

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §9 (AMD). PL 1987, c. 691, §3 (RP).

§1311-A. Unpaid wages

(REPEALED)

SECTION HISTORY

PL 1983, c. 211, §10 (NEW). PL 1987, c. 691, §3 (RP).

§1312. Property held in the ordinary course of business

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1979, c. 641, §10 (AMD). PL 1983, c. 211, §11 (AMD). PL 1985, c. 755, §2 (AMD). PL 1987, c. 691, §3 (RP).

§1313. Property held by landlords

(REPEALED)

SECTION HISTORY

PL 1979, c. 327, §3 (NEW). PL 1981, c. 428, §§13,14 (AMD). PL 1987, c. 249, §2 (AMD). PL 1987, c. 691, §3 (RP).

§1314. Property held by state institutions

(REPEALED)

SECTION HISTORY

PL 1979, c. 485, §1 (NEW). PL 1987, c. 691, §3 (RP).

§1315. Property held by public administrators

(REPEALED)

SECTION HISTORY

PL 1981, c. 268, §5 (NEW). PL 1987, c. 691, §3 (RP).

§1316. Recovery of property by another state

(REPEALED)

SECTION HISTORY

PL 1983, c. 211, §12 (NEW). PL 1987, c. 691, §3 (RP).

SUBCHAPTER 2

ADMINISTRATION OF ABANDONED PROPERTY

(REPEALED)

§1351. Report of abandoned property

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1979, c. 641, §11 (AMD). PL 1987, c. 691, §3 (RP).

§1352. Notice and publication by Treasurer of State

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1979, c. 641, §12 (AMD). PL 1985, c. 755, §§3,4 (AMD). PL 1987, c. 691, §3 (RP).

§1353. Payment or delivery of abandoned property**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1979, c. 327, §4 (AMD). PL 1979, c. 485, §2 (AMD). PL 1985, c. 755, §5 (AMD). PL 1987, c. 691, §3 (RP).

§1354. Relief from liability by payment or delivery**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1355. Income accruing after payment or delivery**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1356. Periods of limitation not a bar**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1357. Sale retention or disposal of abandoned property**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §13 (AMD). PL 1987, c. 691, §3 (RP).

§1358. Deposit of funds**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1979, c. 641, §13 (AMD). PL 1985, c. 755, §§6,9 (AMD). PL 1987, c. 691, §3 (RP).

§1359. Claim for abandoned property paid or delivered**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1979, c. 641, §14 (AMD). PL 1987, c. 691, §3 (RP).

§1360. Examination of records**(REPEALED)**

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §14 (AMD). PL 1985, c. 755, §7 (AMD). PL 1987, c. 691, §3 (RP).

§1361. Proceeding to allow examination or compel delivery

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1362. Penalties

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1363. Regulations

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1364. Restriction on agreement to locate reported property

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1983, c. 211, §15 (AMD). PL 1985, c. 755, §8 (AMD). PL 1987, c. 691, §3 (RP).

§1365. Effect of laws of other states

(REPEALED)

SECTION HISTORY

PL 1977, c. 707, §8 (NEW). PL 1987, c. 691, §3 (RP).

§1366. Agreements with other states

(REPEALED)

SECTION HISTORY

PL 1979, c. 641, §15 (NEW). PL 1987, c. 691, §3 (RP).

CHAPTER 28

SOLAR EASEMENTS

§1401. Establishment of solar easements

Any easement obtained for the purpose of ensuring access to direct sunlight must be created in writing and must be in interest in real property that may be acquired and transferred and shall be recorded and indexed in the same way as other conveyances of real property interests. Solar easements must be appurtenant and run with the land benefited and burdened, and are subject to court decreed abandonment and other limitations provided by law. [PL 1981, c. 341 (NEW).]

SECTION HISTORY

PL 1981, c. 341 (NEW).

§1402. Contents of solar easements

1. Instrument creating easement; description; terms. Any instrument creating a solar easement may include, but the contents shall not be limited to, either or both of the following:

A. A definite and certain description of the space affected by the easement; [PL 1981, c. 341 (NEW).]

B. Any terms or conditions, or both, under which the solar easement is granted or will be terminated. [PL 1981, c. 341 (NEW).]

[PL 1981, c. 341 (NEW).]

2. Map. The easement may contain a map showing the affected properties and the area protected by the easement. In the case of an inconsistency between the written easement and the map, the written easement shall control.

[PL 1981, c. 341 (NEW).]

SECTION HISTORY

PL 1981, c. 341 (NEW).

CHAPTER 28-A

SOLAR RIGHTS

§1421. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2009, c. 273, §2 (NEW).]

1. Legal instrument. "Legal instrument" includes:

A. Municipal ordinances, bylaws or regulations that directly regulate the installation or use of solar energy devices on residential property; [PL 2009, c. 273, §2 (NEW).]

B. Rules, bylaws or regulations of an association of property owners, including but not limited to a homeowners association, unit owners association or condominium owners association; and [PL 2009, c. 273, §2 (NEW).]

C. Deed restrictions, restrictive covenants, declarations, contracts or similar binding agreements. [PL 2009, c. 273, §2 (NEW).]

[PL 2009, c. 273, §2 (NEW).]

2. Residential property. "Residential property" means real property located in this State that is used for residential dwelling purposes.

[PL 2009, c. 273, §2 (NEW).]

3. Solar clothes-drying device. "Solar clothes-drying device" means a clothes line, drying rack or other equipment used for solar drying of clothing.

[PL 2009, c. 273, §2 (NEW).]

4. Solar collector. "Solar collector" means a device, structure or part of a device or structure that is designed and used to transform solar energy into thermal, chemical or electrical energy to meet the water heating, space heating, space cooling or electricity generation requirements of one residential dwelling.

[PL 2009, c. 273, §2 (NEW).]

5. Solar energy device. "Solar energy device" means a solar collector or solar clothes-drying device.

[PL 2009, c. 273, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 273, §2 (NEW).

§1422. Policy

It is the policy of the State to promote the use of solar energy and to avoid unnecessary obstacles to the use of solar energy devices. [PL 2009, c. 273, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 273, §2 (NEW).

§1423. Use and installation of solar energy devices

1. Application. This section applies to a legal instrument adopted or created after September 30, 2009 that defines or limits the rights or privileges of owners or renters with respect to the use of residential property.

[PL 2009, c. 273, §2 (NEW).]

2. Right to install and use solar energy devices. Except as provided in subsections 3 and 4, a legal instrument subject to this section may not prohibit a person from installing or using:

A. A solar energy device on residential property owned by that person; or [PL 2009, c. 273, §2 (NEW).]

B. A solar clothes-drying device on residential property leased or rented by that person. [PL 2009, c. 273, §2 (NEW).]

[PL 2009, c. 273, §2 (NEW).]

3. Exception. A legal instrument subject to this section may prohibit the installation and use of solar energy devices on residential property in common ownership with 3rd parties or common elements of a condominium.

[PL 2009, c. 273, §2 (NEW).]

4. Reasonable restrictions. A legal instrument subject to this section may include reasonable restrictions on the installation and use of a solar energy device. For the purposes of this section, a reasonable restriction is any restriction that is necessary to protect:

A. Public health and safety, including but not limited to ensuring safe access to and rapid evacuation of buildings; [PL 2009, c. 273, §2 (NEW).]

B. Buildings from damage; [PL 2009, c. 273, §2 (NEW).]

C. Historic or aesthetic values, when an alternative of reasonably comparable cost and convenience is available; or [PL 2009, c. 273, §2 (NEW).]

D. Shorelands under shoreland zoning provisions pursuant to Title 38, chapter 3, subchapter 1, article 2-B. [PL 2009, c. 273, §2 (NEW).]

[PL 2009, c. 273, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 273, §2 (NEW).

§1424. Limitation

This chapter does not supersede any existing authority of any entity to adopt and enforce any laws, rules or regulations on any matter other than the installation and use of solar energy devices on residential property. [PL 2009, c. 273, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 273, §2 (NEW).

CHAPTER 29

PRESERVATION INTEREST

§1551. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 389 (NEW).]

1. Historic property. "Historic property" shall mean a structure, a plot of land which was the setting of an event or any combination of land and buildings, including the surrounding air space, which has a special historical, architectural or archaeological interest or value, and which is predominantly in its original, historical or natural conditions.

[PL 1979, c. 389 (NEW).]

1-A. Owner. "Owner" means any person, corporation, partnership, organization or other legal entity, including a municipality, county or other political subdivision of the State, an agency of the Federal Government and any quasi-governmental entity, which owns or controls historic property.

[PL 1989, c. 171, §3 (NEW).]

2. Preservation agreement. "Preservation agreement" shall mean any deed, will or other instrument executed by or on behalf of the owner of historic property, or an order of taking, which includes within it the terms of a preservation interest.

[PL 1979, c. 389 (NEW).]

3. Preservation interest. "Preservation interest" shall mean a right created by a preservation agreement which may be in the form of a restriction, easement, covenant or condition which is held by a qualified holder and which pertains to preserving or restoring historic property.

[PL 1979, c. 389 (NEW).]

4. Qualified holder. "Qualified holder" shall mean a nonprofit preservation or historical organization whose purposes include preservation of historic property or a governmental body. The holder shall have the power to acquire interests in property.

[PL 1979, c. 389 (NEW).]

SECTION HISTORY

PL 1979, c. 389 (NEW). PL 1989, c. 171, §3 (AMD).

§1552. Preservation interests authorized; enforcement; release

A preservation interest is the right of a qualified holder to control the treatment of historic property so that its historical integrity is preserved. The preservation interest entitles representatives of a qualified holder to enter the property in a reasonable manner and at reasonable times to assure compliance. [PL 1979, c. 389 (NEW).]

The preservation interest may be enforced by injunction or other proceeding at law or in equity. No preservation interest may be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of being assignable or being assigned to any other qualified holder. [PL 1979, c. 389 (NEW).]

A preservation interest may be released in whole or in part by the qualified holder for such consideration, if any, as the holder may determine, in the same manner as the holder may dispose of any interests in property, subject to the conditions of the preservation agreement. [PL 1979, c. 389 (NEW).]

SECTION HISTORY

PL 1979, c. 389 (NEW).

§1553. Scope of preservation interest

A preservation interest may forbid, limit or require any or all of the following acts which affect the historic property's special character or special historical, architectural or archaeological value: [PL 1979, c. 389 (NEW).]

1. Exterior alterations. Exterior alterations of an historic property, including, but not limited to, maintenance, placement, removal or decoration; [PL 1979, c. 389 (NEW).]

2. Interior alterations. Interior alterations of an historic property, including, but not limited to, maintenance, renovation, construction or decoration; [PL 1979, c. 389 (NEW).]

3. Demolition and additions. Demolition of historic property, construction or placing of new buildings, additions, roads, signs, billboards or other advertising, utility poles or other structures, under, on or above the ground; [PL 1979, c. 389 (NEW).]

4. Landscaping. Alteration, removal or destruction of trees, shrubs or other vegetation; or fixtures, including, but not limited to, ornamental ironwork, walls, walks, hitching posts and fences; or artifacts, including, but not limited to, historic or prehistoric relics, pottery or shards of pottery, tools, bottles or evidence of structural foundations; [PL 1979, c. 389 (NEW).]

5. Landfill. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials; and [PL 1979, c. 389 (NEW).]

6. Other acts. Any other acts detrimental to the preservation of historic property. [PL 1979, c. 389 (NEW).]

SECTION HISTORY

PL 1979, c. 389 (NEW).

§1554. Recordation

So that the title to the historic property affected reflects any preservation interest, all preservation agreements shall be recorded and indexed in the registry of deeds for the county where the property is located in the manner of conveyances of interests in property. The preservation agreement shall describe the property subject to the preservation interest by adequate legal description or by reference to a recorded plan showing the subject property's boundaries. [PL 1979, c. 389 (NEW).]

SECTION HISTORY

PL 1979, c. 389 (NEW).

§1555. Limitation

This chapter shall not be construed to imply that any restriction, easement, covenant or condition which does not have the benefit of this chapter shall be unenforceable. Nothing in this chapter shall diminish the powers granted by any general or special law to any governmental body to acquire by

purchase, gift or eminent domain or otherwise property for public purposes. [PL 1979, c. 389 (NEW).]

SECTION HISTORY

PL 1979, c. 389 (NEW).

CHAPTER 30

TRAIL EASEMENTS

§1581. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 371, §1 (NEW).]

1. Holder. "Holder" means:

A. A governmental body authorized to hold an interest in real property under the laws of this State or the United States, including a quasi-governmental entity such as a conservation commission, a regional planning commission or a water or sewer district; or [PL 1999, c. 371, §1 (NEW).]

B. A nonprofit corporation including a land trust, the purposes or powers of which include the creation and maintenance of trails for use by the general public, for the conservation or preservation of open space, or both. [PL 1999, c. 371, §1 (NEW).]

[PL 1999, c. 371, §1 (NEW).]

2. Trail easement. "Trail easement" means a nonpossessory interest of a holder in real property for the purposes of creating and maintaining a trail for use by the general public:

A. For pedestrian use; [PL 1999, c. 371, §1 (NEW).]

B. For snowmobile use, if the instrument creating the easement provides for snowmobile use; [PL 1999, c. 371, §1 (NEW).]

C. For use by all-terrain vehicles as defined in Title 12, section 13001 if the instrument creating the easement provides for the use of all-terrain vehicles; or [PL 2003, c. 414, Pt. B, §48 (AMD); PL 2003, c. 614, §9 (AFF).]

D. For any combination of the uses described in paragraphs A to C, as specified in the instrument creating the easement. [PL 1999, c. 371, §1 (NEW).]

[PL 2003, c. 414, Pt. B, §48 (AMD); PL 2003, c. 614, §9 (AFF).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW). PL 2003, c. 414, §B48 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF).

§1582. Creation, conveyance, acceptance and duration

1. Trail easement. Except as otherwise provided in this chapter, a trail easement may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other easements created by written instrument.

[PL 1999, c. 371, §1 (NEW).]

2. Right or duty. No right or duty in favor of or against a holder arises under a trail easement unless the right or duty is accepted by the holder.

[PL 1999, c. 371, §1 (NEW).]

3. Limitation. Except as provided in this chapter, a trail easement is unlimited in duration unless the instrument creating it provides otherwise.

[PL 1999, c. 371, §1 (NEW).]

4. Interest. An interest in real property in existence at the time a trail easement is created is not impaired by the trail easement unless the owner of the interest is a party to the trail easement or consents to it.

[PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

§1583. Judicial actions

1. Action or intervention. An owner of an interest in the real property burdened by a trail easement or a holder of the trail easement may bring or intervene in an action affecting the easement.

[PL 1999, c. 371, §1 (NEW).]

2. Intervention only. The State or a political subdivision of the State in which the real property burdened by a trail easement is located may intervene in an action affecting the easement.

[PL 1999, c. 371, §1 (NEW).]

3. Power of court. This chapter does not affect the power of a court to enforce a trail easement by injunction or proceeding in equity or to modify a trail easement in accordance with principles of law and equity.

[PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

§1584. Validity

A trail easement is valid and enforceable even if: [PL 1999, c. 371, §1 (NEW).]

1. Not appurtenant to interest in real property. It is not appurtenant to or does not run with an interest in real property;

[PL 1999, c. 371, §1 (NEW).]

2. Assigned to another holder. It can be or has been assigned to another holder;

[PL 1999, c. 371, §1 (NEW).]

3. Not recognized at common law. It is not of a character that has been recognized traditionally at common law;

[PL 1999, c. 371, §1 (NEW).]

4. Negative burden. It imposes a negative burden;

[PL 1999, c. 371, §1 (NEW).]

5. Affirmative obligations. It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

[PL 1999, c. 371, §1 (NEW).]

6. Benefit does not touch or concern real property. The benefit does not touch or concern real property;

[PL 1999, c. 371, §1 (NEW).]

7. No privity of estate or of contract. There is no privity of estate or of contract; or

[PL 1999, c. 371, §1 (NEW).]

8. Does not run to successors or assigns. It does not run to the successors or assigns of the holder.

[PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

§1585. Applicability

1. Trail easement created after effective date. This chapter applies to any interest created after the effective date of this chapter that meets the definition of "trail easement" as set forth in section 1581.

[PL 1999, c. 371, §1 (NEW).]

2. Chapter does not invalidate interest. This chapter does not invalidate any interest, whether designated as a trail easement or otherwise, that is enforceable under other laws of this State.

[PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

CHAPTER 31

MAINE CONDOMINIUM ACT

ARTICLE 1

GENERAL PROVISIONS

§1601-101. Short title

This Act shall be known and may be cited as the Maine Condominium Act. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-102. Applicability

(a) This Act applies to all condominiums created, in accordance with the provisions of this Act, within this State after the effective date of this Act and to all condominiums created within this State before the effective date of this Act which, on or after the effective date of this Act, amend the instruments creating the same so as to subject the condominium to the provisions of this Act and so as to conform those instruments to the provisions of this Act in all necessary respects. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by sections 560 through 587. Sections 1601-105 Separate titles and taxation, 1601-106 Applicability of local laws and regulations, 1601-107 Eminent domain, 1602-103 Construction and validity of declaration and bylaws, 1602-104 Description of units, 1603-102, subsection (a) paragraphs (1) through (6) and (11) through (16) Powers of unit owners' association, 1603-111 Tort and contract liability, 1603-116 Lien for assessments, 1603-118 Association records, 1604-108 Resales of units, and 1604-116 Effect of violation on rights of action and section 1601-103 Definitions, to the extent necessary in construing any of those sections, apply to all condominiums created in this State before the effective date of this Act; but those sections apply only with respect to events and circumstances occurring after the effective date of this Act and do not invalidate provisions of declarations, bylaws, floor plans, surveys or duly adopted administrative rules and regulations existing on the effective date of this Act. [PL 1981, c. 699 (NEW).]

(b) The provisions of sections 560 through 587 do not apply to condominiums created after the effective date of this Act or amended pursuant to subsection (a) so as to be subject to the provisions of this Act and do not invalidate any amendment to declarations, bylaws, floor plans, surveys or duly adopted administrative rules and regulations relating to any condominium created before the effective date of this Act if the amendment would be permitted by this Act. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by sections 560 through 587. If the amendment grants to any person any rights, powers or privileges permitted by this Act, all correlative obligations, liabilities and restrictions in this Act also apply to that person. [PL 1983, c. 78, §1 (AMD).]

(c) This Act does not apply to condominiums or units located outside this State, but the public offering statement provisions contained in sections 1604-102 through and including 1604-106 apply to all offers, contracts for disposition signed by any party in this State or dispositions in this State of condominiums or units unless exempt under section 1604-101, subsection (b). [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 1983, c. 78, §1 (AMD).

§1601-103. Definitions

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this Act: [PL 1981, c. 699 (NEW).]

(1) "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant. A person "controls" a declarant if the person: (i) Is a general partner, officer, director or employer of the declarant; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing more than 20% of the voting interests of the declarant; (iii) controls in any manner the election of a majority of the directors of the declarant; or (iv) has contributed more than 20% of the capital in the declarant. A person "is controlled by" a declarant if the declarant: (i) Is a general partner, officer, director or employer of the person; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20% of the voting interests in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than 20% of the capital of the person;

Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised. [PL 1981, c. 699 (NEW).]

(2) "Allocated interests" means the undivided interests in the common elements, the common expense liability and votes in the association allocated to each unit; [PL 1981, c. 699 (NEW).]

(3) "Association" or "unit owners' association" means the unit owners' association organized under section 1603-101; [PL 1981, c. 699 (NEW).]

(4) "Common elements" means all portions of a condominium other than the units; [PL 1981, c. 699 (NEW).]

(5) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves; [PL 1981, c. 699 (NEW).]

(6) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 1602-107; [PL 1981, c. 699 (NEW).]

(7) "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to this Act. Real estate

is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration; [PL 1983, c. 190 (AMD).]

(8) "Conversion building" means a building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy with the consent of purchasers; [PL 1981, c. 699 (NEW).]

(9) "Declarant" means any person or group of persons acting in concert who: (i) As part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of; or (ii) reserves or succeeds to any special declarant right; [PL 1981, c. 699 (NEW).]

(10) "Declaration" means any instruments, however denominated, which create a condominium and any amendments to those instruments; [PL 1981, c. 699 (NEW).]

(11) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to add real estate to a condominium; to create units, common elements or limited common elements within a condominium; to subdivide units or convert units into common elements; or to withdraw real estate from a condominium; [PL 1981, c. 699 (NEW).]

(12) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest; [PL 1981, c. 699 (NEW).]

(13) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association; [PL 1981, c. 699 (NEW).]

(14) "Identifying number" means a symbol or address that identifies only one unit in a condominium; [PL 1981, c. 699 (NEW).]

(15) "Leasehold condominium" means a condominium in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the condominium or reduce its size; [PL 1981, c. 699 (NEW).]

(16) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section, 1602-102, paragraphs (2) or (4) for the exclusive use of one or more but fewer than all of the units; [PL 1981, c. 699 (NEW).]

(17) "Master association" means an organization described in section 1602-120, whether or not it is also an association described in section 1603-101; [PL 1981, c. 699 (NEW).]

(18) "Offering" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium not located in this State, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium is located; [PL 1981, c. 699 (NEW).]

(19) "Person" means a natural person, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture or other legal or commercial entity; [PL 1981, c. 699 (NEW).]

(20) "Purchaser" means any person, other than a declarant, or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than: (i) A leasehold interest, including renewal options, of less than 20 years; or (ii) as security for an obligation; [PL 1981, c. 699 (NEW).]

(21) "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interest which by custom, usage or law pass with a

conveyance of land though not described in the contract of sale or instrument of conveyance. Real estate includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water; [PL 1981, c. 699 (NEW).]

(22) "Real estate trust" means an arrangement evidenced by a writing, the purposes of which include the ownership of real estate and the creation and management of a condominium, under which arrangement one or more trustees are empowered to hold legal title to real estate for the benefit of beneficiaries. Trustees may also be beneficiaries under a real estate trust; [PL 1981, c. 699 (NEW).]

(23) "Recorded" means that the instrument, plan or plat shall be duly recorded in every registry of deeds in each county or registry district in which the condominium or any portion thereof is located. Each such instrument, plan or plat shall be indexed by the Register of Deeds, in the name of the condominium and the parties thereto; [PL 1981, c. 699 (NEW).]

(24) "Residential" means use for dwelling or recreational purposes, or both; [PL 1981, c. 699 (NEW).]

(25) "Special declarant rights" means rights reserved for the benefit of a declarant to complete improvements indicated on plats and plans filed with the declaration, section 1602-109; to exercise any development right, section 1602-110; to maintain sales offices, management offices, signs advertising the condominium and models, section 1602-115; to use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium, section 1602-116; to make the condominium part of a larger condominium or a planned community, section 1602-121; to make the condominium subject to a master association, section 1602-120; or to appoint or remove any officer of the association or any master association or any executive board member or to approve any acts of the association or the executive board, during any period of declarant control, section 1603-103, subsection (d); [PL 1981, c. 699 (NEW).]

(26) "Unit" means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to section 1602-105, paragraph (5); and [PL 1981, c. 699 (NEW).]

(27) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not include a person having an interest in a unit solely as security for an obligation. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 1983, c. 190 (AMD).

§1601-104. Variation by agreement

Except as expressly provided in this Act, provisions of this Act may not be varied by agreement, and rights conferred by this Act may not be waived. A declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this Act or the declaration. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-105. Separate titles and taxation

(a) If there is any unit owner other than a declarant, each unit which has been created, together with its appurtenant interests, constitutes for all purposes a separate parcel of real estate. [PL 1981, c. 699 (NEW).]

(b) If there is any unit owner other than a declarant, each unit shall be separately taxed and assessed and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights. [PL 1981, c. 699 (NEW).]

(c) Any portion of the common elements for which the declarant has reserved any development right to add real estate to a condominium or to withdraw real estate from a condominium, shall be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes. [PL 1981, c. 699 (NEW).]

(d) If there is no unit owner other than a declarant, the real estate comprising the condominium may be taxed and assessed in any manner provided by law. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-106. Applicability of local laws and regulations

A zoning, subdivision, building code or other real estate use law, ordinance or regulation may not prohibit the condominium form of ownership. Otherwise, no provision of this Act invalidates or modifies any provision of any zoning, subdivision, building code or other real estate use law, ordinance or regulation. No county, municipality, village corporation or other political subdivision, whether or not acting under the municipal home rule powers provided for under the Constitution of Maine, Article VIII, Part Second or Title 30-A, chapter 111, and section 3001, or any other authority from time to time, may adopt or enforce any law, ordinance, rule, regulation or policy which conflicts with the provisions of this Act. [PL 1987, c. 737, Pt. C, §§76, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 1987, c. 322 (AMD). PL 1987, c. 737, §§C76,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD).

§1601-107. Eminent Domain

(a) If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant which may not practically or lawfully be used for any purpose permitted by the declaration, the award must compensate the unit owner for his unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element. [PL 1981, c. 699 (NEW).]

(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award must compensate the unit owner for the reduction in value of the unit and its interest in the common elements whether or not any common elements are acquired. Upon acquisition: (1) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and (2) the portion of the allocated interest, votes and common expense liability divested from the partially acquired unit are automatically reallocated to that unit and the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests. [PL 1981, c. 699 (NEW).]

(c) If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common

element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition. [PL 1981, c. 699 (NEW).]

(d) The court decree shall be recorded. [PL 1981, c. 699 (NEW).]

(e) Notwithstanding anything to the contrary in this section, lien holders on any unit, common element or limited common element, shall have a lien on any such awards in order of priority of their respective liens. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-108. Supplemental general principles of law applicable

The principles of law and equity, including the law of corporations and unincorporated associations, the law of real property and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance or other validated or invalidating cause supplement the provisions of this Act, except to the extent inconsistent with this Act. [PL 1981, c. 699 (NEW).]

No consent or joinder of the spouse of a unit owner shall be required for any action of the unit owner required or permitted under this Act, except that in a case of a conveyance or transfer of a unit, the law of Maine relating to the rights of a spouse in real estate shall apply to such conveyance or transfer. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-109. Construction against implicit repeal

This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-110. Uniformity of application and construction

This Act shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-111. Severability

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-112. Unconscionable agreement or term of contract

(a) The court, upon finding as a matter of law that a contract or contract clause was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the

contract without the unconscionable clause, or limit the application of any unconscionable clause in order to avoid an unconscionable result. [PL 1981, c. 699 (NEW).]

(b) Whenever it is claimed, or appears to the court, that a contract or any contract clause is or may be unconscionable, the parties, in order to aid the court in making the determination, shall be afforded a reasonable opportunity to present evidence as to:

(1) The commercial setting of the negotiations; [PL 1981, c. 699 (NEW).]

(2) Whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests by reason of physical or mental infirmity, illiteracy or inability to understand the language of the agreement or similar factors; [PL 1981, c. 699 (NEW).]

(3) The effect and purpose of the contract or clause; and [PL 1981, c. 699 (NEW).]

(4) If a sale, any gross disparity, at the time of contracting, between the amount charged for the real estate and the value of the real estate measured by the price at which similar real estate was readily obtainable in similar transactions, but a disparity between the contract price and the value of the real estate measured by the price at which similar real estate was readily obtainable in similar transactions does not, of itself, render the contract unconscionable. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 669 (NEW).

§1601-113. Obligation of good faith

Every contract or duty governed by this Act imposes an obligation of good faith in its performance or enforcement. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-114. Remedies to be liberally administered

(a) The remedies provided by this Act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. Consequential, special or punitive damages may not be awarded except as specifically provided in this Act or by other rule of law. [PL 1981, c. 699 (NEW).]

(b) Any right or obligation declared by this Act is enforceable by judicial proceeding. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-115. Legal investments

Financial institutions may make loans to any person or persons to be secured by a mortgage of a unit or units together with their allocated interests, created pursuant to this chapter, to the extent that each of them may make loans secured by real estate mortgages, and subject to the applicable conditions and limitations imposed by law. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1601-116. Effective date

This Act shall be effective on January 1, 1983. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

ARTICLE 2

CREATION, ALTERATION AND TERMINATION OF CONDOMINIUMS

§1602-101. Creation of condominium

(a) A condominium may be created pursuant to this Act only by recording a declaration executed in the same manner as a deed, by all persons whose interests in the real estate will be conveyed to unit owners and by every lessor of a lease the expiration or termination of which will terminate the condominium or reduce its size. In the creation of a condominium, the declaration shall be recorded in the same manner as a deed and plats and plans shall be recorded in the same manner as plats and plans generally. All such documents, shall be indexed in the name of the condominium and the parties thereto and may be included in such other indices as shall be determined by the Register of Deeds. [PL 1981, c. 699 (NEW).]

(b) No interest in any unit may be conveyed to a purchaser until the unit is substantially completed as evidenced by a certificate or statement of substantial completion executed by an engineer or architect, or until a certificate of occupancy is issued by the municipal building official; except that this limitation does not apply to contracts, options or reservations for sale of units later to be so completed or to mortgages or transfers of units as security for an obligation, deeds in lieu of foreclosure, foreclosures and foreclosure sales, conveyances to successor declarants or to any person in the business of selling real estate for that person's own account, or to financial institutions. [PL 1981, c. 699 (NEW); PL 2009, c. 261, Pt. B, §16 (AMD).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 2009, c. 261, Pt. B, §16 (AMD).

§1602-102. Unit boundaries

Except as provided by the declaration: [PL 1981, c. 699 (NEW).]

(1) If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereon are a part of the unit, and all other portions of the walls, floors or ceilings are a part of the common elements. [PL 1981, c. 699 (NEW).]

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements. [PL 1981, c. 699 (NEW).]

(3) Subject to the provisions of paragraph (2), all spaces, interior partitions and other fixtures and improvements within the boundaries of a unit are a part of the unit. [PL 1981, c. 699 (NEW).]

(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-103. Construction and validity of declaration and bylaws

(a) All provisions of the declaration and bylaws are severable. [PL 1981, c. 699 (NEW).]

(b) Neither the rule against perpetuities nor the provisions of section 116, as it or its equivalent may be amended from time to time, may be applied to defeat any provision of the declaration, bylaws or rules and regulations adopted pursuant to section 1603-102, subsection (a), paragraph (1). [PL 2017, c. 402, Pt. B, §3 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this Act. [PL 1981, c. 699 (NEW).]

(d) Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this Act. Whether a substantial failure impairs marketability is not affected by this Act. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 2017, c. 402, Pt. B, §3 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§1602-104. Description of units

A description of a unit which sets forth the name of the condominium, the recording data for the declaration, the county or registry district in which the condominium is located and the identifying number of the unit, is a sufficient legal description of that unit and all rights, obligations and interests appurtenant to that unit which were created by the declaration or bylaws. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-105. Contents of declaration

(a) The declaration for a condominium contains:

(1) The name of the condominium, which includes the word "condominium" or be followed by the words "a condominium," and of the association; [PL 1981, c. 699 (NEW).]

(2) The name of every municipality and every county or registry district in which any part of the condominium is situated; [PL 1981, c. 699 (NEW).]

(3) A legally sufficient description of the real estate included in the condominium; [PL 1981, c. 699 (NEW).]

(4) A statement of the maximum number of units which the declarant reserves the right to create; [PL 1981, c. 699 (NEW).]

(5) A description of the boundaries of each unit created by the declaration, including the unit's identifying number; [PL 1981, c. 699 (NEW).]

(6) A description of any limited common elements, other than those specified in section 1602-102, paragraphs (2) and (4), as provided in section 1602-109, subsection (b), paragraph (10); [PL 1981, c. 699 (NEW).]

(7) A description of any real estate, except real estate subject to development rights, which may be allocated subsequently as limited common elements, other than limited common elements specified in section 1602-102, paragraphs (2) and (4), together with a statement that they may be so allocated; [PL 1981, c. 699 (NEW).]

(8) A description of any development rights and other special declarant rights, section 1601-103, paragraph (25), reserved by the declarant, together with a legally sufficient description of the real estate

to which each of those rights applies, and a time limit within which each of those rights must be exercised; [PL 1981, c. 699 (NEW).]

(9) If any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(i) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right, or a statement that no assurances are made in those regards; and

(ii) A statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate; [PL 1981, c. 699 (NEW).]

(10) Any other conditions or limitations under which the rights described in paragraph (8) may be exercised or will lapse; [PL 1981, c. 699 (NEW).]

(11) An allocation to each unit of the allocated interests in the manner described in section 1602-107; [PL 1981, c. 699 (NEW).]

(12). Any restrictions on use, occupancy and alienation of the units; [PL 1981, c. 699 (NEW).]

(13). The recording data for recorded easements and licenses appurtenant to or included in the condominium or to which any portion of the condominium is or may become subject by virtue of a reservation in the declaration; [PL 1981, c. 699 (NEW).]

(14). All matters required by sections 1602-106, 1602-107, 1602-108, 1602-109, 1602-115, 1602-116 and 1603-103, subsection (d); and [PL 1981, c. 699 (NEW).]

(15). Reasonable provisions regarding the manner in which notice of matters affecting the condominium may be given to unit owners by the association. [PL 1981, c. 699 (NEW).]

(b) The declaration may contain any other matters the declarant deems appropriate. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-106. Leasehold condominiums

(a) Any lease the expiration or termination of which may terminate the condominium or reduce its size, or a memorandum thereof, shall be recorded. Every lessor of those leases must sign the declaration and the declaration shall state:

(1) The recording data for the lease or memorandum thereof; [PL 1981, c. 699 (NEW).]

(2) The date on which the lease is scheduled to expire; [PL 1981, c. 699 (NEW).]

(3) A legally sufficient description of the real estate subject to the lease; [PL 1981, c. 699 (NEW).]

(4) Any right of the unit owners to redeem the reversion and the manner whereby those rights may be exercised or a statement that they do not have those rights; [PL 1981, c. 699 (NEW).]

(5) Any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease or a statement that they do not have those rights; and [PL 1981, c. 699 (NEW).]

(6) Any rights of the unit owners to renew the lease and the conditions of any renewal or a statement that they do not have those rights. [PL 1981, c. 699 (NEW).]

(b) After the declaration for a leasehold condominium is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of the unit owner's share of the rent and otherwise complies with all covenants that, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest is not affected by failure of any other person to pay rent or fulfill any other covenant. [RR 2013, c. 2, §40 (COR).]

(c) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests, unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired. [PL 1981, c. 699 (NEW).]

(d) If the expiration or termination of a lease decreases the number of units in a condominium, the allocated interests shall be reallocated in accordance with section 1602-107, subsection (a) as though those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed and recorded by the association. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). RR 2013, c. 2, §40 (COR).

§1602-107. Allocations of common element interests, votes and common expense liabilities

(a) The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and a portion of the votes in the association to each unit and state the formulas used to establish those allocations. Those allocations may not discriminate in favor of units owned by the declarant. [PL 1981, c. 699 (NEW).]

(b) If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal. [PL 1981, c. 699 (NEW).]

(c) The declaration may provide:

(1) That different allocations of votes shall be made to the units on particular matters specified in the declaration; and [PL 1981, c. 699 (NEW).]

(2) For class voting on specified issues affecting the class if necessary to protect valid interests of the class. [PL 1981, c. 699 (NEW).]

A declarant may not utilize class voting for the purpose of evading any limitation imposed on declarants by this Act, nor may units constitute a class because they are owned by a declarant. [PL 1981, c. 699 (NEW).]

(d) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units shall each equal one if stated as fractions or 100% if stated as percentages. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formulas, the allocated interest prevails. [PL 1981, c. 699 (NEW).]

(e) The common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void, except as permitted in section 1603-112. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-108. Limited common elements

(a) Except for the limited common elements described in section 1602-102, paragraphs (2) and (4), the declaration shall specify to which unit or units each limited common element is allocated. That

allocation may not be altered without the consent of the unit owners whose units are affected. [PL 1981, c. 699 (NEW).]

(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration upon application to the association by the unit owners between or among whose units the reallocation is made. Unless the executive board determines within 30 days that the reallocation is unreasonable, the association shall prepare an amendment and any plats or plans needed to depict the amendment. Upon execution by the unit owners, the amendment together with such plats or plans shall be recorded in the names of the parties and the condominium. [PL 1981, c. 699 (NEW).]

(c) A common element not previously allocated as a limited common element may not be so allocated, except pursuant to provisions in the declaration made in accordance with section 1602-105, subsection (a), paragraph (7). The allocations shall be made by amendments to the declarations. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-109. Plats and plans

(a) Plats and plans are a part of the declaration. Separate plats and plans are not required by this Act if all the information required by this section is contained in either a plat or plan. Each plat and plan must be clear and legible, bear the seal and signature of the land surveyor, engineer or architect under whose direction the plat or plan was prepared. [PL 1981, c. 699 (NEW).]

(b) Each plat must show:

(1) The name and a survey or general schematic map of the entire condominium; [PL 1981, c. 699 (NEW).]

(2) The location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real estate; [PL 1981, c. 699 (NEW).]

(3) The location and dimensions of any real estate subject to development rights, labeled to identify the rights applicable to each parcel; [PL 1981, c. 699 (NEW).]

(4) The extent of any encroachments by or upon any portion of the condominium; [PL 1981, c. 699 (NEW).]

(5) The location and dimensions of all easements serving or burdening any portion of the condominium; [PL 1981, c. 699 (NEW).]

(6) The location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying number; [PL 1981, c. 699 (NEW).]

(7) The location with reference to any established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) and that unit's identifying number; [PL 1981, c. 699 (NEW).]

(8) The location and dimensions of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate;" [PL 1981, c. 699 (NEW).]

(9) The distances and courses between noncontiguous parcels of real estate comprising the condominium; [PL 1981, c. 699 (NEW).]

(10) The location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in section 1602-102, paragraphs (2) and (4); and [PL 1981, c. 699 (NEW).]

(11) In the case of real estate not subject to development rights, other matters customarily shown on land surveys. [PL 1981, c. 699 (NEW).]

(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled "MUST BE BUILT" or "NEED NOT BE BUILT." [PL 1981, c. 699 (NEW).]

(d) To the extent not shown or projected on the plats, plans must show:

(1) The location and dimensions of the vertical boundaries of each unit, and that unit's identifying number; [PL 1981, c. 699 (NEW).]

(2) Any horizontal unit boundaries, with reference to established datum and the unit's identifying number; and [PL 1981, c. 699 (NEW).]

(3) Any units in which the declarant has reserved the right to create additional units or common elements, section 1602-110, subsection (c), identified appropriately. [PL 1981, c. 699 (NEW).]

(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part, and need not be depicted on the plats and plans. [PL 1981, c. 699 (NEW).]

(f) Upon exercising any development right, the declarant shall record either new plats and plans necessary to conform to the requirements of subsections (a), (b) and (c), or the declarant may record an affidavit that plats and plans previously recorded conform to the requirements of those subsections. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-110. Exercise of development rights

(a) To exercise any development right reserved under section 1602-105, subsection (a), paragraph (8), the declarant shall prepare, execute and record an amendment to the declaration, section 1602-117, and comply with section 1602-109. The declarant is the unit owner of any units thereby created. The amendment to the declaration must assign an identifying number of each new unit created, and except in the case of subdivision or conversion of units described in subsection (c), reallocate the allocated interests among all units. The amendment must describe any limited common elements thereby created and designate the unit to which each is allocated to the extent required by section 1602-108, limited common elements. [PL 1981, c. 699 (NEW).]

(b) Development rights may be reserved within any real estate added to the condominium if the amendment adding that real estate includes all matters required by section 1602-105 or section 1602-106, as the case may be, and the plats and plans includes all matters required by section 1602-109. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to section 1602-105, subsection (a), paragraph (8). [PL 1981, c. 699 (NEW).]

(c) When a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements, or both:

(1) If the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain, section 1601-107. [PL 1981, c. 699 (NEW).]

(2) If the declarant subdivides the unit into 2 or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant. [PL 1981, c. 699 (NEW).]

(3) Until written notice of conversion is given to the appropriate real estate tax assessor or the period during which conversion may occur expires, whichever occurs first, the declarant alone is liable for real estate taxes assessed against convertible real estate and all other expenses in connection with that real estate. No other unit owner and no other portion of the condominium is subject to a claim for payment of those taxes or expenses. Unless the declaration provides otherwise, any income or proceeds from convertible real estate inures to the declarant. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-111. Alterations of units

Subject to the provisions of the declaration and other provisions of law, a unit owner: [PL 1981, c. 699 (NEW).]

(1) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium; [PL 1981, c. 699 (NEW).]

(2) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condominium, without permission of the association; [PL 1981, c. 699 (NEW).]

(3) After acquiring an adjoining unit or adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. Removal of partitions or creation of apertures under this paragraph is not alteration of boundaries. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-112. Relocation of boundaries between adjoining units

(a) Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved, states the reallocations, is executed by those unit owners, contains words of conveyance between them, and upon recordation, is indexed in the name of the grantor and the grantee. [PL 1981, c. 699 (NEW).]

(b) The association shall prepare and record plats or plans necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-113. Subdivision of units

(a) If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and other provisions of law, upon application of a unit owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including the plats and plans, subdividing that unit. [PL 1981, c. 699 (NEW).]

(b) The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly

allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-114. Easement for encroachments

To the extent that any unit or common element encroaches on any other unit or common element, a valid easement for the encroachment exists. The easement does not relieve a unit owner of liability in case of his willful misconduct nor relieve a declarant or any other person of liability for failure to adhere to the plats and plans. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-115. Use for sales purposes

A declarant may maintain sales offices, management offices and models in units or on common elements in the condominium only if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location and relocation thereof. Any sales office, management office or model not designated a unit by the declaration is a common element, and if a declarant ceases to be a unit owner, he ceases to have any rights with regard thereto unless it is removed promptly from the condominium in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the condominium. The provisions of this section are subject to the provisions of other state law and to local ordinances. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-116. Easement to facilitate exercise of special declarant rights

Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights, whether arising under this Act or reserved in the declaration. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-117. Amendment of declaration

(a) Except in cases of amendments that may be executed by a declarant under section 1602-109, subsection (f) or 1602-110; the association under section 1601-107, 1602-106, subsection (d), 1602-108, subsection (c), 1602-112, subsection (a) or 1602-113; or certain unit owners under section 1602-108, subsection (b), 1602-112, subsection (a), 1602-113, subsection (b) or 1602-118, subsection (b), and except as limited by subsection (d), the declaration, including the plats and plans, may be amended only by vote or agreement of the unit owners of units to which at least 67% of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use. [PL 1981, c. 699 (NEW).]

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded. [PL 1981, c. 699 (NEW).]

(c) Every amendment to the declaration must be recorded and is effective only upon recordation. Notice of the amendment shall be sent to all unit owners and mortgagees known to the executive board, but failure to send such notices shall not affect the validity of the amendment. [PL 1981, c. 699 (NEW).]

(d) Except to the extent expressly permitted or required by other provisions of this Act, no amendment may create or increase special declarant rights, increase the number of units, change the boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners. [PL 1981, c. 699 (NEW).]

(e) Amendments to the declaration required by this Act to be recorded by the association shall be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-118. Termination of condominium

(a) Except in the case of taking of all the units by eminent domain, section 1601-107, a condominium may be terminated only by agreement of unit owners of units to which at least 80% of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to nonresidential uses. [PL 1981, c. 699 (NEW).]

(b) Such an agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement must specify a date after which the agreement will be void unless recorded before that date. A termination agreement and all ratifications thereof must be recorded and is effective only upon recordation. [PL 1981, c. 699 (NEW).]

(c) In the case of a condominium containing only units having horizontal boundaries between units, a termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real estate in the condominium is to be sold following termination, the termination agreement must set forth the minimum terms of the sale. [PL 1981, c. 699 (NEW).]

(d) In the case of a condominium containing any units not having horizontal boundaries between units, a termination agreement may provide for sale of the common elements, but may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the unit owners consent to the sale. [PL 1981, c. 699 (NEW).]

(e) The association, on behalf of the unit owners, may contract for the sale of real estate in the condominium following termination, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b). If any real estate in the condominium is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale must be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection (h). Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. During the period of that occupancy, each unit owner and his successors in interest remain liable for all

assessments and other obligations imposed on unit owners by this Act or the declaration. [PL 1981, c. 699 (NEW).]

(f) If the real estate constituting the condominium is not to be sold following termination, title to the common elements and, in a condominium containing only units having horizontal boundaries between units, title to all the real estate in the condominium, vests in the unit owners upon termination as tenants in common in proportion to their respective interests as provided in subsection (h), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. [PL 1981, c. 699 (NEW).]

(g) Following termination of the condominium, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear. Following termination, creditors of the association holding liens on the units, which were recorded prior to termination, may enforce those liens in the same manner as any lien holder. All other creditors of the association shall be treated as if they had perfected liens on the unit immediately prior to the termination. [PL 1981, c. 699 (NEW).]

(h) The respective interests of unit owners referred to in subsections (c), (d) and (e) are as follows:

(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, limited common elements and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25% of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and common elements. [PL 1981, c. 699 (NEW).]

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all unit owners are their respective common element interests immediately before the termination. [PL 1981, c. 699 (NEW).]

(i) Except as provided in subsection (j), foreclosure or enforcement of a lien or encumbrance against the entire condominium does not of itself terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable real estate, does not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the condominium, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real estate from the condominium. [PL 1981, c. 699 (NEW).]

(j) If a lien or encumbrance against a portion of the real estate comprising the condominium has priority over the declaration, and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance may, upon foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the condominium. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-119. Rights of secured lenders

(a) The declaration may require that all or a specified number or percentage of the mortgagees or beneficiaries of deeds of trust encumbering the units approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to:

(1) Deny or delegate control over the general administrative affairs of the association by the unit owners or the executive board; or [PL 1981, c. 699 (NEW).]

(2) Prevent the association or the executive board from commencing, intervening in, or settling any litigation or proceeding, or receiving and distributing any insurance proceeds pursuant to section 1603-113. [PL 1981, c. 699 (NEW).]

(b) The association shall send reasonable prior written notice by prepaid United States mail to eligible mortgage holders as hereinafter defined of the consideration by the association of following proposed actions:

(1) The termination of the condominium pursuant to section 1602-118; [PL 1981, c. 699 (NEW).]

(2) A change in the allocated interest of a unit, a change in the boundaries of a unit or a subdivision of a unit; [PL 1981, c. 699 (NEW).]

(3) The merger or consolidation of the condominium with another condominium; [PL 1981, c. 699 (NEW).]

(4) The conveyance or subjection to a security interest of any portion of the common elements; [PL 1981, c. 699 (NEW).]

(5) The proposed use of any proceeds of hazard insurance required to be maintained by the association under section 1603-113, subsection (a), for purposes other than the repair or restoration of the damaged property; [PL 1981, c. 699 (NEW).]

(6) The adoption of any proposed budget by the executive board under section 1603-103, subsection (c), and of the date of the scheduled unit owners meeting to consider ratification thereof; a summary of the proposed budget shall accompany this notice; and [PL 1981, c. 699 (NEW).]

(7) Any default in the performance or payment by a unit owner of any obligations under the condominium declaration, including, without limitation, default in the payment of common expense liabilities.

An "eligible mortgage holder" means the holder of a recorded first mortgage on a unit which has delivered written notice to the association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, which notice shall state the mortgagee's name and address, the unit owner's name and address, and the identifying number of the unit, and shall state that the mortgage is a recorded first mortgage. Such notice shall be deemed to have been given reasonably prior to the proposed action if sent at the time notice thereof is given to the unit owners. In addition, the declaration may require that similar notice be given to other persons or of other proposed actions. [PL 1981, c. 699 (NEW).]

(c) In the event of any proposed actions described in subsection (b), paragraphs (1), (2), (3), (4) or (5), an eligible mortgage holder shall have the right but not the obligation in place of the unit owner to cast the votes allocated to that unit or give or withhold any consent required of the unit owner for such action by delivering written notice to the association with a copy to the unit owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the eligible mortgage holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the unit owner from exercising such right. In the event of any default described in subsection (b), paragraph (7), the eligible mortgage holder shall have the right but not the obligation to cure such default. [PL 1981, c. 699 (NEW).]

(d) In addition, an eligible mortgage holder, or its representative, shall have the right to attend association and executive board meetings for the purposes of discussing the matters described in subsection (b), paragraphs (1) to (6). [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-120. Master associations

(a) If the declaration for a condominium provides that any of the powers described in section 1603-102 are to be exercised by or may be delegated to a profit or nonprofit corporation, or unincorporated association, which exercises those or other powers on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums, all provisions of this Act applicable to unit owners' associations apply to any such corporation, or unincorporated association, except as modified by this section. [PL 1981, c. 699 (NEW).]

(b) Unless a master association is acting in the capacity of an association described in section 1603-101, it may exercise the powers set forth in section 1603-102, subsection (a), paragraph (2), only to the extent expressly permitted in the declarations of condominiums which are part of the master association or expressly described in the delegations of power from such condominiums to the master association. [PL 1981, c. 699 (NEW).]

(c) If the declaration of any condominium provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation. [PL 1981, c. 699 (NEW).]

(d) The rights and responsibilities of unit owners with respect to the unit owners' association set forth in sections 1603-103, 1603-106, 1603-108, 1603-110 and 1603-113, apply in the conduct of the affairs of a master association only to those persons who elect the board of a master association, whether or not such persons are otherwise unit owners within the meaning of this Act. [PL 1981, c. 699 (NEW).]

(e) Notwithstanding the provisions of section 1603-103 with respect to the election of the executive board of an association, by all unit owners after the period of declarant control ends and even if a master association is also an association described in section 1603-101, the articles of incorporation or other instrument creating the master association and the declaration of each condominium the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association shall be elected after the period of declarant control in any of the following ways:

(1) All unit owners of all condominiums subject to the master association may elect all members to that executive board; [PL 1981, c. 699 (NEW).]

(2) All members of the executive boards of all condominiums subject to the master association may elect all members of that executive board; [PL 1981, c. 699 (NEW).]

(3) All unit owners of each condominium subject to the master association may elect specified members of that executive board; or [PL 1981, c. 699 (NEW).]

(4) All members of the executive board of each condominium subject to the master association may elect specified members of that executive board. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1602-121. Merger or consolidation of condominiums

(a) Any 2 or more condominiums may, by agreement of the unit owners as provided in subsection (b), be merged or consolidated into a single condominium. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant condominium shall be, for all purposes, the legal successor of all of the preexisting condominiums and the operations and activities of all associations of the preexisting condominiums shall be merged or consolidated into a single association which shall

hold all powers, rights, obligations, assets and liabilities of all preexisting associations. [PL 1981, c. 699 (NEW).]

(b) An agreement of 2 or more condominiums to merge or consolidate pursuant to subsection (a) must be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the preexisting condominiums following approval by owners of units to which are allocated the percentage of votes in each condominium required to terminate that condominium. Any such agreement must be recorded in every county in which a portion of the condominium is located and is not effective until recorded. [PL 1981, c. 699 (NEW).]

(c) Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the units of the resultant condominium either:

(1) By stating such reallocations or the formulas upon which they are based; or [PL 1981, c. 699 (NEW).]

(2) By stating the percentage of overall allocated interests of the new condominium which are allocated to all of the units comprising each of the preexisting condominiums, and providing that the portion of such percentages allocated to each unit formerly comprising a part of such preexisting condominium shall be equal to the percentages of allocated interests allocated to such unit by the declaration of the preexisting condominiums. [PL 1981, c. 699 (NEW).]

(d) Every merger or consolidation of 2 or more condominium associations shall comply with the requirements of Title 13-B, the Maine Nonprofit Corporation Act, except to the extent inconsistent with this Act. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

ARTICLE 3

MANAGEMENT OF THE CONDOMINIUM

§1603-101. Organization of unit owners' association

A unit owners' association shall be organized prior to any conveyance, except a conveyance as security for an obligation, of a unit by the declarant. The membership of the association at all times shall consist exclusively of all the unit owners, or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds under section 1602-118, or their heirs, successors or assigns. The association shall be organized as a nonprofit corporation under Title 13-B, as it or its equivalent may be amended from time to time. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-102. Powers of unit owners' association

(a) Subject to the provisions of the declaration, the association may:

(1) Adopt and amend bylaws and rules and regulations; [PL 1981, c. 699 (NEW).]

(2) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners; [PL 1981, c. 699 (NEW).]

(3) Hire and terminate managing agents and other employees, agents and independent contractors; [PL 1981, c. 699 (NEW).]

(4) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or 2 or more unit owners on matters affecting the condominium; [PL 1981, c. 699 (NEW).]

(5) Make contracts and incur liabilities; [PL 1981, c. 699 (NEW).]

(6) Regulate the use, maintenance, repair, replacement and modification of common elements; [PL 1981, c. 699 (NEW).]

(7) Cause additional improvements to be made as a part of the common elements; [PL 1981, c. 699 (NEW).]

(8) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to section 1603-112; [PL 1981, c. 699 (NEW).]

(9) Grant easements, leases, licenses and concessions through or over the common elements; [PL 1981, c. 699 (NEW).]

(10) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements other than limited common elements described in section 1602-102, paragraphs (2) and (4) and services provided to unit owners; [PL 1981, c. 699 (NEW).]

(11) Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws and rules and regulations of the association; [PL 1981, c. 699 (NEW).]

(12) Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by section 1604-108 or statements of unpaid assessments; [PL 1981, c. 699 (NEW).]

(13) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance; [PL 1981, c. 699 (NEW).]

(14) Assign its right to future income, including the right to receive assessments, but only if approval of a majority of unit owners is obtained; [PL 2011, c. 368, §1 (AMD).]

(15) Exercise any other powers conferred by the declaration or bylaws; [PL 1981, c. 699 (NEW).]

(16) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association; [PL 2011, c. 368, §2 (AMD).]

(17) Exercise any other powers necessary and proper for the governance and operation of the association; and [PL 2011, c. 368, §3 (AMD).]

(18) Suspend any right or privilege of a unit owner that fails to pay an assessment, but may not:

(A) Deny a unit owner or other occupant access to the unit owner's unit; or

(B) Withhold services provided to a unit or a unit owner by the association if the effect of withholding the service would be to endanger the health, safety or property of any person. [PL 2011, c. 368, §4 (NEW).]

(b) Notwithstanding subsection (a), the declaration may not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons except as permitted by this Act. A provision requiring arbitration of disputes between the declarant and the association or between the declarant and unit owners does not violate this section. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 2011, c. 368, §§1-4 (AMD).

§1603-103. Executive board members and officers; declarant control

(a) Except as provided in the declaration, the bylaws, in subsection (b), or other provisions of this Act, the executive board may act in all instances on behalf of the association. The declarant is a fiduciary for the unit owners with respect to actions taken or omitted at his direction by officers and members of the executive board appointed by the declarant, and acting in those capacities, or elected by the members at a time when more than 50% of the voting rights are held by the declarant. [PL 1981, c. 699 (NEW).]

(b) The executive board may not act on behalf of the association to amend the declaration, section 1602-117, to terminate the condominium, section 1602-118, or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members, subsection (e), but the executive board may fill vacancies in its membership for the unexpired portion of any term. [PL 1981, c. 699 (NEW).]

(c) Within 30 days after adoption of any proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 10 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all the unit owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners must be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board. [PL 2015, c. 122, §1 (AMD).]

(d) The declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him may appoint and remove the officers and members of the executive board. Any period of declarant control extends from the date of the first conveyance of a unit to a person other than a declarant for a period not exceeding 7 years in the case of a condominium in which the declarant has reserved development rights, or 5 years in the case of any other condominium. Regardless of the period provided in the declaration, a period of declarant control terminates no later than 60 days after conveyance of 75% of the units to unit owners other than a declarant. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Within the above limits, the period of declarant control shall end no earlier than the later of: (1) Conveyance by the declarant of 50% of the units; (2) Termination of any right of declarant to appoint officers or members of the executive board; or (3) Termination of any right of declarant to approve or veto any actions of the association or the executive board. [PL 1983, c. 78, §2 (AMD).]

(e) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least 3 persons, at least a majority of whom must be unit owners or spouses of unit owners or, in the case of a unit owner which is a corporation, partnership, trust or estate, a designated agent thereof. The declaration may provide for staggered terms for the executive board. The executive board shall elect the officers. The executive board members and officers shall take office upon election. [PL 1981, c. 699 (NEW).]

(f) In determining whether the period of declarant control has terminated under subsection (d), the percentage of the units conveyed is presumed to be that percentage which would have been conveyed if all the units the declarant has built or reserved the right to build in the declaration were included in the condominium. [PL 1983, c. 78, §2 (AMD).]

(g) The executive board may make a special assessment, subject to the following ratification requirements.

(1) A special assessment must be ratified by unit owners in accordance with subsection (c), except that, if payment of any portion of the proposed special assessment is due after the end of the association's current budget year, ratification requires approval of a majority in interest of all unit owners.

(2) If the amount of the special assessment does not exceed 2 months' common charges and the board determines that the assessment is necessary to meet an emergency, the board may make the special assessment immediately in accordance with the terms of the board's vote, without ratification by unit owners. [PL 2015, c. 122, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 1983, c. 78, §2 (AMD). PL 2015, c. 122, §§1, 2 (AMD).

§1603-104. Transfer of special declarant rights

(a) No special declarant rights, section 1601-103, paragraph (25), created or reserved under this Act may be transferred except by a recorded instrument. The instrument is not effective unless executed by the transferee. [PL 1981, c. 699 (NEW).]

(b) Upon transfer of any special declarant right, the liability of a transferor declarant is as follows.

(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon him by this Act. Lack of privity does not deprive any unit owner of standing to bring an action to enforce any obligation of the transferor. [PL 1981, c. 699 (NEW).]

(2) If the successor to any special declarant right is an affiliate of a declarant, section 1601-103, paragraph (1), the transferor is jointly and severally liable with the successor for any obligation or liability of the successor which relates to the condominium. [PL 1981, c. 699 (NEW).]

(3) If a transferor retains any special declarant right, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is also liable for any obligations and liabilities relating to the retained special declarant rights imposed on a declarant by this Act or by the declaration arising after the transfer. [PL 1981, c. 699 (NEW).]

(4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor. [PL 1981, c. 699 (NEW).]

(c) Unless otherwise provided in a mortgage instrument in case of foreclosure of a mortgage, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings, of any units owned by a declarant or real estate in a condominium subject to development rights, a person acquiring title to all the real estate being foreclosed or sold, but only upon his request, succeeds to all special declarant rights related to that real estate held by that declarant, or only to any rights reserved in the declaration pursuant to section 1602-115 and held by that declarant to maintain models, sales offices and signs. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested. [PL 1981, c. 699 (NEW).]

(d) Upon foreclosure, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings, of all units and other real estate in a condominium owned by a declarant:

(1) The declarant ceases to have any special declarant rights; and [PL 1981, c. 699 (NEW).]

(2) The period of declarant control, section 1603-103, subsection (d), terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant. [PL 1981, c. 699 (NEW).]

(e) The liabilities and obligations of persons who succeed to special declarant rights are as follows.

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this Act or by the declaration. [PL 1981, c. 699 (NEW).]

(2) A successor to any special declarant rights other than a successor described in paragraphs (3) or (4), who is not an affiliate of a declarant, is subject to all obligations and liabilities imposed by this Act or the declaration:

(A) On a declarant which relate to his exercise or nonexercise of special rights; or

(B) On his transferor, other than:

(i) Misrepresentations by any prior declarant;

(ii) Warranty obligations on improvements made by any previous declarant, or made before the condominium was created;

(iii) Breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or

(iv) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer. [PL 1981, c. 699 (NEW).]

(3) A successor to only a right reserved in the declaration to maintain models, sales offices and signs, section 1602-115, if he is not an affiliate of a declarant, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result thereof. [PL 1981, c. 699 (NEW).]

(4) A successor to all special declarant rights held by his transferor, who is not an affiliate of that declarant and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title to units under subsection (c), may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the executive board in accordance with the provisions of section 1603-103, subsection (d), for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under section 1603-103, subsection (d). [PL 1981, c. 699 (NEW).]

(f) Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this Act or the declaration. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-105. Termination of contracts and leases of declarant

If entered into before the executive board elected by the unit owners pursuant to section 1603-103, subsection (e), takes office: (1) Any management contract, employment contract or lease of recreational or parking areas or facilities; (2) any other contract or lease between the association and a declarant or an affiliate of a declarant; or (3) any contract or lease that is not bona fide or was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the executive board elected by the unit owners pursuant to section 1603-103, subsection (e), takes office upon not less than 90 days' notice

to the other party. This section does not apply to any lease, the termination of which would terminate the condominium or reduce its size, unless the real estate subject to that lease was included in the condominium for the purpose of avoiding the right of the association to terminate a lease under this section. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-106. Bylaws

(a) The bylaws of the association must provide for:

(1) The number of members of the executive board and the titles of the officers of the association; [PL 1981, c. 699 (NEW).]

(2) Election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify; [PL 1981, c. 699 (NEW).]

(3) The qualifications, powers and duties, terms of office and manner of electing and removing executive board members and officers and filling vacancies; [PL 1981, c. 699 (NEW).]

(4) Which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent; [PL 1981, c. 699 (NEW).]

(5) Which of its officers may prepare, execute, certify and record amendments to the declaration on behalf of the association; and [PL 1981, c. 699 (NEW).]

(6) The method of amending the bylaws. [PL 1981, c. 699 (NEW).]

(b) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate. [PL 1981, c. 699 (NEW).]

(c) An association may not include in its bylaws or declaration, or any rule adopted pursuant to the bylaws or declaration, or any deed a restriction that prohibits a unit owner from displaying on that unit owner's unit a sign that supports or opposes a candidate for public office or a referendum question during the period from 6 weeks prior to the date that a primary or general election or special election is held regarding that candidate or referendum question to one week after the election for that political candidate or vote for that referendum question is held. [PL 2015, c. 271, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 2015, c. 271, §2 (AMD).

§1603-107. Upkeep of the condominium

(a) Except to the extent provided by the declaration, subsection (b), or section 1603-113, subsection (h), the association is responsible for maintenance, repair and replacement of the common elements, and each unit owner is responsible for maintenance, repair and replacement of his unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof. [PL 1981, c. 699 (NEW).]

(b) In addition to the liability which a declarant has under this Act as a unit owner, the declarant alone is liable for all expenses in connection with real estate subject to development rights. No other unit owner and no other portion of the condominium is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-108. Meetings

A meeting of the association must be held at least once each year. Special meetings of the association may be called as provided in the Maine Nonprofit Corporation Act. The bylaws must specify which of the association's officers, not less than 10 nor more than 60 days in advance of any meeting, shall cause notice to be hand delivered or sent prepaid by United States' mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner or sent by electronic means to any other address, including an e-mail address, specifically designated by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes and any proposal to remove a director or officer. [PL 2015, c. 122, §3 (AMD).]

The executive board shall give timely notice reasonably calculated to inform unit owners of the date, time and place of and topics proposed to be discussed at meetings of the executive board. The notice may be given by a posting in a prominent place in the common elements or elsewhere, by e-mail or by other means, but actual notice need not be delivered to each unit owner. Failure of a unit owner to receive notice does not invalidate any action taken by the executive board at the meeting. Unit owners have the right to attend meetings of the executive board, subject to reasonable rules established by the executive board. [PL 2011, c. 368, §5 (NEW).]

The executive board may restrict or prohibit attendance by unit owners and others during executive sessions. An executive session may be held only to: [PL 2011, c. 368, §5 (NEW).]

(a) Consult with the association's attorney concerning legal matters; [PL 2011, c. 368, §5 (NEW).]

(b) Discuss existing or potential litigation or mediation, arbitration or administrative proceedings; [PL 2011, c. 368, §5 (NEW).]

(c) Discuss labor or personnel matters; [PL 2011, c. 368, §5 (NEW).]

(d) Discuss contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage; or [PL 2011, c. 368, §5 (NEW).]

(e) Prevent public knowledge of the matter to be discussed if the executive board determines that public knowledge would violate the privacy of any person. [PL 2011, c. 368, §5 (NEW).]

A final vote or action may not be taken during an executive session. [PL 2011, c. 368, §5 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 2011, c. 368, §5 (AMD). PL 2015, c. 122, §3 (AMD).

§1603-109. Quorums

(a) Unless the bylaws provide otherwise, a quorum is deemed present throughout any meeting of the association if persons entitled to cast 20% of the votes which may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting. The bylaws may require a larger percentage or a smaller percentage not less than 10%. [PL 1981, c. 699 (NEW).]

(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast 50% of the votes on that board are present at the beginning of the meeting. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-110. Voting; proxies

(a) If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit. [PL 1981, c. 699 (NEW).]

(b) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates 11 months after its date, unless it specifies a shorter term. [PL 1981, c. 699 (NEW).]

(c) The declaration may provide for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize class voting for the purpose of evading any limitation imposed on declarants by this Act. [PL 1981, c. 699 (NEW).]

(d) If the declaration requires that votes on specified matters affecting the condominium be cast by lessees rather than unit owners of leased units: (i) The provisions of subsections (a) and (b) apply to lessees as if they were unit owners; (ii) unit owners who have leased their units to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners. Unit owners shall also be given notice of all meetings at which lessees may be entitled to vote. [PL 1981, c. 699 (NEW).]

(e) No votes allocated to a unit owned by the association may be cast. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-111. Tort and contract liability

Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the condominium which that declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the association shall be brought against the association and not against any unit owner. [PL 1981, c. 699 (NEW).]

If the wrong accrued during any period of declarant control, and if the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner: (1) For all tort losses not covered by insurance suffered by the association or that unit owner; and (2) for all costs which the association would not have incurred but for the breach of contract or other wrongful act or omission. In any case where the declarant is liable to the association under this section, the declarant is also liable for all litigation expenses, including reasonable attorneys' fees, incurred by the association. During any period in which the control of the declarant is limited to the power to approve actions of the association or executive board, as provided in section 1603-103, subsection (d), the declarant shall be liable under this section only for losses caused by the exercise of declarant's right of disapproval. Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates. A unit owner is not precluded from bringing an action contemplated by this section because he is a unit owner or a member or officer of the association. Liens resulting from judgments against the association are governed by section 1603-117, other liens affecting the condominium. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-112. Alienation of common elements

(a) Portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least 80% of the votes in the association, including 80% of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; provided that all the owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association. [PL 1981, c. 699 (NEW).]

(b) An agreement to convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated and is effective only upon recordation. [PL 1981, c. 699 (NEW).]

(c) The association, on behalf of the unit owners, may contract to sell real estate in the condominium or subject real estate to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b). Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instrument. [PL 1981, c. 699 (NEW).]

(d) Any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of common elements, unless made in accordance with this section or in accordance with section 1603-117, subsection (b), is void. [PL 1981, c. 699 (NEW).]

(e) Any vote to sell, transfer or encumber common elements under this section may include a release of that real estate from any or all restrictions imposed on that real estate by the declaration or this Act, but may not deprive any unit of its rights of access and support. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-113. Insurance

(a) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements, insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion condominium, against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than 80% of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; and [PL 1981, c. 699 (NEW).]

(2) Liability insurance, including medical payments' insurance, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the common elements. [PL 1981, c. 699 (NEW).]

(b) The insurance maintained under subsection (a), paragraph (1), to the extent reasonably available, may, and in the case of buildings containing units having horizontal boundaries between

them, shall include the units, but need not include improvements and betterments installed by unit owners. [PL 1981, c. 699 (NEW).]

(c) If the insurance described in subsection (a) is not reasonably available, the association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States' mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners. [PL 1981, c. 699 (NEW).]

(d) Insurance policies carried pursuant to subsection (a) must provide that:

(1) Each unit owner is an insured person under the policy with respect to liability arising out of his ownership of an undivided interest in the common elements or membership in the association; [PL 1981, c. 699 (NEW).]

(2) The insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of his household; [PL 1981, c. 699 (NEW).]

(3) No act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and [PL 1981, c. 699 (NEW).]

(4) If, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance. [PL 1981, c. 699 (NEW).]

(e) Any loss covered by the property policy under subsection (a), paragraph (1), and subsection (b) shall be adjusted with the association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any mortgagee. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and lien holders as their interest may appear. Subject to the provisions of subsection (h), the proceeds shall be disbursed first for the repair or restoration of the damaged property, and unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the common elements and units have been completely repaired or restored, or the condominium is terminated. [PL 1981, c. 699 (NEW).]

(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit. [PL 1981, c. 699 (NEW).]

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon request, to any unit owner or mortgagee. The insurer issuing the policy may not cancel or refuse to renew it until 20 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit owner and each mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. [PL 1981, c. 699 (NEW).]

(h) Any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless: (1) The condominium is terminated; (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (3) 80% of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire condominium is not repaired or replaced: (1) The insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium; (2) the insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated or to their respective lien holders as their

interests may appear; and (3) the remainder of the proceeds shall be distributed to all the unit owners or lien holders as their interests may appear in proportion to the common element interests of all the unit owners. If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under section 1601-107, subsection (a), and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, section 1602-118 governs the distribution of insurance proceeds if the condominium is terminated. [PL 1981, c. 699 (NEW).]

(i) The provisions of this section may be varied or waived in the case of a condominium all of whose units are restricted to nonresidential use. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-114. Surplus funds

Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves must be paid to the unit owners in proportion to their common expense liability or credited to them to reduce their future common expense assessments. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-115. Assessments for common expenses

(a) Until the association makes a common expense assessment, the declarant shall pay all the common expenses. After any assessment has been made by the association, assessments thereafter must be made at least annually, based on a budget adopted at least annually by the association. [PL 1981, c. 699 (NEW).]

(b) Except for assessments under subsections (c) and (d), common expenses shall be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to section 1602-107. Any past due common expense assessment or installment thereof shall bear interest at the rate established by the association not exceeding 18% per year. [PL 1981, c. 699 (NEW).]

(c) To the extent required by the declaration:

(1) Any common expense associated with the maintenance, repair or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned equally, or in any other proportion that the declaration provides; [PL 1981, c. 699 (NEW).]

(2) Any common expense benefiting fewer than all of the units shall be assessed exclusively against the units benefited; and [PL 1981, c. 699 (NEW).]

(3) Any payments, fees or charges for the use, rental or operation of any common element shall be applied first to reduce the common expense relating to such common element. Any excess thereof shall be applied to common expenses generally. [PL 1981, c. 699 (NEW).]

(d) Assessments to pay a judgment against the association, section 1603-117, subsection (a), shall be made only against the units in the condominium at the time the judgment was entered, in proportion to their common expense liability. [PL 1981, c. 699 (NEW).]

(e) If any common expense is caused by the misconduct of any unit owner, the association may assess that expense exclusively against his unit. [PL 1981, c. 699 (NEW).]

(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-115-A. Optional escrow of assessments

(a) The association may require that a person who purchases a unit after October 1, 2009 make payments into an escrow account established by the association until the balance in the escrow account for that unit is equal to 6 months of assessments as established under section 1603-115. [PL 2009, c. 332, §1 (NEW).]

(b) All assessment payments made under this section and received after October 1, 2009 must be held in an account of a bank or other financial institution under terms that place these assessment payments beyond the claim of creditors of the association. Upon request by a unit owner, the association shall disclose the name of the institution and the account number where these assessment payments are being held. An association may use a single escrow account to hold assessment payments made under this section from all of the unit owners. [PL 2009, c. 332, §1 (NEW).]

(c) The association shall pay interest on the assessment payments under this section in an amount equivalent to the rate required under Title 9-B, section 429. [PL 2009, c. 332, §1 (NEW).]

(d) The association shall return the assessment payments made under this section, together with the interest earned under subsection (c), to the unit owner when the owner sells the unit and has fully paid all assessments under section 1603-115. The association may use the balance in the account to offset any assessments remaining unpaid. [PL 2009, c. 332, §1 (NEW).]

(e) The assessment payments made under this section may be used by the association to cover up to 6 months of the costs attributable to a unit for which assessment payments have not been made. [PL 2009, c. 332, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 332, §1 (NEW).

§1603-116. Lien for assessments

(a) The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charged pursuant to section 1603-102, subsection (a), paragraphs (10), (11) and (12) 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. [PL 1981, c. 699 (NEW).]

(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. 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-C, Article 2, as they or their equivalents may be amended or modified from time to time. [PL 2017, c. 402, Pt. C, §90 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

(c) Unless the declaration otherwise provides, if 2 or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority. [PL 1981, c. 699 (NEW).]

(d) Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required. [PL 1981, c. 699 (NEW).]

(e) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 6 years after the full amount of the assessments becomes due. [PL 2019, c. 3, §1 (AMD).]

(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien, or to prohibit an association from taking a deed in lieu of foreclosure. [PL 1981, c. 699 (NEW).]

(g) A judgment or decree in any action or suit brought under this section shall include costs and reasonable attorney's fees for the prevailing party. [PL 1981, c. 699 (NEW).]

(h) The association shall furnish to a unit owner upon written request a recordable statement setting forth the amount of unpaid assessments currently levied against his unit. The statement shall be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit owner. [PL 1981, c. 699 (NEW).]

(i) (REALLOCATED FROM T. 33, §1603-116, sub-§(j)) Assessments for common expenses accrue, free from the lien of a foreclosing first mortgagee, from and after the date of sale of a condominium unit pursuant to Title 14, section 6323. [RR 2011, c. 1, §47 (RAL).]

(j) (Subsection (j) as enacted by PL 2011, c. 368, §7 is REALLOCATED TO TITLE 33, SECTION 1603-116, SUBSECTION (i)) [RR 2011, c. 1, §47 (RAL).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 1983, c. 78, §3 (AMD). PL 1983, c. 480, §A38 (AMD). PL 1983, c. 816, §A40 (AMD). RR 2011, c. 1, §47 (COR). PL 2011, c. 368, §§6, 7 (AMD). PL 2017, c. 402, Pt. C, §90 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 3, §1 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

§1603-117. Other liens affecting the condominium

(a) A judgment for money against the association, if a lien order is filed with the Register of Deeds of the county where the condominium is located, as provided in Title 14, section 3132, as it or its equivalent may be amended or modified from time to time, is not a lien on the common elements, but is a lien in favor of the judgment lienholder against all of the units in the condominium at the time the judgment was entered. No other property of a unit owner is subject to the claims of creditors of the association. [PL 1981, c. 699 (NEW).]

(b) Notwithstanding the provisions of subsection (a), if the association has granted a security interest in the common elements to a creditor of the association pursuant to section 1603-112, the holder of that security interest must exercise its right against the common elements before its judgment lien on any unit may be enforced. [PL 1981, c. 699 (NEW).]

(c) Whether perfected before or after the creation of the condominium, if a lien other than a mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the condominium, becomes effective against 2 or more units, the unit owner of an affected unit may pay to the lienholder the amount of the lien attributable to his unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering the unit. The amount of the payment must be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien. [PL 1981, c. 699 (NEW).]

(d) A judgment against the association shall be indexed in the name of the condominium and the association and, if so indexed, is constructive notice of the lien against the units. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1603-118. Association records

(a) An association must retain the following: [PL 2011, c. 368, §8 (NEW).]

(1) Records of receipts and expenditures affecting the operation and administration of the association and other appropriate accounting records for the past 6 years; [PL 2011, c. 368, §8 (NEW).]

(2) Minutes of all meetings of its unit owners and executive board other than executive sessions, a record of all actions taken by the unit owners or executive board without a meeting and a record of all actions taken by a committee in place of the executive board on behalf of the association; [PL 2011, c. 368, §8 (NEW).]

(3) The names of current unit owners in a form that permits preparation of a list of the names of all unit owners and the addresses at which the association communicates with them, in alphabetical order showing the number of votes each unit owner is entitled to cast; [PL 2011, c. 368, §8 (NEW).]

(4) Copies of its original or restated organizational documents and bylaws and all amendments to them and all rules currently in effect; [PL 2011, c. 368, §8 (NEW).]

(5) All financial statements and tax returns of the association for the past 3 years; [PL 2011, c. 368, §8 (NEW).]

(6) A list of the names and addresses of its current executive board members and officers; [PL 2011, c. 368, §8 (NEW).]

(7) Its most recent annual report delivered to the Secretary of State; [PL 2011, c. 368, §8 (NEW).]

(8) Financial and other records sufficiently detailed to enable the association to comply with section 1604-108; [PL 2011, c. 368, §8 (NEW).]

(9) Copies of current contracts to which it is a party; [PL 2011, c. 368, §8 (NEW).]

(10) Records of executive board or committee actions to approve or deny any requests for design or architectural approval from unit owners; and [PL 2011, c. 368, §8 (NEW).]

(11) Ballots, proxies and other records related to voting by unit owners for one year after the election, action or vote to which they relate. [PL 2011, c. 368, §8 (NEW).]

(b) Subject to subsections (c) and (d), all records retained by an association must be available for examination and copying by a unit owner or the unit owner's authorized agent: [PL 2011, c. 368, §8 (NEW).]

(1) During reasonable business hours or at a mutually convenient time and location; and [PL 2011, c. 368, §8 (NEW).]

(2) Upon 10 days' notice in writing reasonably identifying the specific records of the association requested. [PL 2011, c. 368, §8 (NEW).]

(c) Records retained by an association may be withheld from inspection and copying to the extent that they concern: [PL 2011, c. 368, §8 (NEW).]

(1) Personnel, salary and medical records relating to specific individuals; [PL 2011, c. 368, §8 (NEW).]

(2) Contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated; [PL 2011, c. 368, §8 (NEW).]

(3) Existing or potential litigation or mediation, arbitration or administrative proceedings; [PL 2011, c. 368, §8 (NEW).]

(4) Existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the declaration, bylaws or rules; [PL 2011, c. 368, §8 (NEW).]

(5) Communications with the association's attorney that are otherwise protected by the attorney-client privilege or the attorney work-product doctrine; [PL 2011, c. 368, §8 (NEW).]

(6) Information the disclosure of which would violate law other than this Act; [PL 2011, c. 368, §8 (NEW).]

(7) Records of an executive session of the executive board; or [PL 2011, c. 368, §8 (NEW).]

(8) Individual unit files other than those of the requesting unit owner. [PL 2011, c. 368, §8 (NEW).]

(d) An association may charge a reasonable fee for providing copies of any records under this section and for supervising the unit owner's inspection. [PL 2011, c. 368, §8 (NEW).]

(e) A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the unit owner. [PL 2011, c. 368, §8 (NEW).]

(f) An association is not obligated to compile or synthesize information. [PL 2011, c. 368, §8 (NEW).]

(g) Information provided pursuant to this section may not be used for commercial purposes or any other purpose not reasonably related to the management of the association or the duties, rights or responsibilities of unit owners, officers or executive board members under this Act or the association's governing documents. [PL 2011, c. 368, §8 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 2011, c. 368, §8 (RPR).

§1603-119. Association as trustee

With respect to a 3rd person dealing with the association in the association's capacity as a trustee under section 1602-118 and 1603-113, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A 3rd person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers and a 3rd person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A 3rd person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

ARTICLE 4

PROTECTION OF CONDOMINIUM PURCHASERS

§1604-101. Applicability; waiver

(a) This article applies to all units subject to this Act, except as provided in subsection (b) or as modified or waived by agreement of purchasers of units in a condominium in which all units are restricted to nonresidential use. [PL 1981, c. 699 (NEW).]

(b) Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of:

(1) A gratuitous disposition of a unit; [PL 1981, c. 699 (NEW).]

(2) A disposition pursuant to court order; [PL 1981, c. 699 (NEW).]

(3) A disposition by a government or governmental agency; [PL 1981, c. 699 (NEW).]

(4) A disposition by foreclosure or deed in lieu of foreclosure; [PL 1981, c. 699 (NEW).]

(5) A disposition to a person in the business of selling real estate who intends to offer those units to purchasers; or [PL 1981, c. 699 (NEW).]

(6) A disposition which may be cancelled at any time and for any reason by the purchaser without penalty. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-102. Liability for public offering statement requirements

(a) Except as provided in subsection (b) or section 1604-106, a declarant must, prior to the offering of any interest in a unit to the public, prepare a public offering statement conforming to the requirements of sections 1604-103, 1604-104 and 1604-105. [PL 1981, c. 699 (NEW).]

(b) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant or to a person in the business of selling real estate who intends to offer units in the condominium for his own account. In the event of any such transfer, the transferor must provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (a). [PL 1981, c. 699 (NEW).]

(c) Any declarant or other person in the business of selling real estate who offers a unit for his own account to a purchaser must deliver a public offering statement in the manner prescribed in section 1604-107, subsection (a). If the offeror prepared all or a part of the public offering statement, he is liable under sections 1604-107 and 1604-116, for any materially false or misleading statement set forth therein or for any omission of material fact therefrom with respect to that portion of the public offering statement which he prepared. If a declarant did not prepare any part of a public offering statement that he delivers, he is not liable for any materially false or misleading statement set forth therein or for any omission of material fact therefrom unless he had actual knowledge of such statement or omission or, in the exercise of reasonable care, could have known of such statement or omission. [PL 1981, c. 699 (NEW).]

(d) If a unit is part of a condominium and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of sections 1604-103, 1604-104 and 1604-105, as those requirements relate to all real estate regimes in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing 2 or more public offering statements. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-103. Public offering statement; general provisions

(a) Except as provided in subsection (b), a public offering statement must contain or fully and accurately disclose:

(1) The name and principal address of the declarant and of the condominium; [PL 1981, c. 699 (NEW).]

(2) A general description of the condominium, including, to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings and amenities which declarant anticipates including in the condominium; [PL 1981, c. 699 (NEW).]

(3) The number of units in the condominium; [PL 1981, c. 699 (NEW).]

(4) Copies and a brief narrative description of the significant features of the declaration, other than the plats and plans, and any other recorded covenants, conditions, restrictions and reservations affecting the condominium; the bylaws and any rules and regulations of the association; copies of any contracts and leases to be signed by purchasers at closing, and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under section 1603-105; [PL 1981, c. 699 (NEW).]

(5) Any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser; and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include, without limitation:

(i) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;

(ii) A statement of the amount and purpose of any other reserves;

(iii) The projected common expense assessment by category of expenditures for the association; and

(iv) The projected monthly common expense assessment for each type of unit; [PL 1981, c. 699 (NEW).]

(6) Any services not reflected in the budget that the declarant provides, or expenses that he pays, and that he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit; [PL 1981, c. 699 (NEW).]

(7) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee; [PL 1981, c. 699 (NEW).]

(8) A description of any liens, defects or encumbrances on or affecting the title to the condominium which are noted in the property description included in the declaration; [PL 1981, c. 699 (NEW).]

(9) A description of any financing offered or arranged by the declarant; [PL 1981, c. 699 (NEW).]

(10) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages; [PL 1981, c. 699 (NEW).]

(11) A statement that:

(i) Unless a purchaser has received and reviewed a copy of the public offering statement prior to the execution of a contract for sale, a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant; and

(ii) If a purchaser accepts the conveyance of a unit, he may not cancel the contract. [PL 1981, c. 699 (NEW).]

(12) A statement of any unsatisfied judgment or pending suits against the association, and the status of any pending suits material to the condominium of which a declarant has actual knowledge; [PL 1981, c. 699 (NEW).]

(13) A statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to section 1604-107, together with the name and address of the escrow agent; [PL 1981, c. 699 (NEW).]

(14) Any restraints on alienation of any portion of the condominium; [PL 1981, c. 699 (NEW).]

(15) A description of the insurance coverage provided for the benefit of unit owners; [PL 1981, c. 699 (NEW).]

(16) Any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium; [PL 1981, c. 699 (NEW).]

(17) The extent to which financial arrangements have been provided for completion of all improvements labeled "MUST BE BUILT" pursuant to section 1604-118, Declarant's obligation to complete and restore; [PL 1981, c. 699 (NEW).]

(18) A description of any common elements which may be alienated pursuant to section 1603-112, and any conditions on that right to alienate; and [PL 1981, c. 699 (NEW).]

(19) A brief narrative description of any zoning and other land use requirements affecting the condominium; [PL 1981, c. 699 (NEW).]

(b) If a condominium composed of not more than 12 units is not subject to development rights and no power is reserved to a declarant to make the condominium part of a larger condominium, group of condominiums or other real estate, the public offering statement, for all purposes under this Act, may consist of a copy of the declaration, including plots and plans and the bylaws, and need not contain any additional information specified in subsection (a). [PL 1981, c. 699 (NEW).]

(c) A declarant promptly shall amend the public offering statement to report any material change in the information required by this section. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-104. Public offering statement; condominiums subject to development rights

If the declaration provides that a condominium is subject to any development rights, the public offering statement shall disclose, in addition to the information required by section 1604-103: [PL 1981, c. 699 (NEW).]

(1) The maximum number of units, and the maximum number of units per acre, that may be created; [PL 1981, c. 699 (NEW).]

(2) A statement of how many or what percentage of the units which may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding use restrictions; [PL 1981, c. 699 (NEW).]

(3) If any of the units that may be built within real estate subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum percentage of the floor areas of all units that may be created therein, that are not restricted exclusively to residential use; [PL 1981, c. 699 (NEW).]

(4) A brief narrative description of any development rights reserved by a declarant and of any conditions relating to or limitations upon the exercise of development rights; [PL 1981, c. 699 (NEW).]

(5) A statement of the maximum extent to which each unit's allocated interests may be changed by the exercise of any development right described in subsection (4); [PL 1983, c. 78, §5 (AMD).]

(6) A statement of the extent to which any buildings or other improvements that may be erected pursuant to any development right in any part of the condominium will be compatible with existing buildings and improvements in the condominium in terms of architectural style, quality of construction and size, or a statement that no assurances are made in those regards; [PL 1981, c. 699 (NEW).]

(7) General descriptions of all other improvements that may be made and limited common elements that may be created within any part of the condominium pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard; [PL 1981, c. 699 (NEW).]

(8) A statement of any limitations as to the locations of any building or other improvement that may be made within any part of the condominium pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard; [PL 1981, c. 699 (NEW).]

(9) A statement that any limited common elements created pursuant to any development right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the condominium, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard; [PL 1981, c. 699 (NEW).]

(10) A statement that the proportion of limited common elements to units created pursuant to any development right reserved by the declarant will be approximately equal to the proportion existing within other parts of the condominium, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard; [PL 1981, c. 699 (NEW).]

(11) A statement that all restrictions in the declaration affecting use, occupancy and alienation of units will apply to any units created pursuant to any development right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a statement that no assurances are made in that regard; and [PL 1981, c. 699 (NEW).]

(12) A statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 1983, c. 78, §4 (AMD).

§1604-105. Public offering statement; condominiums containing conversion buildings

(a) The public offering statement of a condominium containing any conversion building must contain, in addition to the information required by section 1604-103:

(1) A statement by the declarant, based on a report prepared by an independent architect or engineer, who is not affiliated with the declarant, describing the present condition of all structural components, waste disposal system, water system and mechanical and electrical installations material to the use and enjoyment of the building; [PL 1981, c. 699 (NEW).]

(2) A statement by the declarant of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in that regard; and [PL 1981, c. 699 (NEW).]

(3) A list of any outstanding notices of uncured violations of building code or other municipal, state or federal laws or regulations, together with the estimated cost of curing those violations. [PL 1981, c. 699 (NEW).]

(b) This section applies only to buildings containing units that may be occupied for residential use, and does not apply to a condominium governed by section 1604-103, subsection (b). [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-106. Public offering statement; condominium securities

If an interest in a condominium is currently registered with the Securities and Exchange Commission of the United States or the Office of Securities of this State, a declarant satisfies all requirements relating to the preparation of a public offering statement of this Act if the declarant delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission or the Office of Securities. When a condominium is located in a state other than Maine, under the laws of which a public offering statement is required in detail similar to the requirements of this Act, a declarant satisfies all requirements relating to the preparation of a public offering statement if the declarant delivers to the purchaser a copy of that public offering statement. [PL 2001, c. 182, §14 (AMD).]

SECTION HISTORY

PL 1981, c. 699 (NEW). PL 2001, c. 182, §14 (AMD).

§1604-107. Purchaser's right to cancel

(a) A person required to deliver a public offering statement pursuant to section 1604-102, subsection (c), shall provide a purchaser of a unit with a copy of the public offering statement and all amendments thereto before the execution of a contract for sale. Unless prior to the execution of a contract for sale, a purchaser acknowledges in writing receipt and review of such offering statement, the purchaser, upon written notice to the declarant, may cancel the contract at any time prior to conveyance of the unit, unless the purchaser shall, subsequently, expressly and in writing waive such right to cancel after having received and reviewed such offering statement. [PL 1981, c. 699 (NEW).]

(b) If a purchaser elects to cancel a contract pursuant to subsection (a), he may do so by hand delivering notice thereof to the declarant or by mailing notice thereof by prepaid United States' mail to the declarant or to his agent for service of process. Cancellation is without penalty and all payments made by the purchaser before cancellation shall be refunded promptly. [PL 1981, c. 699 (NEW).]

(c) A purchaser who accepts a conveyance of a unit may not later exercise the right to cancel or rescind the contract for sale under this section, and all persons may rely on the conveyance. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-108. Resales of units

(a) Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under section 1604-101, subsection (b), a unit owner shall furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a copy of the declaration, other than the plats and plans, the bylaws, the rules or regulations of the association, and a reasonably current certificate containing:

(1) A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit; [PL 1981, c. 699 (NEW).]

(2) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner; [PL 1981, c. 699 (NEW).]

(3) A statement of any other fees payable by unit owners; [PL 1981, c. 699 (NEW).]

(4) A statement of any capital expenditures anticipated by the association; [PL 1981, c. 699 (NEW).]

(5) A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects; [PL 1981, c. 699 (NEW).]

(6) The most recent regularly prepared balance sheet and income and expense statement, if any, of the association; [PL 1981, c. 699 (NEW).]

(7) The current operating budget of the association; [PL 1981, c. 699 (NEW).]

(8) A statement of any unsatisfied judgments against the association and the status of any pending suits in which the association is a defendant; [PL 1981, c. 699 (NEW).]

(9) A statement describing any insurance coverage provided for the benefit of unit owners; [PL 1981, c. 699 (NEW).]

(10) A statement as to whether the executive board has knowledge that any alterations or improvements to the unit or to the limited common elements assigned thereto violate any provisions of the declaration; [PL 1981, c. 699 (NEW).]

(11) A statement as to whether the executive board has knowledge of any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium; and [PL 1981, c. 699 (NEW).]

(12) A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extensions or renewal thereof. [PL 1981, c. 699 (NEW).]

(b) The association, within 10 days after a request by a unit owner and payment by such owner of any reasonable fee therefor established by the association, shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section. A unit owner providing a certificate pursuant to subsection (a) is not liable to the purchaser for any erroneous information provided by the association and included in the certificate. [PL 1981, c. 699 (NEW).]

(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for 5 days thereafter or until conveyance, whichever first occurs. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-109. Escrow of deposits

Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to section 1604-102, subsection (c) shall be placed in escrow by declarant and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an attorney, a licensed real estate broker or an institution whose accounts are insured by a governmental agency or instrumentality until: (1) Delivered to the declarant at closing; (2) Delivered to the declarant because of purchaser's default under a contract to purchase the unit; or (3) Refunded to the purchaser. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-110. Release of liens

In the case of a sale of a unit where delivery of a public offering statement is required pursuant to section 1604-102, subsection (c), a seller shall, before or simultaneously with conveying a unit, record or furnish to the purchaser releases of all liens affecting that unit and its common element interest which the purchaser does not expressly agree to take subject to or assume, or shall provide a surety bond or substitute collateral for or insurance against the lien. This section does not apply to any real estate which a declarant has the right to withdraw. [PL 1981, c. 699 (NEW).]

Before conveying real estate to the association, the declarant shall have that real estate released from: [PL 1981, c. 699 (NEW).]

(1) All liens, the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units; and [PL 1981, c. 699 (NEW).]

(2) All other liens on that real estate, unless the public offering statement describes certain real estate which may be conveyed subject to liens in specified amounts. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-111. Conversion buildings

(a) A declarant of a condominium containing conversion buildings, and any person in the business of selling real estate for his own account who intends to offer units in such a condominium shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the declarant will require the tenants and any subtenant in possession to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and shall be hand delivered to the unit or mailed by prepaid United States' mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required by the declarant to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure of a declarant to give notice as required by this section is a defense to an action for possession. [PL 1981, c. 699 (NEW).]

(b) For 60 days after delivery or mailing of the notice described in subsection (a), the declarant shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that 60-day period, the declarant may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a conversion building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion. [PL 1981, c. 699 (NEW).]

(c) If a declarant, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, recordation of the deed conveying the unit extinguishes any right a tenant may have under subsection (b) to purchase that unit if the deed states that the seller has complied with subsection (b), but does not affect the right of a tenant to recover damages from the declarant for a violation of subsection (b). [PL 1981, c. 699 (NEW).]

(d) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated, and otherwise complies with the provisions of Title 14, section 6001, the notice also constitutes a notice to vacate specified by that statute. [PL 1981, c. 699 (NEW).]

(e) Nothing in this section permits termination of a lease by a declarant in violation of its terms. [PL 1981, c. 699 (NEW).]

(f) Nothing in this Act, including section 1601-106, shall be construed to prohibit a municipality from enacting ordinances imposing more stringent standards than those contained in subsections (a) and (b), or otherwise providing for the protection of tenants or the conversion of rental housing stock, including ordinances controlling the number of housing units within a municipality that may be converted to the condominium form of ownership. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-112. Express warranties of quality

(a) Express warranties made by any seller to a purchaser of a unit, if relied upon by the purchaser, are only created as follows:

(1) Any written affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the condominiums that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the condominium, creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise; [PL 1981, c. 699 (NEW).]

(2) Any model or description of the physical characteristics of the condominium, including plans and specifications of or for improvements, creates an express warranty that the condominium will substantially conform to the model or description; [PL 1981, c. 699 (NEW).]

(3) Any written description of the quantity or extent of the real estate comprising the condominium, including plats or surveys, creates an express warranty that the condominium will conform to the description, subject to customary tolerances; and [PL 1981, c. 699 (NEW).]

(4) A provision that a buyer may put a unit only to a specified use is an express warranty that the specified use is lawful. [PL 1981, c. 699 (NEW).]

(b) Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty, are necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty. [PL 1981, c. 699 (NEW).]

(c) Any conveyance of a unit transfers to the purchaser all express warranties of quality made by previous sellers. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-113. Implied warranties of quality

(a) A declarant and any person in the business of selling real estate for his own account warrants that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted. [PL 1981, c. 699 (NEW).]

(b) A declarant and any person in the business of selling real estate for his own account impliedly warrants that a unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by him, or made by any person before the creation of the condominium, will be:

(1) Free from defective materials; and [PL 1981, c. 699 (NEW).]

(2) Constructed in accordance with applicable law, according to sound engineering and construction standards and in a workmanlike manner. Construction complying with the National Building Code and Code Administrators (BOCA), Basic Building Code or equivalent applicable local

building code, if any, shall be deemed to satisfy such sound engineering or construction standards. [PL 1981, c. 699 (NEW).]

(c) In addition, a declarant warrants to a purchaser from him of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession. [PL 1981, c. 699 (NEW).]

(d) Warranties imposed by this section may be excluded or modified as specified in section 1604-114. [PL 1981, c. 699 (NEW).]

(e) For purposes of this section, improvements made or contracted for by an affiliate of a declarant, section 1601-103, paragraph (1), are made or contracted for by the declarant. [PL 1981, c. 699 (NEW).]

(f) Any conveyance of a unit transfers to the purchaser all of the declarant's implied warranties of quality. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-114. Exclusion or modification of implied warranties of quality

(a) Except as limited by subsection (b) with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality:

(1) May be excluded or modified by agreement of the parties; and [PL 1981, c. 699 (NEW).]

(2) Are excluded by expression of disclaimer, such as "as is," "with all faults," or other language which in common understanding calls the buyer's attention to the exclusion of warranties. [PL 1981, c. 699 (NEW).]

(b) With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a declarant may disclaim liability in an instrument signed by the purchaser, for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-115. Statute of limitations for warranties

(a) A judicial proceeding for breach of any obligation arising under section 1604-112 or 1604-113 must be commenced within 6 years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than 2 years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser. [PL 1981, c. 699 (NEW).]

(b) Subject to subsection (c), a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and [PL 1981, c. 699 (NEW).]

(2) As to each common element, at the time the common element is completed or, if later:

(i) As to a common element which may be added to the condominium or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser; or

(ii) As to a common element within any other portion of the condominium, at the time the first unit in the condominium is conveyed to a bona fide purchaser. [PL 1981, c. 699 (NEW).]

(c) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-116. Effect of violations on rights of action

If a declarant or any other person subject to this Act fails to comply with any provision hereof or any provision of the declaration or bylaws, any person or class of persons adversely affected by that failure has a claim for appropriate relief. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-117. Labeling of promotional material

If any improvement contemplated in a condominium is labeled "NEED NOT BE BUILT" on a plat or plan, or is to be located within a portion of the condominium with respect to which the declarant has reserved a development right, no promotional material may be displayed or delivered to prospective purchasers which describes or portrays that improvement, unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified as "NEED NOT BE BUILT." [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

§1604-118. Declarant's obligation to complete and restore

(a) The declarant shall complete all improvements labeled "MUST BE BUILT" on plats or plans prepared pursuant to section 1602-109. [PL 1981, c. 699 (NEW).]

(b) The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the condominium, of any portion of the condominium affected by the exercise of rights reserved pursuant to or created by sections 1602-110, 1602-111, 1602-112, 1602-113, 1602-115 and 1602-116. [PL 1981, c. 699 (NEW).]

SECTION HISTORY

PL 1981, c. 699 (NEW).

CHAPTER 32

MAINE UNIFORM TRANSFERS TO MINORS ACT

§1651. Short title

This chapter shall be known and may be cited as the "Maine Uniform Transfers to Minors Act." [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1652. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 734, §2 (NEW).]

1. Adult. "Adult" means an individual who has attained 18 years of age.
[PL 1989, c. 502, Pt. A, §117 (AMD).]

2. Benefit plan. "Benefit plan" means an employer's plan for the benefit of an employee or partner.
[PL 1987, c. 734, §2 (NEW).]

3. Broker. "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.
[PL 1987, c. 734, §2 (NEW).]

4. Conservator. "Conservator" means a person appointed or qualified by a court to act as general, limited or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.
[PL 1987, c. 734, §2 (NEW).]

5. Court. "Court" means the Probate Court.
[PL 1987, c. 734, §2 (NEW).]

6. Custodial property. "Custodial property" means any interest in property transferred to a custodian under this Act and the income from and proceeds of that interest in property.
[PL 1987, c. 734, §2 (NEW).]

7. Custodian. "Custodian" means a person so designated under section 1660 or a successor or substitute custodian designated under section 1669.
[PL 1987, c. 734, §2 (NEW).]

8. Financial institution. "Financial institution" means a bank, trust company, savings institution or credit union, chartered and supervised under state or federal law.
[PL 1987, c. 734, §2 (NEW).]

9. Legal representative. "Legal representative" means an individual's personal representative or conservator.
[PL 1987, c. 734, §2 (NEW).]

10. Member of the minor's family. "Member of the minor's family" means the minor's parent, step-parent, spouse, grandparent, brother, sister, uncle or aunt whether of whole or 1/2 blood or by adoption.
[PL 1987, c. 734, §2 (NEW).]

11. Minor. "Minor" means an individual who has not attained 18 years of age.
[PL 1987, c. 734, §2 (NEW).]

12. Person. "Person" means an individual, corporation, organization or other legal entity.
[PL 1987, c. 734, §2 (NEW).]

13. Personal representative. "Personal representative" means an executor, administrator, successor personal representative or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.
[PL 1987, c. 734, §2 (NEW).]

14. State. "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the legislative authority of the United States.
[PL 1987, c. 734, §2 (NEW).]

15. Transfer. "Transfer" means a transaction that creates custodial property under section 1660. [PL 2019, c. 501, §16 (AMD).]

16. Transferor. "Transferor" means a person who makes a transfer under this Act. [PL 1987, c. 734, §2 (NEW).]

17. Trust company. "Trust company" means a financial institution, corporation or other legal entity authorized to exercise general trust powers. [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW). PL 1989, c. 502, §A117 (AMD). PL 2019, c. 501, §16 (AMD).

§1653. Scope and jurisdiction

1. Residence; location of property. This Act applies to a transfer that refers to this Act in the designation under section 1660, subsection 1, by which the transfer is made if, at the time of the transfer, the transferor, the minor or the custodian is a resident of this State or the custodial property is located in this State. The custodianship so created remains subject to this Act despite a subsequent change in residence of a transferor, the minor or the custodian or the removal of custodial property from this State. [PL 1987, c. 734, §2 (NEW).]

2. Personal jurisdiction. A person designated as custodian under this Act is subject to personal jurisdiction in this State with respect to any matter relating to the custodianship. [PL 1987, c. 734, §2 (NEW).]

3. Transfer made in another state. A transfer that purports to be made and which is valid under the Maine Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act or a substantially similar Act of another state is governed by the law of the designated state and may be executed and is enforceable in this State if, at the time of the transfer, the transferor, the minor or the custodian is a resident of the designated state or the custodial property is located in the designated state. [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1654. Nomination of custodian

1. Revocable nomination. A person having the right to designate the recipient of property transferrable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words "as custodian for (name of minor) under the Maine Uniform Transfers to Minors Act." The nomination may name one or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer or other obligor of the contractual rights. [PL 1987, c. 734, §2 (NEW).]

2. Who may serve. A custodian nominated under this section shall be a person to whom a transfer of property of that kind may be made under section 1660, subsection 1. [PL 1987, c. 734, §2 (NEW).]

3. Effect of nomination. The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under section 1660. Unless the nomination of a custodian has been revoked,

upon the occurrence of the future event, the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to section 1660.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1655. Transfer by gift or exercise of power of appointment

A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to section 1660. [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1656. Transfer authorized by will or trust

1. Authorized transfer. A personal representative or trustee may make an irrevocable transfer pursuant to section 1660 to a custodian for the benefit of a minor as authorized in the governing will or trust.

[PL 1987, c. 734, §2 (NEW).]

2. Authorized custodian. If the testator or settlor has nominated a custodian under section 1654 to receive the custodial property, the transfer shall be made to that person.

[PL 1987, c. 734, §2 (NEW).]

3. Designate a custodian. If the testator or settlor has not nominated a custodian under section 1654, or all persons nominated as custodian die before the transfer or are unable, decline or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under section 1660, subsection 1.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1657. Other transfer by fiduciary

1. Transfer by personal representative or trustee. Subject to subsection 3, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to section 1660, in the absence of a will or under a will or trust that does not contain an authorization to do so.

[PL 1987, c. 734, §2 (NEW).]

2. Transfer by conservator. Subject to subsection 3, a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to section 1660.

[PL 1987, c. 734, §2 (NEW).]

3. Requirements of transfer. A transfer under subsection 1 or 2 may be made only if the personal representative, trustee or conservator considers the transfer to be in the best interest of the minor; the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement or other governing instrument; and the transfer is authorized by the court if it exceeds \$10,000 in value.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1658. Transfer by obligor

1. Irrevocable transfer. Subject to subsections 2 and 3, a person not subject to section 1656 or 1657 who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to section 1660.

[PL 1987, c. 734, §2 (NEW).]

2. Transfer to nominated custodian. If a person having the right to do so under section 1654 has nominated a custodian under that section to receive the custodial property, the transfer shall be paid to that person.

[PL 1987, c. 734, §2 (NEW).]

3. Transfer in absence of custodian. If no custodian has been nominated under section 1654, or all persons so nominated as custodian die before the transfer or are unable, decline or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds \$10,000 in value.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1659. Receipt for custodial property

A written acknowledgement of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this Act. [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1660. Manner of creating custodial property and effecting transfer; designation of initial custodian; control

1. Creation and transfer. Custodial property is created and a transfer is made whenever:

A. An uncertificated security or a certificated security in registered form is either:

(1) Registered in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words "as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" or

(2) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection 2; [PL 1987, c. 734, §2 (NEW).]

B. Money is paid or delivered or a security held in the name of a broker, financial institution or its nominee is transferred to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words "as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" [PL 1991, c. 141 (AMD).]

C. The ownership of a life or endowment insurance policy or annuity contract is either:

(1) Registered with the issuer in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words "as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" or

(2) Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words "as custodian

for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" [PL 1987, c. 734, §2 (NEW).]

D. An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer or other obligor that the right is transferred to the transferor, an adult other than the transferor or a trust company, whose name in the notification is followed in substance by the words "as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" [PL 1987, c. 734, §2 (NEW).]

E. An interest in real property is recorded in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words "as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" [PL 1987, c. 734, §2 (NEW).]

F. A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(1) Issued in the name of the transferor, an adult other than the transferor or a trust company, followed in substance by the words "as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" or

(2) Delivered to an adult other than the transferor or to a trust company, endorsed to that person, followed in substance by the words "as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act;" or [PL 1987, c. 734, §2 (NEW).]

G. An interest in any property not described in paragraphs A to F is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection 2. [PL 1987, c. 734, §2 (NEW).]

[PL 1991, c. 141 (AMD).]

2. Transfer instrument. An instrument in the following form satisfies the requirements of subsection 1, paragraph A, subparagraph (1); and subsection 1, paragraph G, subparagraph (1):

TRANSFER UNDER THE MAINE UNIFORM TRANSFERS TO MINORS ACT

I,.....(name of transferor or name and representative capacity if a fiduciary) hereby transfer to.....(name of custodian), as custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated:

.....

(Signature)

.....(name of custodian) acknowledges receipt of the property described above as custodian for the minor name above under the Maine Uniform Transfers to Minors Act.

Dated:

.....

(Signature of Custodian)

[PL 1987, c. 734, §2 (NEW).]

3. Control of property. A transferor shall place the custodian in control of the custodial property as soon as practicable.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW). PL 1989, c. 502, §B42 (AMD). PL 1991, c. 141 (AMD).

§1661. Single custodianship

A transfer may be made only for one minor and only one person may be the custodian. All custodial property held under this Act by the same custodian for the benefit of the same minor constitutes a single custodianship. [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1662. Validity and effect of transfer

1. Validity not affected. The validity of a transfer made in a manner prescribed in this Act is not affected by:

A. Failure of the transferor to comply with section 1660, subsection 3, concerning possession and control; [PL 1987, c. 734, §2 (NEW).]

B. Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under section 1660, subsection 1; or [PL 1987, c. 734, §2 (NEW).]

C. Death or incapacity of a person nominated under section 1654, or designated under section 1660, as custodian or the disclaimer of the office by that person. [PL 1987, c. 734, §2 (NEW).]
[PL 1987, c. 734, §2 (NEW).]

2. Transfer irrevocable. A transfer made pursuant to section 1660 is irrevocable and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties and authority provided in this Act, and neither the minor nor the minor's legal representative has any right, power, duty or authority with respect to the custodial property, except as provided in this Act. [PL 1989, c. 502, Pt. A, §118 (AMD).]

3. Grant of power. By making a transfer, the transferor incorporates in the disposition all the provisions of this Act, and grants to the custodian and to any 3rd person dealing with a person designated as custodian, the respective powers, rights and immunities provided by this Act. [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW). PL 1989, c. 502, §A118 (AMD).

§1663. Care of custodial property

1. Duties. A custodian shall:

A. Take control of custodial property; [PL 1987, c. 734, §2 (NEW).]

B. Register or record title to custodial property if appropriate; and [PL 1987, c. 734, §2 (NEW).]

C. Collect, hold, manage, invest and reinvest custodial property. [PL 1987, c. 734, §2 (NEW).]
[PL 1987, c. 734, §2 (NEW).]

2. Standard of care. In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other law restricting investments by fiduciaries. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. A custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor. [PL 1987, c. 734, §2 (NEW).]

3. Insurance investment. A custodian may invest in or pay premiums on life insurance or endowment policies on the life of the minor only if the minor or the minor's estate is the sole beneficiary; or the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate or the custodian in the capacity of custodian is the irrevocable beneficiary.
[PL 1987, c. 734, §2 (NEW).]

4. Identification of custodial property. A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded and custodial property subject to registration is so identified if it is either registered or held in an account designated, in the name of the custodian, followed in substance by the words "as a custodian for.....(name of minor) under the Maine Uniform Transfers to Minors Act."
[PL 1987, c. 734, §2 (NEW).]

5. Records. A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if the minor has attained 14 years of age.
[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1664. Powers of custodian

1. Custodial capacity. A custodian, acting in a custodial capacity, has all the rights, powers and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers and authority in that capacity only.
[PL 1987, c. 734, §2 (NEW).]

2. Liability. This section does not relieve a custodian from liability for breach of section 1663.
[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1665. Use of custodial property

1. Standard for expenditure of property. A custodian may deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to the duty or ability of the custodian personally or of any other person to support the minor; or any other income or property of the minor which may be applicable or available for the purpose.
[PL 1987, c. 734, §2 (NEW).]

2. Court may order expenditure. On petition of an interested person or the minor, if the minor has attained 14 years of age, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.
[PL 1987, c. 734, §2 (NEW).]

3. Support of minor. A delivery, payment or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor.
[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1666. Custodian's expenses, compensation and bond

1. Reimbursement. A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

[PL 1987, c. 734, §2 (NEW).]

2. Compensation. Except for one who is a transferor under section 1655, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

[PL 1987, c. 734, §2 (NEW).]

3. Bond. Except as provided in section 1669, subsection 6, a custodian need not give a bond.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1667. Exemption of 3rd person from liability

A 3rd person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining: [PL 1987, c. 734, §2 (NEW).]

1. Designation. The validity of the purported custodian's designation;

[PL 1987, c. 734, §2 (NEW).]

2. Authority to act. The propriety of, or the authority under this Act for, any act of the purported custodian;

[PL 1987, c. 734, §2 (NEW).]

3. Validity of instruments. The validity or propriety under this Act of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

[PL 1987, c. 734, §2 (NEW).]

4. Application of property. The propriety of the application of any property of the minor delivered to the purported custodian.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1668. Liability to 3rd person

1. Claim against property. A claim based on a contract entered into by a custodian acting in a custodial capacity, an obligation arising from the ownership or control of custodial property, or a tort committed during the custodianship may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable therefor.

[PL 1987, c. 734, §2 (NEW).]

2. Restrictions on custodian liability. A custodian is not personally liable:

A. On a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or [PL 1987, c. 734, §2 (NEW).]

B. For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault. [PL 1987, c. 734, §2 (NEW).]
[PL 1987, c. 734, §2 (NEW).]

3. Restrictions on liability of minor. A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.
[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1669. Renunciation, resignation, death or removal of custodian; designation of successor custodian

1. Disclaimer; nomination of substitute custodian. A person nominated under section 1654 or designated under section 1660 as custodian may decline to serve by delivering a valid disclaimer, under Title 18-C, Article 2, Part 9, to the person who made the nomination to or the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing and eligible to serve was nominated under section 1654, the person who made the nomination may nominate a substitute custodian under section 1654; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under section 1660, subsection 1. The custodian so designated has the rights of a successor custodian.
[PL 2017, c. 402, Pt. C, §91 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Instrument of designation. A custodian at any time may designate a trust company or an adult other than a transferor under section 1655 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated or is removed.
[PL 1987, c. 734, §2 (NEW).]

3. Notice of resignation. A custodian may resign at any time by delivering written notice of resignation to the minor, if the minor has attained 14 years of age, and to the successor custodian and by delivering the custodial property to the successor custodian.
[PL 1987, c. 734, §2 (NEW).]

4. Failure to designate successor. If a custodian is ineligible, dies or becomes incapacitated without having effectively designated a successor and the minor has attained 14 years of age, the minor may designate as successor custodian, in the manner prescribed in subsection 2, an adult member of the minor's family, a conservator of the minor or a trust company. If the minor has not attained 14 years of age or fails to act within 60 days after the ineligibility, death or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family or any other interested person may petition the court to designate a successor custodian.
[PL 1987, c. 734, §2 (NEW).]

5. Control of property and records. A custodian who declines to serve under subsection 1 or resigns under subsection 3 or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.
[PL 1987, c. 734, §2 (NEW).]

6. Removal of custodian. A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor or the minor, if the minor has attained 14 years of age, may petition the court to remove the custodian for cause and to designate a successor custodian, other than a transferor under section 1655, or to require the custodian to give appropriate bond.

[PL 1999, c. 790, Pt. A, §40 (AMD).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW). PL 1999, c. 790, §A40 (AMD). PL 2017, c. 402, Pt. C, §91 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§1670. Accounting by and determination of liability of custodian

1. Petition for accounting. A minor who has attained 14 years of age, the minor's guardian of the person or legal representative, an adult member of the minor's family, a transferor or a transferor's legal representative may petition the court for an accounting by the custodian or the custodian's legal representative; or for a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under section 1668 to which the minor or the minor's legal representative was a party.

[PL 1987, c. 734, §2 (NEW).]

2. Accounting by predecessor custodian. A successor custodian may petition the court for an accounting by the predecessor custodian.

[PL 1987, c. 734, §2 (NEW).]

3. Court proceeding. The court, in a proceeding under this Act or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

[PL 1987, c. 734, §2 (NEW).]

4. Court to require accounting of removed custodian. If a custodian is removed under section 1669, subsection 1, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

[PL 1987, c. 734, §2 (NEW).]

5. Accounting required at termination. Prior to the termination of the custodian's responsibilities, the custodian shall account to the court and the minor.

[PL 1991, c. 641, §5 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW). PL 1991, c. 641, §5 (AMD).

§1671. Termination of custodianship

The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of: [PL 1987, c. 734, §2 (NEW).]

1. Transferor's option. The minor's attainment of 18 years of age with respect to custodial property transferred under section 1655 or 1656, unless the transferor has specified in writing in the transferring instrument that the transfer shall not occur until the minor attains a later age, not to exceed 21 years of age. The following words or their substantial equivalent must appear in the transferring instrument:

"The custodian shall transfer..... (description of property) to.....(name of minor) when.....(he or she) reaches the age of.....(age at which transfer will occur);"

[PL 1987, c. 734, §2 (NEW).]

2. Attainment of majority. The minor's attainment of majority under the laws of this State other than this Act with respect to custodial property transferred under section 1657 or 1658; or

[PL 1987, c. 734, §2 (NEW).]

3. Death. The minor's death.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

§1672. Applicability

This Act applies to a transfer within the scope of section 1653 made after its effective date if: [PL 1987, c. 734, §2 (NEW).]

1. Reference to prior Act. The transfer purports to have been made under the Uniform Gifts to Minors Act of this State; or

[PL 1989, c. 502, Pt. A, §119 (AMD).]

2. Reference to Uniform Gifts to Minors Act of any other state. The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state and the application of this Act is necessary to validate the transfer.

[PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW). PL 1989, c. 502, §A119 (AMD).

§1673. Effect on existing custodianships

1. Transfers validated. Any transfer of custodial property as defined in this Act made before the effective date of this Act is validated notwithstanding that there was no specific authority in former chapter 19 for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

[RR 2021, c. 2, Pt. A, §119 (COR).]

2. Application. This Act applies to all transfers made before the effective date of this Act in a manner and form prescribed in former chapter 19, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this Act.

[RR 2021, c. 2, Pt. A, §119 (COR).]

3. Terminated custodianship. Sections 1652 and 1671 with respect to the age of a minor for whom custodial property is held under this Act do not apply to custodial property held in a custodianship that terminated because of the minor's attainment of 18 years of age after September 1, 1984 and before the effective date of this Act.

[RR 2021, c. 2, Pt. A, §119 (COR).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW). RR 2021, c. 2, Pt. A, §119 (COR).

§1674. Uniformity of application and construction

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it. [PL 1987, c. 734, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 734, §2 (NEW).

CHAPTER 33

UNCLAIMED BAGGAGE AND MERCHANDISE

§1701. Merchandise unclaimed for 6 months, sold to pay charges

Whenever baggage, goods, merchandise, packages or parcels transported by any railroad, steamboat, express company or stage company existing by virtue of the laws of this State remain unclaimed for 6 months after its arrival at the point to which it shall have been directed, the same may be sold at auction in the city or town where the railroad, steamboat, express company or stage company has its general or principal office or any freight house. Whenever baggage, goods, merchandise, packages or parcels transported by any railroad, steamboat, express company or stage company not existing by virtue of the laws of this State and having no office or president, treasurer, clerk or general superintendent within this State, but doing business in this State, remain unclaimed for 6 months after its arrival at the point to which it shall have been directed, the same may be sold at auction to pay the charges thereon and the expense of advertising and selling. [PL 1987, c. 490, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 490, §C1 (NEW).

§1702. Notice of sale; disposal of proceeds

Any company existing by virtue of the laws of this State holding any such articles or merchandise shall give, before selling the same, 30 days' notice of the time and place of sale in 4 public newspapers, one published at Portland, in the County of Cumberland; one published at Augusta, in the County of Kennebec; one published at Lewiston, in the County of Androscoggin; and one published at Bangor, in the County of Penobscot. The notices shall contain a brief description and list of all such property and shall describe such marks thereon as may serve to identify them, together with the name of the consignee and the place to which the articles were billed. Any company not existing by virtue of the laws of this State and having no office or president, treasurer, clerk or general superintendent within this State, but doing business within this State, before selling any such articles or merchandise, shall give 30 days' notice of the time and place of sale, by publishing notice in some public newspaper, printed in the county where such merchandise is so held, 3 weeks successively, the last publication to be at least 7 days before the day appointed for the sale. If no newspaper is published in the county where such articles or merchandise are so held, such notice shall be published in some newspaper in an adjoining county. Such articles or merchandise shall be sold at the place where held. The proceeds of all goods so sold, after deducting the costs of transportation, storage, advertising and sale, shall be placed to the credit of the owner in the books of the company making the sale and shall be paid to him on demand. The company shall not be liable to the owner of the property for any greater sum than so received from the sale. [PL 1987, c. 490, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 490, §C1 (NEW).

§1703. Common carriers may sell perishable goods which owner neglects or refuses to receive

When a common carrier has transported property of a perishable nature, which cannot be kept without great deterioration or substantial destruction, to its place of destination and has notified the owner or consignee of the arrival of the same, and the owner or consignee, after such notice, has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, the carrier, in the exercise of a reasonable discretion, may sell the same at public or private sale without advertising. The proceeds, after deducting the amount of the freight and charges and expenses of sale, shall be held

for the persons entitled thereto. If the owner or consignee cannot be found on reasonable inquiry, the sale may be made without such notice. [PL 1987, c. 490, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 490, §C1 (NEW).

§1704. Sale of livestock; proceedings when owner or consignee missing; notice of sale

When a common carrier has transported livestock, which can be kept only at continual expense, to its place of destination and has notified the owner or consignee of the arrival of the same, and the owner or consignee after such notice has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, the carrier may cause the same to be sold at auction to pay the freight and charges thereon, including the cost of keeping, and the expenses of advertising and selling. If the owner or consignee cannot be found on reasonable inquiry, the carrier may cause the same to be advertised and sold without such notice. Before selling any such livestock, the common carrier holding the same shall give 2 weeks' notice of the time and place of sale in a newspaper published in the place where the livestock is held, if any; otherwise in a newspaper published at a place nearest thereto. The notice shall reasonably describe the livestock. The proceeds of sale, after deducting the amount of freight and charges, including the cost of keeping and the expenses of advertising and sale, shall be held for the persons entitled thereto. [PL 1987, c. 490, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 490, §C1 (NEW).

§1705. All sales recorded

All sales under this chapter shall be recorded in a suitable book, open to the inspection of claimants, in which the articles sold shall be correctly described, and the charges and expenses thereon and the price at which they were sold shall be entered. [PL 1987, c. 490, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 490, §C1 (NEW).

CHAPTER 35

TRANSPORTATION OF PROPERTY IN DISPUTE

§1751. Transportation of property, when title is in dispute

1. Responsibility of carrier. When property is delivered to a common carrier for transportation, and any person other than the consignor or consignee shall claim the title to such property and shall forbid its transportation, he shall forthwith give written notice to the carrier forbidding its transportation, and thereupon the carrier shall be authorized to delay the transportation for the space of 5 days, and unless within such 5 days such claimant shall replevy such property or if he shall fail to give such written notice, the carrier is authorized to proceed with the transportation of such property and shall not be liable for so transporting.

[PL 1987, c. 490, Pt. C, §1 (NEW).]

2. Definition. For purposes of this chapter, transportation of property means every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage and handling, and the transmission of credit by express or telegraph companies.

[PL 1987, c. 490, Pt. C, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 490, §C1 (NEW).

CHAPTER 37

UNIFORM FEDERAL LIEN REGISTRATION ACT

(REPEALED)

§1801. Short title

(REPEALED)

SECTION HISTORY

PL 1987, c. 645, §4 (NEW). PL 1989, c. 502, Pt. A, §120 (RP).

§1802. Scope

(REPEALED)

SECTION HISTORY

PL 1987, c. 645, §4 (NEW). PL 1989, c. 502, Pt. A, §120 (RP).

§1803. Place of filing

(REPEALED)

SECTION HISTORY

PL 1987, c. 645, §4 (NEW). PL 1989, c. 502, Pt. A, §120 (RP).

§1804. Execution of notices and certificates

(REPEALED)

SECTION HISTORY

PL 1987, c. 645, §4 (NEW). PL 1989, c. 502, Pt. A, §120 (RP).

§1805. Duties of filing officer

(REPEALED)

SECTION HISTORY

PL 1987, c. 645, §4 (NEW). PL 1989, c. 502, Pt. A, §120 (RP).

§1806. Fees

(REPEALED)

SECTION HISTORY

PL 1987, c. 645, §4 (NEW). PL 1989, c. 502, Pt. A, §120 (RP).

§1807. Uniformity of application and construction

(REPEALED)

SECTION HISTORY

PL 1987, c. 645, §4 (NEW). PL 1989, c. 502, Pt. A, §120 (RP).

CHAPTER 37

UNCLAIMED PROPERTY ACT

(REPEALED)

SUBCHAPTER 1

GENERAL PROVISIONS AND TERMS OF ABANDONMENT

(REPEALED)

§1801. Short title; purpose

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1802. Definitions

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1803. Property presumed abandoned; general rule

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1991, c. 528, §R7 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §R7 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1804. General rules for taking custody of unclaimed property

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1805. Traveler's checks and money orders

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1806. Checks, drafts and similar instruments issued or certified by financial institutions

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1807. Bank deposits and funds in financial institutions

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1808. Funds owed under life insurance policies

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1809. Deposits held by utilities

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1810. Refunds held by business associations

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1811. Stock and other intangible interests in business associations

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1811-A. Property originated or issued in State

(REPEALED)

SECTION HISTORY

PL 1991, c. 756, §1 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1812. Property held in the course of dissolution

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1813. Property held by agents and fiduciaries

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1814. Property held by courts and public agencies

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1993, c. 415, §E2 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1815. Gift certificates and credit memos

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1816. Wages

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1817. Contents of safe deposit box or other safe- keeping repository

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1818. Property held by landlords

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1989, c. 369, §1 (AMD). PL 1991, c. 265, §§2-5 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1819. Tangible property held by state institutions

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1995, c. 185, §1 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 245, §19 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1820. Property held by public administrators

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

SUBCHAPTER 2

ADMINISTRATION

(REPEALED)

§1851. Report of abandoned property

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1852. Notice and publication by administrator

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1853. Payment or delivery of abandoned property

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1989, c. 369, §2 (AMD). PL 1995, c. 57, §3 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1854. Custody by State; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe deposit box or repository charges

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1855. Crediting of dividends, interest or increments to owner's account

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1856. Public sale of abandoned property

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1857. Deposit of funds

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1858. Filing of claim with the administrator

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1859. Claim of another state to recover property; procedure

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1860. Action to establish claim

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1991, c. 299 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1861. Election to take payment or delivery

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1862. Destruction or disposition of property having insubstantial commercial value; immunity from liability

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1863. Periods of limitation

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1864. Requests for reports and examination of records

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1865. Retention of records

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1866. Enforcement

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1867. Interstate agreements and cooperation; joint and reciprocal actions with other states

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1868. Interest and penalties

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1869. Agreement to locate reported property

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1989, c. 502, §B43 (AMD). PL 1995, c. 209, §1 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1870. Foreign transactions

(REPEALED)

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1871. Transition and application**(REPEALED)**

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1995, c. 31, §1 (AMD). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1872. Rules**(REPEALED)**

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1873. Uniformity of application and construction**(REPEALED)**

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1874. Agreements with other states**(REPEALED)**

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

§1875. Retention of tangible property with historic value**(REPEALED)**

SECTION HISTORY

PL 1987, c. 691, §4 (NEW). PL 1997, c. 508, §A1 (RP). PL 1997, c. 508, §A3 (AFF).

CHAPTER 39**UNIFORM FEDERAL LIEN REGISTRATION ACT****§1901. Short title**

This chapter shall be known and may be cited as the Uniform Federal Lien Registration Act. [PL 1989, c. 502, Pt. A, §121 (NEW).]

SECTION HISTORY

PL 1989, c. 502, §A121 (NEW).

§1902. Scope

This chapter applies only to federal tax liens and to other federal lien notices that under any Act of Congress or any federal regulation adopted pursuant to any Act of Congress are required or permitted to be filed in the same manner as notices of federal tax liens. [PL 2003, c. 518, §2 (AMD).]

SECTION HISTORY

PL 1989, c. 502, §A121 (NEW). PL 2003, c. 518, §2 (AMD).

§1903. Place of filing

1. Applicability. Notices of liens, certificates and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.

[PL 1989, c. 502, Pt. A, §121 (NEW).]

2. Real property liens. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed with the registry of deeds in the county or counties within which the affected property is situated.

[PL 2003, c. 518, §3 (AMD).]

3. Personal property liens. Notices of federal liens upon personal property, whether tangible or intangible, except property of a type in which a security interest is perfected under Title 11, section 9-1501, subsection (1), paragraph (a), for obligations payable to the United States and certificates and notices affecting the liens, must be filed with the Secretary of State.

[PL 1999, c. 699, Pt. D, §23 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

4. Timber, mineral and other liens. Notices of federal liens upon property of a type in which a security interest is perfected under Title 11, section 9-1501, subsection (1), paragraph (a), for obligations payable to the United States and certificates and notices affecting the liens, must be filed with the registry of deeds in the county or counties where a mortgage on the real estate concerned would be filed or recorded.

[PL 2003, c. 518, §4 (AMD).]

SECTION HISTORY

PL 1989, c. 502, §A121 (NEW). PL 1999, c. 699, §D23 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2003, c. 518, §§3,4 (AMD).

§1904. Execution of notices and certificates

Certification of notices of liens, certificates or other notices affecting federal liens by the Secretary of the Treasury of the United States or the secretary's delegate or by any official or entity of the United States responsible for filing or certifying of notice of any other lien is sufficient for filing purposes and no other attestation, certification or acknowledgment is necessary. [PL 1989, c. 502, Pt. A, §121 (NEW).]

SECTION HISTORY

PL 1989, c. 502, §A121 (NEW).

§1905. Duties of filing officer

1. Notices. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented for filing to:

A. The Secretary of State, the filing officer shall cause the notice to be marked, held and indexed in accordance with Title 11, section 9-1519, as if the notice were a financing statement within the meaning of the Uniform Commercial Code, except that if the property is of a type in which a security interest is perfected under Title 5, section 90-A, the Secretary of State shall cause the notice to be marked, held and indexed in accordance with the procedures established under Title 5, section 90-A, as if the notice were a financing statement within the meaning of that section; or [PL 2003, c. 518, §5 (AMD).]

B. A register of deeds, the filing officer shall receive, record and index the notice in the same manner as similar instruments are recorded and indexed. [PL 1989, c. 502, Pt. A, §121 (NEW).]
[PL 2003, c. 518, §5 (AMD).]

2. Certificates. If a certificate of release, nonattachment, discharge, subordination or withdrawal of a filed notice of federal tax lien is presented for filing, the filing officer shall:

A. Cause a certificate of release, nonattachment or withdrawal of a filed notice of federal tax lien to be marked, held and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code; and [PL 2003, c. 518, §5 (AMD).]

B. Cause a certificate of discharge or subordination to be marked, held and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code. [PL 2003, c. 518, §5 (AMD).]
[PL 2003, c. 518, §5 (AMD).]

3. Refiled notices; register of deeds.

[PL 2003, c. 518, §5 (RP).]

4. Filing; fees.

[PL 2003, c. 518, §5 (RP).]

5. Method of communication. The filing officer shall accept liens described in this chapter in the method or medium authorized by the filing office in accordance with Title 11, Article 9-A, Part 5 and rule of the appropriate filing office.

[PL 2003, c. 518, §5 (NEW).]

SECTION HISTORY

PL 1989, c. 502, §A121 (NEW). PL 1993, c. 616, §§9,10 (AMD). PL 1999, c. 699, §D24 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2003, c. 518, §5 (AMD).

§1906. Fees

1. Filing; Secretary of State. For filing a lien or certificate or notice affecting any lien filed under this chapter, the fee is:

A. Fifteen dollars if the record is communicated in writing; and [PL 2003, c. 518, §6 (NEW).]

B. Ten dollars if the record is communicated by another method or medium authorized by filing office rule. [PL 2003, c. 518, §6 (NEW).]

[PL 2003, c. 518, §6 (NEW).]

2. Filing; registry of deeds. For filing a lien or certificate or notice affecting any lien filed under this chapter, the fee is governed by Title 33, sections 751 and 752.

The filing office receiving a filing under this subsection and subsection 1 shall bill the Internal Revenue Service or other federal agency on a monthly basis for the fees for liens, certificates or notice affecting any lien filed under this chapter.

[PL 2003, c. 518, §6 (NEW).]

3. Information; Secretary of State. For responding to a request for information from the filing office, including for communicating whether there is on file any lien, certificate or notice affecting any lien filed under this chapter naming a particular debtor, the fee is:

A. Twenty dollars if the record is communicated in writing; and [PL 2003, c. 518, §6 (NEW).]

B. Twelve dollars if the record is communicated by another method or medium authorized by filing office rule. [PL 2003, c. 518, §6 (NEW).]

The Secretary of State shall use the procedures set forth in Title 11, section 9-1523 to respond to a request for information from the filing office.

[PL 2003, c. 518, §6 (NEW).]

4. Information; registry of deeds. For responding to a request for information from the filing office, including for communicating whether there is on file any lien, certificate or notice affecting any lien filed under this chapter naming a particular debtor, the fee is governed by Title 33, section 751.

[PL 2003, c. 518, §6 (NEW).]

SECTION HISTORY

PL 1989, c. 502, §A121 (NEW). PL 1993, c. 616, §11 (AMD). PL 2003, c. 518, §6 (RPR).

§1907. Uniformity of application and construction

This chapter must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it and to permit the filing office to use a filing system to record and maintain notices of liens, certificates and other notices affecting federal tax liens or other federal liens in a manner authorized by the filing office and to permit federal officials to file notices of liens, certificates and notices affecting those liens upon real or personal property for obligations payable to the United States under the filing system authorized by the filing office. [PL 2003, c. 518, §7 (AMD).]

SECTION HISTORY

PL 1989, c. 502, §A121 (NEW). PL 2003, c. 518, §7 (AMD).

CHAPTER 41**UNIFORM UNCLAIMED PROPERTY ACT****§1951. Short title**

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1952. Definitions

(CONFLICT)

1. Administrator.

[PL 2019, c. 498, §21 (RP).]

2. Apparent owner.

[PL 2019, c. 498, §21 (RP).]

3. Business association.

[PL 2019, c. 498, §21 (RP).]

3-A. Competitive electricity provider.

[PL 2019, c. 498, §21 (RP).]

4. Domicile.

[PL 2019, c. 498, §21 (RP).]

4-A. Face value.

[PL 2019, c. 498, §21 (RP).]

5. Financial organization.

[PL 2019, c. 498, §21 (RP).]

5-A. Gift obligation.

[PL 2019, c. 498, §21 (RP).]

6. Holder.

[PL 2019, c. 498, §21 (RP).]

7. Insurance company.

[PL 2019, c. 498, §21 (RP).]

7-A. (CONFLICT: Text as enacted by PL 2019, c. 496, §1) Lawyer's trust account. "Lawyer's trust account" means a pooled trust account managed pursuant to rules adopted by the Supreme Judicial Court that earns interest or dividends at an eligible institution in which a lawyer or law firm holds funds on behalf of a client or clients. These funds are small in amount or held for a short period of time, such that the funds cannot earn interest or dividends for the client in excess of the costs incurred to secure such interest or dividends. For the purpose of this subsection, "eligible institution" means a financial organization meeting the requirements in rules adopted by the Supreme Judicial Court.

[PL 2019, c. 496, §1 (NEW).]

7-B. (CONFLICT: Text as enacted by PL 2019, c. 496, §1) Lawyer's trust account program manager. "Lawyer's trust account program manager" means an entity designated by the Supreme Judicial Court to manage the lawyer's trust account program adopted by the Supreme Judicial Court.

[PL 2019, c. 496, §1 (NEW).]

8. Mineral.

[PL 2019, c. 498, §21 (RP).]

9. Mineral proceeds.

[PL 2019, c. 498, §21 (RP).]

10. Money order.

[PL 2019, c. 498, §21 (RP).]

10-A. Multiple merchants.

[PL 2019, c. 498, §21 (RP).]

11. Owner.

[PL 2019, c. 498, §21 (RP).]

12. Person.

[PL 2019, c. 498, §21 (RP).]

12-A. Prefunded bank card.

[PL 2019, c. 498, §21 (RP).]

13. Property.

A. [PL 2019, c. 498, §21 (RP).]

B. [PL 2019, c. 498, §21 (RP).]

C. [PL 2019, c. 498, §21 (RP).]

D. [PL 2019, c. 498, §21 (RP).]

E. [PL 2019, c. 498, §21 (RP).]

F. **(CONFLICT: Text as amended by PL 2019, c. 496, §2)** An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; [PL 2019, c. 496, §2 (AMD).]

F. **(CONFLICT: Text as repealed by PL 2019, c. 498, §21)** [PL 2019, c. 498, §21 (RP).]

G. **(CONFLICT: Text as amended by PL 2019, c. 496, §2)** An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits; and [PL 2019, c. 496, §2 (AMD).]

G. **(CONFLICT: Text as repealed by PL 2019, c. 498, §21)** [PL 2019, c. 498, §21 (RP).]

H. **(CONFLICT: Text as enacted by PL 2019, c. 496, §3)** Funds in a lawyer's trust account. [PL 2019, c. 496, §3 (NEW).]
[PL 2019, c. 496, §§1-3 (AMD); PL 2019, c. 498, §21 (RP).]

14. Record.

[PL 2019, c. 498, §21 (RP).]

15. State.

[PL 2019, c. 498, §21 (RP).]

15-A. Stored-value card.

[PL 2019, c. 498, §21 (RP).]

15-B. United States savings bond.

[PL 2019, c. 498, §21 (RP).]

16. Utility.

[PL 2019, c. 498, §21 (RP).]

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 1999, c. 657, §16 (AMD). PL 2003, c. 339, §1 (AMD). PL 2003, c. 673, §U1 (AMD). PL 2005, c. 357, §§1-3 (AMD). PL 2015, c. 215, §1 (AMD). PL 2019, c. 496, §§1-3 (AMD). PL 2019, c. 498, §21 (RP).

**§1953. Presumptions of abandonment
(CONFLICT)**

1. Presumptive abandonment periods.

A. [PL 2019, c. 498, §21 (RP).]

B. [PL 2019, c. 498, §21 (RP).]

C. [PL 2019, c. 498, §21 (RP).]

D. [PL 2019, c. 498, §21 (RP).]

E. [PL 2019, c. 498, §21 (RP).]

F. [PL 2019, c. 498, §21 (RP).]

G. [PL 2019, c. 498, §21 (RP).]

G-1. [PL 2019, c. 498, §21 (RP).]

H. [PL 2019, c. 498, §21 (RP).]

I. [PL 2019, c. 498, §21 (RP).]

J. [PL 2019, c. 498, §21 (RP).]

K. [PL 2019, c. 498, §21 (RP).]

L. [PL 2019, c. 498, §21 (RP).]

M. [PL 2019, c. 498, §21 (RP).]

N. [PL 2019, c. 498, §21 (RP).]

O. **(CONFLICT: Text as amended by PL 2019, c. 496, §4)** All other property, including funds in a lawyer's trust account, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs; [PL 2019, c. 496, §4 (AMD).]

O. **(CONFLICT: Text as repealed by PL 2019, c. 498, §21)** [PL 2019, c. 498, §21 (RP).]

P. [PL 2019, c. 498, §21 (RP).]

Q. [PL 2019, c. 498, §21 (RP).]

R. [PL 2019, c. 498, §21 (RP).]

[PL 2019, c. 496, §4 (AMD); PL 2019, c. 498, §21 (RP).]

2. All other property rights presumed abandoned.

[PL 2019, c. 498, §21 (RP).]

3. Unclaimed.

[PL 2019, c. 498, §21 (RP).]

4. Indication of interest.

[PL 2019, c. 498, §21 (RP).]

5. Payable or distributable.

[PL 2019, c. 498, §21 (RP).]

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 1999, c. 232, §1 (AMD). PL 1999, c. 284, §§1-5 (AMD). PL 1999, c. 657, §17 (AMD). PL 2001, c. 439, §§L1-4 (AMD). PL 2003, c. 20, §§T18-22 (AMD). PL 2003, c. 339, §2 (AMD). PL 2005, c. 12, §GG1 (AMD). PL 2005, c. 357, §§4,5 (AMD). PL 2007, c. 696, §1 (AMD). RR 2011, c. 1, §48 (COR). PL 2011, c. 433, §1 (AMD). PL 2015, c. 215, §§2-4 (AMD). PL 2019, c. 496, §4 (AMD). PL 2019, c. 498, §21 (RP).

§1954. Property in safekeeping depository or held by landlord or state institution

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 1999, c. 294, §1 (RPR). PL 2001, c. 354, §3 (AMD). PL 2003, c. 20, §T23 (AMD). PL 2003, c. 303, §2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2009, c. 566, §25 (AMD). PL 2019, c. 498, §21 (RP).

§1954-A. Retention of property with historic value

(REPEALED)

SECTION HISTORY

PL 1999, c. 294, §2 (NEW). PL 2019, c. 498, §21 (RP).

§1954-B. United States savings bonds

(REPEALED)

SECTION HISTORY

PL 2015, c. 215, §5 (NEW). PL 2019, c. 498, §21 (RP).

§1955. Rules for taking custody

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1956. Dormancy charge

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 1999, c. 284, §6 (AMD). PL 2019, c. 498, §21 (RP).

§1957. Burden of proof as to property evidenced by record of check or draft

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1958. Report of property presumed abandoned

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2003, c. 20, §T24 (AMD). PL 2003, c. 673, §U2 (AMD). PL 2005, c. 12, §GG2 (AMD). PL 2019, c. 498, §21 (RP).

§1959. Payment or delivery of property presumed abandoned

(CONFLICT)

1. Payment or delivery.

[PL 2019, c. 498, §21 (RP).]

2. Security or security entitlement.

[PL 2019, c. 498, §21 (RP).]

3. Certificated security.

[PL 2019, c. 498, §21 (RP).]

4. Liability and indemnification.

[PL 2019, c. 498, §21 (RP).]

5. (CONFLICT: Text as enacted by PL 2019, c. 496, §5) Payment of certain funds presumed abandoned in lawyer's trust accounts. Notwithstanding any other provision in this chapter to the contrary, a lawyer, law firm or financial institution holding funds presumed abandoned in a lawyer's trust account for which no identifying client information can be found shall file a report with the administrator pursuant to section 1958, subsection 1 and then transfer such funds, along with a copy of the report, to the lawyer's trust account program manager to provide funding to organizations whose primary purpose is to provide civil legal aid to low-income residents of the State.

[PL 2019, c. 496, §5 (NEW).]

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2003, c. 20, §T25 (AMD). PL 2019, c. 496, §5 (AMD). PL 2019, c. 498, §21 (RP).

§1960. Notice and publication of unclaimed property

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2003, c. 20, §T26 (AMD). PL 2011, c. 477, Pt. H, §1 (AMD). PL 2019, c. 498, §21 (RP).

§1961. Custody by state; recovery by holder; defense of holder

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1962. Crediting of dividends, interest and increments to owner's account

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1963. Public sale of unclaimed property

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2001, c. 714, §X1 (AMD). PL 2003, c. 20, §T27 (AMD). PL 2019, c. 498, §21 (RP).

§1964. Deposit of funds

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2003, c. 20, §T28 (AMD). PL 2019, c. 498, §21 (RP).

§1965. Claim of another state to recover property

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2003, c. 20, §T29 (AMD). PL 2019, c. 498, §21 (RP).

§1966. Filing claim with administrator; handling of claims by administrator

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1967. Action to establish claim

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1968. Election to take payment or delivery

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1969. Destruction or disposition of property having no substantial commercial value; immunity from liability

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1970. Periods of limitation

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1971. Requests for reports and examination of records

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2003, c. 20, §T30 (AMD). PL 2019, c. 498, §21 (RP).

§1972. Retention of records

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1973. Enforcement

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1974. Interstate agreements and cooperation; joint and reciprocal actions with other states

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2003, c. 20, §T31 (AMD). PL 2019, c. 498, §21 (RP).

§1975. Interest and penalties

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1976. Agreements to locate property

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1977. Foreign transactions

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1978. Transitional provisions

(REPEALED)

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1979. Rules

(CONFLICT)**(WHOLE SECTION CONFLICT: Text as amended by PL 2019, c. 496, §6)**

The administrator may adopt rules pursuant to the Maine Administrative Procedure Act necessary to carry out this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. In addition, the Supreme Judicial Court may adopt rules for the provisions of this Act relating to lawyer's trust accounts. [PL 2019, c. 496, §6 (AMD).]

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 496, §6 (AMD).

§1979. Rules**(CONFLICT)****(WHOLE SECTION CONFLICT: Text as repealed by PL 2019, c. 498, §21)**

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

§1980. Uniformity of application and construction**(REPEALED)**

SECTION HISTORY

PL 1997, c. 508, §A2 (NEW). PL 1997, c. 508, §A3 (AFF). PL 2019, c. 498, §21 (RP).

CHAPTER 43**PLACEMENT OF EQUIPMENT ON PRIVATE PROPERTY****§2001. Placement of cameras and electronic surveillance equipment on private property**

1. Prohibition. A person may not place a camera or electronic surveillance equipment that records images or data of any kind while unattended outside on the private property of another without the written consent of the landowner, unless the placement is pursuant to a warrant. [PL 2013, c. 382, §1 (NEW).]

2. Labeling. A person who places a camera or electronic surveillance equipment described in subsection 1 on the private property of another with the written consent of the landowner or pursuant to a warrant shall label the camera or electronic surveillance equipment with that person's name and contact information. [PL 2013, c. 382, §1 (NEW).]

3. Remove or disable. A landowner may remove or disable a camera or electronic surveillance equipment placed on the landowner's private property in violation of this section. [PL 2013, c. 382, §1 (NEW).]

4. Exceptions. This section does not prohibit the following:

A. The use of a camera to deter theft or vandalism of a motor vehicle when the motor vehicle is temporarily parked; or [PL 2013, c. 382, §1 (NEW).]

B. The use of implanted or attached electronic devices to identify, monitor and track animals. [PL 2013, c. 382, §1 (NEW).]
[PL 2013, c. 382, §1 (NEW).]

5. Penalty. A person who violates this section commits a civil violation for which a fine of not more than \$500 may be adjudged.

[PL 2013, c. 382, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 382, §1 (NEW).

CHAPTER 45

MAINE REVISED UNCLAIMED PROPERTY ACT

SUBCHAPTER 1

GENERAL PROVISIONS

§2051. Short title

This chapter may be known and cited as "the Maine Revised Unclaimed Property Act." [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2052. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 498, §22 (NEW).]

1. Administrator. "Administrator" means the Treasurer of State.
[PL 2019, c. 498, §22 (NEW).]

2. Administrator's agent. "Administrator's agent" means a person with which the administrator contracts to conduct an examination under subchapter 10 on behalf of the administrator. "Administrator's agent" includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.
[PL 2019, c. 498, §22 (NEW).]

3. Apparent owner. "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued or owing by the holder.
[PL 2019, c. 498, §22 (NEW).]

4. Business association. "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship or other business entity, whether or not for profit.
[PL 2019, c. 498, §22 (NEW).]

5. Confidential information. "Confidential information" means records, reports and information that are confidential under section 2212.
[PL 2019, c. 498, §22 (NEW).]

6. Domicile. "Domicile" means:

A. For a corporation, the state of its incorporation; [PL 2019, c. 498, §22 (NEW).]

B. For a business association, other than a corporation, whose formation requires a filing with a state, the state of its filing; [PL 2019, c. 498, §22 (NEW).]

C. For a federally chartered entity, the state of its home office; and [PL 2019, c. 498, §22 (NEW).]

D. For any other holder, the state of its principal place of business. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

7. Electronic. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

[PL 2019, c. 498, §22 (NEW).]

8. E-mail. "E-mail" means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.

[PL 2019, c. 498, §22 (NEW).]

9. Financial organization. "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization or credit union.

[PL 2019, c. 498, §22 (NEW).]

10. Game-related digital content. "Game-related digital content" means digital content that exists only in an electronic game or electronic game platform. "Game-related digital content":

A. Includes:

(1) Game-play currency such as a virtual wallet, even if denominated in United States currency; and

(2) The following if for use or redemption only within the game or platform or another electronic game or electronic game platform:

(a) Points accrued through game play, which may be referred to as gems, tokens, gold and similar names; and

(b) Digital codes; and [PL 2019, c. 498, §22 (NEW).]

B. Does not include an item that the issuer:

(1) Permits to be redeemed for use outside a game or platform for:

(a) Money; or

(b) Goods or services that have more than minimal value; or

(2) Otherwise monetizes for use outside a game or platform. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

11. Gift obligation. "Gift obligation" means a record evidencing an obligation of a business association arising from a transaction between the business association and a consumer to provide goods or services at a future date for a specified amount shown in the record.

A. A gift obligation:

(1) Is a bearer instrument not associated with an account holder or individual;

(2) May be decreased in value only by redemption for merchandise, goods or services; and

(3) Unless required by law, may not be redeemed for or converted into money or otherwise monetized. [PL 2019, c. 498, §22 (NEW).]

B. "Gift obligation" does not include account credits or account balances, including credits or balances funded by gift obligations. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

12. Holder. "Holder" means a person obligated to hold property subject to this Act for the account of, or to deliver or pay to, the owner.

[PL 2019, c. 498, §22 (NEW).]

13. Insurance company. "Insurance company" means an association, corporation or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection and workers' compensation insurance.

[PL 2019, c. 498, §22 (NEW).]

13-A. Lawyer's trust account. "Lawyer's trust account" means a pooled trust account managed pursuant to rules adopted by the Supreme Judicial Court that earns interest or dividends at an eligible institution in which a lawyer or law firm holds funds on behalf of a client or clients. These funds are small in amount or held for a short period of time, such that the funds cannot earn interest or dividends for the client in excess of the costs incurred to secure such interest or dividends. For the purpose of this subsection, "eligible institution" means a financial organization meeting the requirements in rules adopted by the Supreme Judicial Court.

[PL 2019, c. 571, §1 (NEW).]

13-B. Lawyer's trust account program manager. "Lawyer's trust account program manager" means an entity designated by the Supreme Judicial Court to manage the lawyer's trust account program adopted by the Supreme Judicial Court.

[PL 2019, c. 571, §2 (NEW).]

14. Loyalty obligation. "Loyalty obligation" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. "Loyalty obligation" does not include:

A. A record that may be redeemed for money or otherwise monetized by the issuer; [PL 2019, c. 498, §22 (NEW).]

B. A gift obligation; or [PL 2019, c. 498, §22 (NEW).]

C. A stored-value obligation. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

15. Mineral. "Mineral" means gas, oil, coal, oil shale, other gaseous, liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources and any other substance defined as a mineral by law of this State other than this Act.

[PL 2019, c. 498, §22 (NEW).]

16. Mineral proceeds. "Mineral proceeds" means an amount payable for extraction, production or sale of minerals or, on the abandonment of the amount, an amount that becomes payable after abandonment. "Mineral proceeds" includes an amount payable:

A. For the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty and delay rental; [PL 2019, c. 498, §22 (NEW).]

B. For the extraction, production or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment and production payment; and [PL 2019, c. 498, §22 (NEW).]

C. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

17. Money order. "Money order" means a payment order for a specified amount of money. "Money order" includes an express money order and a personal money order on which the remitter is the purchaser. "Money order" does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

[PL 2019, c. 498, §22 (NEW).]

18. Municipal bond. "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

[PL 2019, c. 498, §22 (NEW).]

19. Net obligation value. "Net obligation value" means the original purchase price or original issued value of a stored-value or gift obligation, plus amounts added to the original price or value, if applicable, minus amounts used and any service charge, fee or dormancy charge permitted by law.

[PL 2019, c. 498, §22 (NEW).]

20. Nonfreely transferable security. "Nonfreely transferable security" means a security that cannot be delivered to the administrator by the Depository Trust and Clearing Corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. "Nonfreely transferable security" includes a worthless security.

[PL 2019, c. 498, §22 (NEW).]

21. Owner. "Owner" means a person that has a legal, beneficial or equitable interest in property subject to this Act or the person's legal representative when acting on behalf of the person. "Owner" includes:

A. A depositor, for a deposit; [PL 2019, c. 498, §22 (NEW).]

B. A beneficiary, for a trust other than a deposit in trust; [PL 2019, c. 498, §22 (NEW).]

C. A creditor, claimant or payee, for other property; and [PL 2019, c. 498, §22 (NEW).]

D. The lawful bearer of a record that may be used to obtain money, a reward or a thing of value.

[PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

22. Payroll card. "Payroll card" means a record that evidences a payroll card account as defined in Regulation E, 12 Code of Federal Regulations, Part 1005, as amended.

[PL 2019, c. 498, §22 (NEW).]

23. Person. "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency or instrumentality or other legal entity, whether or not for profit.

[PL 2019, c. 498, §22 (NEW).]

24. Property. "Property" means tangible property described in section 2065 or a fixed and certain interest in intangible property held, issued or owed in the course of a holder's business or by a government or governmental subdivision, agency or instrumentality. "Property":

A. Includes all income from or increments to the property; [PL 2019, c. 498, §22 (NEW).]

B. Includes property referred to as or evidenced by:

(1) Money, interest or a dividend, check, draft, deposit or payroll card;

(2) A credit balance, customer's overpayment, stored-value obligation, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds or unidentified remittance;

- (3) A security, except for:
- (a) A worthless security; or
 - (b) A security that is subject to a lien, legal hold or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold or restriction restricts the holder's or owner's ability to receive, transfer, sell or otherwise negotiate the security;
- (4) A bond, debenture, note or other evidence of indebtedness;
- (5) Money deposited to redeem a security, make a distribution or pay a dividend;
- (6) An amount due and payable under an annuity contract or insurance policy;
- (7) An amount distributable from a trust or custodial fund established under a plan to provide a health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefit; and
- (8) Funds in a lawyer's trust account; and [PL 2019, c. 571, §3 (AMD).]

C. Does not include a loyalty obligation or game-related digital content. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 571, §3 (AMD).]

25. Putative holder. "Putative holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this Act or the administrator or a court makes a final determination that the person is or is not a holder.

[PL 2019, c. 498, §22 (NEW).]

26. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. "Record," with regard to records of a holder, includes records maintained by a 3rd party that has contracted with the holder.

[PL 2019, c. 498, §22 (NEW).]

27. Security. "Security" means:

A. A security as defined in Title 11, Article 8-A; [PL 2019, c. 498, §22 (NEW).]

B. A security entitlement as defined in Title 11, Article 8-A, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

- (1) Registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;
- (2) Payable to the order of the person; or
- (3) Specifically indorsed to the person; or [PL 2019, c. 498, §22 (NEW).]

C. An equity interest in a business association not included in paragraph A or B. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

28. Sign. "Sign" means, with present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or [PL 2019, c. 498, §22 (NEW).]

B. To attach to or logically associate with the record an electronic symbol, sound or process. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

29. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

[PL 2019, c. 498, §22 (NEW).]

30. Stored-value obligation. "Stored-value obligation" means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services or money will be provided to the owner of the record in the amount of the value or amount shown in the record. "Stored-value obligation":

A. Includes a record that contains or consists of a microprocessor chip, magnetic strip or other means for the storage of information, that is prefunded and the value or amount of which is decreased on each use and increased by payment of additional consideration; and [PL 2019, c. 498, §22 (NEW).]

B. Does not include a loyalty obligation, a gift obligation or game-related digital content. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

31. United States savings bond. "United States savings bond" means property, tangible or intangible, in the form of a savings bond issued by the United States Treasury whether in paper form, electronic form or paperless form, along with all the proceeds of the savings bond.

[PL 2019, c. 498, §22 (NEW).]

32. Utility. "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise or license for the following public services:

A. Transmission of communications or information; [PL 2019, c. 498, §22 (NEW).]

B. Production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas; or [PL 2019, c. 498, §22 (NEW).]

C. Provision of sewage or septic services or trash, garbage or recycling disposal. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

33. Worthless security. "Worthless security" means a security of which the cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this Act.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2019, c. 571, §§1-3 (AMD).

§2053. Inapplicability to foreign transaction

This Act does not apply to property held, due and owing in a foreign country if the transaction out of which the property arose was a wholly foreign transaction. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2054. Rulemaking

The administrator may adopt rules to implement and administer this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. In addition, the Supreme Judicial Court may adopt rules for the provisions of this Act relating to lawyer's trust accounts. [PL 2019, c. 571, §4 (AMD).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2019, c. 571, §4 (AMD).

SUBCHAPTER 2

PRESUMPTION OF ABANDONMENT

§2061. When property presumed abandoned

Subject to section 2070, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified: [PL 2019, c. 498, §22 (NEW).]

1. Traveler's check. A traveler's check, 15 years after issuance;
[PL 2019, c. 498, §22 (NEW).]

2. Money order. A money order, 7 years after issuance;
[PL 2019, c. 498, §22 (NEW).]

3. State or municipal bond. A state or municipal bond, bearer bond or original issue discount bond, 3 years after the date the bond matures or is called or the obligation to pay the principal of the bond arises, whichever is earlier;
[PL 2019, c. 498, §22 (NEW).]

4. Debt of a business association. A debt of a business association, 3 years after the obligation to pay arises;
[PL 2019, c. 498, §22 (NEW).]

5. Payroll card or demand, savings or time deposit. A payroll card or demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the maturity of the deposit, except that a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;
[PL 2019, c. 498, §22 (NEW).]

6. Money or credit owed. Money or a credit owed to a customer as a result of a retail business transaction, 3 years after the obligation arose;
[PL 2019, c. 498, §22 (NEW).]

7. Amount owed on insurance policy or annuity contract. An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, 3 years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant:

A. With respect to an amount owed on a life or endowment insurance policy, 3 years after the earlier of the date:

(1) The insurance company has knowledge of the death of the insured; and

(2) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and [PL 2019, c. 498, §22 (NEW).]

B. With respect to an amount owed on an annuity contract, 3 years after the date the insurance company has knowledge of the death of the annuitant; [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

8. Distributable property. Property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

[PL 2019, c. 498, §22 (NEW).]

9. Property held by a court. Property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;

[PL 2019, c. 498, §22 (NEW).]

10. Property held by a government. Property held by a government or governmental subdivision, agency or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;

[PL 2019, c. 498, §22 (NEW).]

11. Wages, commissions, bonuses or reimbursements. Wages, commissions, bonuses or reimbursements to which an employee is entitled or other compensation for personal services, one year after the amount becomes payable;

[PL 2019, c. 498, §22 (NEW).]

12. Deposit or refund owed by a utility. A deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

[PL 2019, c. 498, §22 (NEW).]

13. Prearranged funeral or burial plan. Notwithstanding subsection 5, property contained in a prearranged funeral or burial plan described in Title 32, section 1401, including deposits containing funds from such a plan, 3 years after the death of a person on whose behalf funds were paid into the plan;

[PL 2019, c. 498, §22 (NEW).]

14. Nonactivated stored-value obligation or electronic payment medium. Funds represented by a nonactivated stored-value obligation or other nonactivated electronic payment medium that require activation for use, one year after the funds would have otherwise first been available to the owner; and

[PL 2019, c. 498, §22 (NEW).]

15. Property not specified. Property not specified in this section or sections 2062 to 2072, including funds in a lawyer's trust account, 3 years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises, whichever is earlier.

[PL 2019, c. 571, §5 (AMD).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2019, c. 571, §5 (AMD).

§2062. When tax-deferred retirement account presumed abandoned

1. Presumed abandoned after 3 years. Subject to section 2070, property held in a pension account or retirement account that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner 3 years after the later of:

A. The later of the following dates:

(1) Except as in subparagraph (2), the date a communication sent by the holder by first class United States mail to the apparent owner is returned to the holder as undeliverable by the United States Postal Service; and

(2) If the returned communication is resent within 30 days, the date the resent communication was returned as undeliverable by the United States Postal Service; and [PL 2019, c. 498, §22 (NEW).]

B. The earlier of the following dates:

(1) The date the apparent owner becomes 70 1/2 years of age; and

(2) If the federal Internal Revenue Code of 1986, as amended, requires distribution to avoid a tax penalty, the date the holder:

(a) Receives confirmation of the death of the apparent owner in the ordinary course of its business; or

(b) Confirms the death of the apparent owner under subsection 2. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Confirmation of death of apparent owner. If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and subsection 1, paragraph B applies, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.

[PL 2019, c. 498, §22 (NEW).]

3. Confirmation of apparent owner's interest. If the holder does not send communications to the apparent owner of an account described in subsection 1 by first class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an e-mail not later than 2 years after the apparent owner's last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first class United States mail if:

A. The holder does not have information needed to send the apparent owner an e-mail or the holder believes that the apparent owner's e-mail address in the holder's records is not valid; [PL 2019, c. 498, §22 (NEW).]

B. The holder receives notification that the e-mail was not received; or [PL 2019, c. 498, §22 (NEW).]

C. The apparent owner does not respond to the e-mail within 30 days after the e-mail was sent. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2063. When other tax-deferred account presumed abandoned

1. Presumed abandoned after 3 years. Subject to section 2070 and except for property described in section 2062, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner 3 years after the earlier of:

A. The date, if determinable by the holder, specified in the income tax laws and regulations of the United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made; and [PL 2019, c. 498, §22 (NEW).]

B. Thirty years after the date the account or plan was opened. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

2. Presumed abandoned after 2 years. If the owner is deceased, property under subsection 1 is presumed abandoned 2 years from the earliest of:

A. The date of the distribution or attempted distribution of the property; [PL 2019, c. 498, §22 (NEW).]

B. The date of the required distribution as stated in the plan or trust agreement governing the plan; and [PL 2019, c. 498, §22 (NEW).]

C. The date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2064. When custodial account for minor presumed abandoned

1. Presumed abandoned after 3 years. Subject to section 2070, and except as provided in subsection 3, property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act, if it is unclaimed by or on behalf of the minor on whose behalf the account was opened, is presumed abandoned 3 years after the later of:

A. The date a communication sent by the holder by first class United States mail to the custodian of the minor on whose behalf the account was opened is returned as undeliverable to the holder by the United States Postal Service or, if the communication is resent within 30 days after the date the first communication is returned as undeliverable, the date the first communication was returned as undeliverable; and [PL 2019, c. 498, §22 (NEW).]

B. The date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Confirmation of custodian's interest. If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection 1 was opened by first class United States mail on at least an annual basis, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an e-mail not later than 2 years after the custodian's last indication of interest in the property. However, the holder promptly shall attempt to contact the custodian by first class United States mail if:

A. The holder does not have information needed to send the custodian an e-mail or the holder believes that the custodian's e-mail address in the holder's records is not valid; [PL 2019, c. 498, §22 (NEW).]

B. The holder receives notification that the e-mail was not received; or [PL 2019, c. 498, §22 (NEW).]

C. The custodian does not respond to the e-mail within 30 days after the e-mail was sent. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

3. If undeliverable, presumed abandoned after 3 years. If first class United States mail sent under subsection 2 is returned as undeliverable to the holder by the United States Postal Service, the property is presumed abandoned 3 years after the later of:

A. The date a 2nd consecutive communication to contact the custodian by first class United States mail is returned to the holder as undeliverable by the United States Postal Service; and [PL 2019, c. 498, §22 (NEW).]

B. The date established by subsection 1, paragraph B. [RR 2019, c. 2, Pt. A, §31 (COR).]
[RR 2019, c. 2, Pt. A, §31 (COR).]

4. No longer subject to section. When the property in the account described in subsection 1 is transferred to the minor on whose behalf the account was opened or to the minor's estate, the property in the account is no longer subject to this section.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). RR 2019, c. 2, Pt. A, §31 (COR).

§2065. When contents of safe deposit box presumed abandoned

Tangible property held in a safe deposit box or other safekeeping depository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property and proceeds remain unclaimed by the owner for more than 3 years after expiration of the lease or rental period on the box or other depository. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2066. When stored-value obligation presumed abandoned

1. Presumed abandoned after 3 years. Subject to section 2070, the net obligation value of a stored-value obligation is presumed abandoned on the latest of 3 years after:

A. December 31st of the year in which the obligation is issued or additional funds are deposited into it; [PL 2019, c. 498, §22 (NEW).]

B. The most recent indication of interest in the obligation by the apparent owner; and [PL 2019, c. 498, §22 (NEW).]

C. A verification or review of the balance by or on behalf of the apparent owner. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Amount presumed abandoned. The amount presumed abandoned in a stored-value obligation is the net obligation value at the time it is presumed abandoned.

[PL 2019, c. 498, §22 (NEW).]

3. No period of limitation, limited charges or fees; exceptions, disclosure. Notwithstanding section 2112, fees, charges or a period of limitation may not be imposed on stored-value obligations, except that the issuer may charge a transaction fee for the initial issuance and for each occurrence of adding value to an existing stored-value obligation. These fees must be disclosed in a separate writing prior to the initial issuance or referenced on the stored-value obligation. Fee restrictions do not apply to any stored-value obligation that enables the holder to transfer the underlying funds to multiple unaffiliated merchants at the merchants' point-of-sale terminals or online or at an automated teller machine.

[PL 2021, c. 41, §1 (AMD).]

4. Redemption; balance in cash. If a stored-value obligation is redeemed in person and a balance of less than \$5 remains following redemption, at the consumer's request the merchant redeeming the stored-value obligation must refund the balance in cash to the consumer. This subsection does not apply to a stored-value obligation with an initial value of \$5 or less, or a stored-value obligation that is not purchased but provided as a promotion or as a refund for merchandise returned without a receipt.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2021, c. 41, §1 (AMD).

§2067. When gift obligation presumed abandoned

1. Presumed abandoned after 2 years. Subject to section 2070, a gift obligation is presumed abandoned 2 years after December 31st of the year in which the obligation arises or the most recent transaction involving the obligation occurs, whichever is later.
[PL 2019, c. 498, §22 (NEW).]

2. Amount unclaimed. The amount unclaimed of a gift obligation is as follows:

A. For a gift obligation whose issuance or whose most recent transaction, whichever is later, occurred during calendar year 2019 or earlier, 60% of the net obligation value at the time it is presumed abandoned; [PL 2019, c. 553, §1 (NEW).]

B. For a gift obligation whose issuance or whose most recent transaction, whichever is later, occurred during calendar year 2020, 40% of the net obligation value at the time it is presumed abandoned; [PL 2019, c. 553, §1 (NEW).]

C. For a gift obligation whose issuance or whose most recent transaction, whichever is later, occurred during calendar year 2021, 20% of the net obligation value at the time it is presumed abandoned; and [PL 2019, c. 553, §1 (NEW).]

D. For a gift obligation whose issuance or whose most recent transaction, whichever is later, occurred during calendar year 2022 or after, 0% of the net obligation value at the time it is presumed abandoned. [PL 2019, c. 553, §1 (NEW).]

[PL 2019, c. 553, §1 (AMD).]

3. Not presumed abandoned; sales by a single issuer under \$250,000. A gift obligation is not presumed abandoned if it was sold by a single issuer who in the past calendar year sold no more than \$250,000 in face value of gift obligations. Sales of gift obligations are considered sales by a single issuer if the sales were by businesses that operate either:

A. Under common ownership or control with another business or businesses in the State; or [PL 2019, c. 498, §22 (NEW).]

B. As franchised outlets of a parent business. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

4. No period of limitation for redemption. A period of limitation may not be imposed on the owner's right to redeem the gift obligation.
[PL 2019, c. 498, §22 (NEW).]

5. No charges or fees; exception, disclosure. Notwithstanding section 2112, fees or charges may not be imposed on gift obligations, except that the issuer may charge a transaction fee for the initial issuance. The fee must be disclosed in a separate writing prior to the initial issuance or referenced on the gift obligation.
[PL 2019, c. 498, §22 (NEW).]

6. Redemption; balance in cash. If a gift obligation is redeemed in person and a balance of less than \$5 remains following redemption, at the consumer's request the merchant redeeming the gift obligation must refund the balance in cash to the consumer. This subsection does not apply to a gift obligation with an initial value of \$5 or less.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2019, c. 553, §1 (AMD).

§2068. When security presumed abandoned

1. If communications sent at least annually, presumed abandoned after 3 years. Subject to section 2070, if the holder sends communications to the apparent owner of a security by first class

United States mail on at least an annual basis, a security is presumed abandoned 3 years after the later of:

A. The date a communication sent by the holder by first class United States mail to the apparent owner is returned to the holder as undeliverable by the United States Postal Service; and [PL 2019, c. 498, §22 (NEW).]

B. If the communication is resent within 30 days after the first communication is returned, the date the resent communication is returned as undeliverable to the holder by the United States Postal Service. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. If no communications sent, duty to confirm owner's interest not later than 2 years. If the holder does not send communications to the apparent owner of a security by first class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an e-mail not later than 2 years after the apparent owner's last indication of interest in the security. However, the holder promptly shall attempt to contact the apparent owner by first class United States mail if:

A. The holder does not have information needed to send the apparent owner an e-mail or the holder believes that the apparent owner's e-mail address in the holder's records is not valid; [PL 2019, c. 498, §22 (NEW).]

B. The holder receives notification that the e-mail was not received; or [PL 2019, c. 498, §22 (NEW).]

C. The apparent owner does not respond to the e-mail within 30 days after the e-mail was sent. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

3. If confirmation returned undeliverable, presumed abandoned after 3 years. If first class United States mail sent under subsection 2 is returned to the holder as undeliverable by the United States Postal Service, the security is presumed abandoned 3 years after the latest indication of interest by the apparent owner in the security.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2069. When related property presumed abandoned

At and after the time property is presumed abandoned under this Act, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2070. Indication of apparent owner

1. Period of abandonment. The period after which property is presumed abandoned is measured from the later of:

A. The date the property is presumed abandoned under this subchapter; and [PL 2019, c. 498, §22 (NEW).]

B. The latest indication of interest by the apparent owner in the property. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Indication of interest. Under this Act, an indication of an apparent owner's interest in property includes:

- A. A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held; [PL 2019, c. 498, §22 (NEW).]
- B. An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication; [PL 2019, c. 498, §22 (NEW).]
- C. Presentment by the apparent owner of a check or other instrument of payment of a dividend, interest payment or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security or interest in a business association; [PL 2019, c. 498, §22 (NEW).]
- D. Activity by the apparent owner in the account in which the property is held, including accessing the account balance, or a request by the apparent owner to increase, decrease or otherwise change the amount or type of property held in the account; [PL 2019, c. 498, §22 (NEW).]
- E. A deposit into or withdrawal from an account at a financial organization by the apparent owner, including an automatic withdrawal previously authorized but not including an automatic reinvestment of dividends or interest or an automatic withdrawal of disclosed fees; [PL 2021, c. 41, §2 (AMD).]
- F. Subject to subsection 4, payment by the apparent owner of a premium on an insurance policy; and [PL 2019, c. 498, §22 (NEW).]
- G. For deposits in which the apparent owner has another relationship or account with the holder:
 - (1) The fact that the apparent owner has indicated interest with respect to the other relationships or accounts; or
 - (2) The fact that there is a memorandum or other record on file prepared by the holder indicating that the holder has communicated in writing with the apparent owner with regard to the deposit at the address to which communications regarding the other relationships or deposits are regularly sent. [PL 2019, c. 498, §22 (NEW).]

[PL 2021, c. 41, §2 (AMD).]

3. Action of agent. Action by an agent of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner. [PL 2019, c. 498, §22 (NEW).]

4. Nonforfeiture provision. Application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy is not an indication of interest in the policy and does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before depletion of the cash surrender value of the policy by application of the provision. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2021, c. 41, §2 (AMD).

§2071. Deposit account for proceeds of insurance policy or annuity

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check-writing or draft-writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits other than death benefits,

the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract includes the assets in the account. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2072. When United States savings bonds are presumed abandoned

1. Presumed abandoned. Notwithstanding section 2061, subsection 9 and sections 2112 and 2131, a United States savings bond subject to this chapter or held or owing in this State by any person is presumed abandoned in this State if:

A. The last known address of the owner of the United States savings bond is in this State; and [PL 2019, c. 498, §22 (NEW).]

B. The United States savings bond has remained unclaimed for 3 years after its date of final maturity. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Escheat; procedure. United States savings bonds that are presumed abandoned and unclaimed under subsection 1, including bonds in the possession of the administrator, and those lost, stolen or destroyed bonds registered to persons with last known addresses in this State, escheat to the State 3 years after the bonds are presumed abandoned, and all property rights and legal title to and ownership of the United States savings bonds, including all rights, powers and privileges of survivorship of any owner, co-owner or beneficiary, vest solely in the State according to the following procedure.

A. Within 180 days after the 3-year period in this subsection has passed, if no claim has been filed in accordance with this chapter for the United States savings bonds, the administrator shall commence a civil action in the Kennebec County Superior Court or in any other court of competent jurisdiction for a determination that the United States savings bonds escheat to the State. The administrator may postpone the bringing of such an action until sufficient United States savings bonds have accumulated in the administrator's custody to justify the expense of such a proceeding. [PL 2019, c. 498, §22 (NEW).]

B. The administrator shall make service by publication of the civil action in accordance with the Maine Rules of Civil Procedure, Rule 4 and Title 1, sections 601 and 603. [PL 2019, c. 498, §22 (NEW).]

C. If no person files a claim or appears at the hearing to substantiate a claim or if the court determines that a claimant is not entitled to the property claimed by the claimant, the court, if satisfied by evidence that the administrator has substantially complied with the laws of this State, shall enter a judgment that the United States savings bonds have escheated to the State and all property rights and legal title to and ownership of the United States savings bonds, including all rights, powers and privileges of survivorship of any owner, co-owner or beneficiary, vest solely in the State. [PL 2019, c. 498, §22 (NEW).]

D. The administrator shall redeem the United States savings bonds escheated to the State. When the escheated proceeds have been recovered by the administrator, the administrator shall first pay all costs incident to the collection and recovery of the proceeds from the redemption of the United States savings bonds and then promptly deposit the remaining balance of the proceeds in the Unclaimed Property Fund under section 2141 to be distributed in accordance with law. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

3. Claims after escheat. Notwithstanding subchapter 9, any person making a claim for a United States savings bond escheated to the State under this section may file a claim with the administrator. Upon being provided sufficient proof of the validity of the person's claim, the administrator may pay

the claim and may subtract any expenses and costs incurred by the State in securing full title and ownership of the property by escheat. If payment has been made to a claimant, no action may be maintained by any other claimant or the State or any state officer for or on account of the funds.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 3

RULES FOR TAKING CUSTODY OF PROPERTY PRESUMED ABANDONED

§2081. Address of apparent owner to establish priority

In this subchapter, the following rules apply: [PL 2019, c. 498, §22 (NEW).]

1. Last known address. The last known address of an apparent owner, as shown in the records of the holder, is any description, code or other indication of the location of the apparent owner that identifies the state, even if the description, code or indication of location is not sufficient to direct the delivery of first class United States mail to the apparent owner.

[PL 2019, c. 498, §22 (NEW).]

2. Zip code in this State; exception. If the zip code associated with the apparent owner is for a post office located in this State, this State is deemed to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner in another state.

[PL 2019, c. 498, §22 (NEW).]

3. Physical address in another state. If the address under subsection 2 is in another state, the other state is deemed to be the state of the last known address of the apparent owner.

[PL 2019, c. 498, §22 (NEW).]

4. Address of insured or annuitant. The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under section 2082.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2082. Address of apparent owner in this State

The administrator may take custody of property that is presumed abandoned, whether located in this State, another state or a foreign country if: [PL 2019, c. 498, §22 (NEW).]

1. Last known address in records of holder. The last known address of the apparent owner in the records of the holder is in this State; or

[PL 2019, c. 498, §22 (NEW).]

2. Determination by administrator. The records of the holder do not reflect the identity or last known address of the apparent owner, but the administrator has determined that the last known address of the apparent owner is in this State.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2083. If records show multiple addresses of apparent owner

1. Most recently recorded address. Except as in subsection 2, if records of a holder reflect multiple addresses for an apparent owner and this State is the state of the most recently recorded address, this State may take custody of property presumed abandoned, whether located in this State or another state.

[PL 2019, c. 498, §22 (NEW).]

2. Next most recently recorded address. If it appears from records of the holder that the most recently recorded address of the apparent owner under subsection 1 is a temporary address and this State is the state of the next most recently recorded address that is not a temporary address, this State may take custody of the property presumed abandoned.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2084. Holder domiciled in this State

1. Holder domiciled in this State. Except as in subsection 2 or section 2082 or 2083, the administrator may take custody of property presumed abandoned, whether located in this State, another state or a foreign country, if the holder is domiciled in this State or is this State or a governmental subdivision, agency or instrumentality of this State and:

A. Another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or [PL 2019, c. 498, §22 (NEW).]

B. The state or foreign country of the last known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the property. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Holder deemed domiciled. If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2085. Custody if transaction took place in this State

Except as in section 2082, 2083 or 2084, the administrator may take custody of property presumed abandoned whether located in this State or another state if: [PL 2019, c. 498, §22 (NEW).]

1. Transaction in this State. The transaction out of which the property arose took place in this State;

[PL 2019, c. 498, §22 (NEW).]

2. Holder's domicile in another state. The holder is domiciled in a state that does not provide for the custodial taking of the property; and

[PL 2019, c. 498, §22 (NEW).]

3. Apparent owner or other person entitled. The last known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2086. Traveler's check, money order or similar instrument

The administrator may take custody of sums payable on a traveler's check, money order or similar instrument presumed abandoned to the extent permissible under 12 United States Code, Sections 2501 to 2503, as amended. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2087. Burden of proof to establish administrator's right to custody

Subject to subchapter 4 and section 2165, if the administrator asserts a right to custody of unclaimed property and there is a dispute concerning the property, the administrator has the burden of proving: [PL 2019, c. 498, §22 (NEW).]

1. Amount. The amount of the property;
[PL 2019, c. 498, §22 (NEW).]

2. Presumed abandoned. That the property is presumed abandoned; and
[PL 2019, c. 498, §22 (NEW).]

3. Custody of the administrator. That the property is subject to the custody of the administrator.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 4

REPORT BY HOLDER

§2091. Report required by holder

1. Report by holder. A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property in a format approved by the administrator.

[PL 2019, c. 498, §22 (NEW).]

2. Contract with 3rd party. A holder may contract with a 3rd party to make the report required under subsection 1.

[PL 2019, c. 498, §22 (NEW).]

3. Responsibilities of holder. Whether or not a holder contracts with a 3rd party under subsection 2, the holder is responsible:

A. To the administrator for the complete, accurate and timely reporting of property presumed abandoned; and [PL 2019, c. 498, §22 (NEW).]

B. For paying or delivering to the administrator property described in the report. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2092. Content of report

1. Report. The report required under section 2091 must:

A. Be signed by or on behalf of the holder and verified as to its completeness and accuracy; [PL 2019, c. 498, §22 (NEW).]

B. Be filed electronically; [PL 2019, c. 498, §22 (NEW).]

C. Describe the property; [PL 2019, c. 498, §22 (NEW).]

D. Except for a traveler's check, money order or similar instrument, contain the name, if known, last known address, if known, and social security number or taxpayer identification number, if known or readily ascertainable; [PL 2019, c. 498, §22 (NEW).]

E. For an amount held or owing under a life or endowment insurance policy, annuity contract or other property for which ownership vests in a beneficiary upon the death of the owner, contain the name and last known address of the insured, annuitant or other apparent owner of the policy or contract and of the beneficiary; [PL 2019, c. 498, §22 (NEW).]

F. For property held in or removed from a safe deposit box, indicate the location of the property, where it may be inspected by the administrator and any amounts owed to the holder under section 2116; [PL 2019, c. 498, §22 (NEW).]

G. Contain the commencement date for determining abandonment under subchapter 2; [PL 2019, c. 498, §22 (NEW).]

H. State that the holder has complied with the notice requirements of section 2101; [PL 2019, c. 498, §22 (NEW).]

I. Identify property that is a nonfreely transferable security and explain why it is a nonfreely transferable security; and [PL 2019, c. 498, §22 (NEW).]

J. Contain other information the administrator prescribes by rule. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

2. Aggregate items valued under \$50. A report under section 2091 may include in the aggregate items valued under \$50 each for which personal information, as defined in section 2211, subsection 1, concerning the owner is unknown.
[PL 2019, c. 498, §22 (NEW).]

3. Personal information. A report under section 2091 may include personal information as defined in section 2211, subsection 1 about the apparent owner or the apparent owner's property.
[PL 2019, c. 498, §22 (NEW).]

4. Former name, name of previous holder. If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder must include in the report under section 2091 its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2093. When report filed

1. November 1st. Except as otherwise provided in subsection 2 and subject to subsection 3, the report under section 2091 must be filed before November 1st of each year and cover the 12 months preceding July 1st of that year.

[PL 2019, c. 498, §22 (NEW).]

2. May 1st. Subject to subsection 3, a report under section 2091 containing information about life insurance policies, gift obligations and stored-value obligations must be filed before May 1st of each year for the immediately preceding calendar year.

[PL 2019, c. 498, §22 (NEW).]

3. Extension; payment. Before the date for filing the report under section 2091, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension. If the extension is granted, the administrator may require the holder to pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2094. Retention of records by holder

A holder required to file a report under section 2091 shall retain records for 10 years after the date the report was filed or the last date a timely report was due to be filed, whichever is later, unless a shorter period is provided by rule of the administrator. The holder may satisfy the requirement to retain records under this section through an agent. The records must contain: [PL 2019, c. 498, §22 (NEW).]

1. Required information. The information required to be included in the report;
[PL 2019, c. 498, §22 (NEW).]

2. Date, place, nature of circumstances. The date, place and nature of the circumstances that gave rise to the property right;
[PL 2019, c. 498, §22 (NEW).]

3. Amount or value. The amount or value of the property;
[PL 2019, c. 498, §22 (NEW).]

4. Last known address of apparent owner. The last known address of the apparent owner, if known to the holder;
[PL 2019, c. 498, §22 (NEW).]

5. Items not reported unclaimed. Records of items that were not reported as unclaimed sufficient to allow examination to determine whether the holder has complied with the Act; and
[PL 2019, c. 498, §22 (NEW).]

6. Record of outstanding instruments. If the holder sells, issues or provides to others for sale or issue in this State traveler's checks, money orders or similar instruments, other than 3rd-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2095. Property reportable and payable or deliverable absent owner demand

Property is reportable and payable or deliverable under this Act even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 5

NOTICE TO APPARENT OWNER OF PROPERTY PRESUMED ABANDONED

§2101. Notice to apparent owner by holder

1. Notice to apparent owner. Subject to subsection 2, the holder of property presumed abandoned shall send to the apparent owner notice by first class United States mail that complies with section 2102 in a format acceptable to the administrator not more than 180 days nor less than 60 days before filing the report under section 2091 if:

A. The holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first class United States mail to the apparent owner; and [PL 2019, c. 498, §22 (NEW).]

B. The value of the property held for an owner in aggregate is \$50 or more. [PL 2019, c. 498, §22 (NEW).]
[RR 2019, c. 1, Pt. A, §48 (COR).]

2. E-mail. If an apparent owner has consented to receive e-mail delivery from the holder, the holder shall send the notice described in subsection 1 both by first class United States mail to the apparent owner's last known mailing address and by e-mail, unless the holder believes that the apparent owner's e-mail address is invalid.
[PL 2019, c. 498, §22 (NEW).]

3. Notice; tax deferred account or security. The holder of securities presumed abandoned under section 2062, 2063 or 2068 shall send to the apparent owner notice by certified United States mail that complies with section 2102 in a format acceptable to the administrator not less than 60 days before filing the report under section 2091 if:

A. The holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and that is sufficient to direct the delivery of United States mail to the apparent owner; and [PL 2019, c. 498, §22 (NEW).]

B. The value of the property is \$1,000 or more. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

4. Return receipt constitutes record communicated by apparent owner. In addition to other indications of an apparent owner's interest in property pursuant to section 2070, a signed return receipt in response to a notice sent pursuant to this section by certified United States mail constitutes a record communicated by the apparent owner to the holder concerning the property or the account in which the property is held.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). RR 2019, c. 1, Pt. A, §48 (COR).

§2102. Contents of notice by holder

1. Notice heading. Notice under section 2101 must contain a heading that reads substantially as follows: "Notice. The State of Maine requires us to notify you that your property may be transferred to the custody of the State Treasurer if you do not contact us before (insert date that is 30 days after the date of this notice)."

[PL 2019, c. 498, §22 (NEW).]

2. Notice contents. The notice under section 2101 must:

A. Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice; [PL 2019, c. 498, §22 (NEW).]

B. State that the property will be turned over to the administrator; [PL 2019, c. 498, §22 (NEW).]

C. State that after the property is turned over to the administrator an apparent owner that seeks return of the property must file a claim with the administrator; [PL 2019, c. 498, §22 (NEW).]

D. State that property that is not legal tender of the United States may be sold by the administrator; and [PL 2019, c. 498, §22 (NEW).]

E. Provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the administrator. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2103. Notice by administrator

1. Website; apparent owners. The administrator shall maintain a website accessible by the public and electronically searchable that contains the names reported to the administrator of all apparent owners for whom property is being held by the administrator. The administrator may exclude certain properties from publication on this website if reasonable exclusion serves the best interest of the State and the owner of the property.

[PL 2019, c. 498, §22 (NEW).]

2. Instructions for filing. The website must include instructions for filing with the administrator a claim to property.

[PL 2019, c. 498, §22 (NEW).]

3. Other communications and media. The administrator may use any printed publication, telecommunication, the Internet or other media to inform the public of the existence of unclaimed property held by the administrator.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2104. Cooperation among state officers and agencies to locate apparent owner

Unless prohibited by law of this State other than this Act, on request of the administrator, each officer, agency, board, commission, division and department of this State, any body politic and corporate created by this State for a public purpose, and each political subdivision of this State shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this Act or to otherwise assist the administrator in the administration of this Act. The administrator may also enter into data-sharing agreements to enable other governmental agencies to provide an additional notice to apparent owners of property held by the administrator. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 6

TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

§2111. Definition of good faith

In this subchapter, payment or delivery of property is made in good faith if a holder: [PL 2019, c. 498, §22 (NEW).]

1. Reasonable basis. Had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this Act; or [PL 2019, c. 498, §22 (NEW).]

2. Payment or delivery. Made payment or delivery:

A. In response to a demand by the administrator or administrator's agent; or [PL 2019, c. 498, §22 (NEW).]

B. Under a guidance or ruling issued by the administrator that the holder reasonably believed required or permitted the property to be paid or delivered. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2112. Dormancy charge

1. Deduct dormancy charge. A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:

A. A valid contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and [PL 2019, c. 498, §22 (NEW).]

B. The holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

2. Not unconscionable amount. The amount of the deduction under subsection 1 is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner's property and any services received by the apparent owner.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2113. Payment or delivery of property to administrator

1. Payment or delivery. Except as otherwise provided in this section, on filing a report under section 2091, the holder shall pay or deliver to the administrator the property described in the report. [PL 2019, c. 498, §22 (NEW).]

2. Extension of date. If property in a report under section 2091 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is

extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

[PL 2019, c. 498, §22 (NEW).]

3. Delivery of tangible property in safe deposit box. Tangible property in a safe deposit box may not be delivered to the administrator until a mutually agreed upon date no sooner than 120 days after filing the report under section 2091.

[PL 2019, c. 498, §22 (NEW).]

4. Security. If property reported to the administrator under section 2091 is a security, the administrator may:

A. Make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent or the securities intermediary to transfer the security; or
[PL 2019, c. 498, §22 (NEW).]

B. Dispose of the security under section 2132. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

5. Issuer of certificated security. If the holder of property reported to the administrator under section 2091 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under Title 11, section 8-1405. An indemnity bond is not required.

[PL 2019, c. 498, §22 (NEW).]

6. Securities procedures. The administrator shall establish procedures for the registration, issuance, method of delivery, transfer and maintenance of securities delivered to the administrator by a holder.

[PL 2019, c. 498, §22 (NEW).]

7. No liability after delivered. An issuer, holder and transfer agent or other person acting in good faith under this section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and must be indemnified by the State against, a claim arising with respect to property after the property has been delivered to the administrator.

[PL 2019, c. 498, §22 (NEW).]

8. Nonfreely transferable security. A holder is not required to deliver to the administrator a security identified by the holder as a nonfreely transferable security. If the administrator or holder determines that a security is no longer a nonfreely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this Act. The holder shall make a determination annually whether a security identified in a report filed under section 2091 as a nonfreely transferable security is no longer a nonfreely transferable security.

[PL 2019, c. 498, §22 (NEW).]

9. Payment of certain funds presumed abandoned in lawyer's trust accounts. Notwithstanding any other provision in this chapter to the contrary, a lawyer, law firm or financial institution holding funds presumed abandoned in a lawyer's trust account for which no identifying client information can be found shall file a report with the administrator pursuant to section 2091, subsection 1 and then transfer such funds, along with a copy of the report, to the lawyer's trust account program manager to provide funding to organizations whose primary purpose is to provide civil legal aid to low-income residents of the State.

[PL 2019, c. 571, §6 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2019, c. 571, §6 (AMD).

§2114. Effect of payment or delivery of property to administrator

1. No liability of holder on payment or delivery. On payment or delivery of property to the administrator under this Act, the administrator as agent for the State assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property to the administrator in good faith and substantially complies with sections 2101 and 2102 is relieved of liability arising thereafter with respect to payment or delivery of the property to the administrator.

[PL 2019, c. 498, §22 (NEW).]

2. State indemnification. This State shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder substantially complied with sections 2101 and 2102.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2115. Recovery of property by holder from administrator

1. Claim for reimbursement. A holder that under this Act pays money to the administrator may file a claim for reimbursement from the administrator of the amount paid if the holder:

A. Paid the money in error; or [PL 2019, c. 498, §22 (NEW).]

B. After paying the money to the administrator, paid money to a person the holder reasonably believed entitled to the money. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Proof instrument presented and paid. If a claim for reimbursement under subsection 1 is made for a payment made on a negotiable instrument, including a traveler's check, money order or similar instrument, the holder must submit proof that the instrument was presented and payment was made to a person the holder reasonably believed entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute or court order.

[PL 2019, c. 498, §22 (NEW).]

3. Income or gain. If a holder is reimbursed by the administrator under subsection 1, paragraph B, the holder may also recover from the administrator income or gain under section 2117 that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the income or gain was paid by the holder to the owner.

[PL 2019, c. 498, §22 (NEW).]

4. Property other than money, claim for return. A holder that under this Act delivers property other than money to the administrator may file a claim for return of the property from the administrator if:

A. The holder delivered the property in error; or [PL 2019, c. 498, §22 (NEW).]

B. The apparent owner has claimed the property from the holder. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

5. Evidence property claimed. If a claim for return of property under subsection 4 is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.

[PL 2019, c. 498, §22 (NEW).]

6. Affidavit sufficient. The administrator may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.

[PL 2019, c. 498, §22 (NEW).]

7. No fee or other charge. A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.

[PL 2019, c. 498, §22 (NEW).]

8. Determination on claim. Not later than 90 days after a claim is filed under subsection 1 or 4, the administrator shall allow or deny the claim and give the claimant notice of the decision in a record. If the administrator does not take action on a claim during the 90-day period, the claim is deemed denied.

[PL 2019, c. 498, §22 (NEW).]

9. Claim in Superior Court. A person aggrieved by a decision of the administrator may maintain an original action to establish the claim in the Superior Court of Kennebec County naming the administrator as a defendant.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2116. Property removed from safe deposit box

Property removed from a safe deposit box and delivered under this Act to the administrator is subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2117. Crediting income or gain to owner's account

1. Income or gain realized. If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold. If the property was an interest-bearing demand, savings or time deposit, the administrator shall pay interest at the current 10-year average cash pool rate. Interest is calculated from the date the property is delivered to the administrator and ends on the expiration of 10 years after its delivery or the date on which payment is made to the owner, whichever is earlier.

[PL 2019, c. 498, §22 (NEW).]

2. Period before effective date. Interest on interest-bearing property is not payable under this section for any period before the effective date of this Act, unless authorized by former chapter 41.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2118. Administrator's options as to custody

1. Custody declined. The administrator may decline to take custody of property reported under section 2091 if the administrator determines that:

A. The property has a value less than the estimated expenses of notice and sale of the property; or
[PL 2019, c. 498, §22 (NEW).]

B. Taking custody of the property would be unlawful. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

2. Before presumed abandoned. A holder may pay or deliver property to the administrator before the property is presumed abandoned under this Act if the holder:

A. Provides the apparent owner of the property notice required by section 2101 and provides the administrator evidence of the holder's compliance with this paragraph; [PL 2019, c. 498, §22 (NEW).]

B. Includes with the payment or delivery a report regarding the property conforming to section 2092; and [PL 2019, c. 498, §22 (NEW).]

C. First obtains the administrator's consent in a record to accept payment or delivery. The holder's request must be in writing. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

3. Presumed abandoned. On payment or delivery of property under subsection 2, the property is presumed abandoned.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2119. Disposition of property having no substantial value; immunity from liability

1. Return to holder. If the administrator takes custody of property delivered under this Act and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.
[PL 2019, c. 498, §22 (NEW).]

2. Immunity from liability. An action or proceeding may not be commenced against the State, an agency of the State, the administrator, another officer, employee or agent of the State or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2120. Periods of limitation and repose

1. Holder's duty to pay or deliver. Expiration, before, on or after October 1, 2019, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder under this Act to file a report or pay or deliver property to the administrator.
[PL 2019, c. 498, §22 (NEW).]

2. Proceeding within 5 years after nonfraudulent report. The administrator may not commence an action or proceeding to enforce this Act with respect to the reporting, payment or delivery of property more than 5 years after the holder filed a nonfraudulent report under section 2091 with the administrator. The parties may agree in a record to extend the limitation in this subsection.
[PL 2019, c. 498, §22 (NEW).]

3. Proceeding within 10 years after duty arose The administrator may not commence an action, proceeding or examination with respect to a duty of a holder under this Act more than 10 years after the duty arose.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 7

SALE OF PROPERTY BY ADMINISTRATOR

§2131. Public sale of property

1. Sale after one year. Subject to section 2132, not earlier than one year after receipt of property presumed abandoned, the administrator may sell the property.

[PL 2019, c. 498, §22 (NEW).]

2. Notice of sale. Before selling property under subsection 1, the administrator shall give notice to the public of:

A. The date of the sale; and [PL 2019, c. 498, §22 (NEW).]

B. The nature of the property. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

3. Sale to highest bidder. A sale under subsection 1 must be to the highest bidder:

A. At public sale at a location in this State that the administrator determines to be the most favorable market for the property; [PL 2019, c. 498, §22 (NEW).]

B. On the Internet; or [PL 2019, c. 498, §22 (NEW).]

C. On another forum the administrator determines is likely to yield the highest net proceeds of sale. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

4. Highest bid insufficient. The administrator may decline the highest bid at a sale under this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.

[PL 2019, c. 498, §22 (NEW).]

5. Publication of notice. If a sale held under this section is to be conducted other than on the Internet, the administrator may publish at least one notice of the sale, at least 2 weeks but not more than 10 weeks before the sale.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2132. Disposal of securities

1. Sell or liquidate security after one year. Except as provided in section 2155, subsection 1, the administrator may not sell or otherwise liquidate a security until one year after the administrator receives the security.

[PL 2019, c. 498, §22 (NEW).]

2. Price of security. The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2133. Recovery of securities or value by owner

1. Claim for securities sold before one year after delivery. If securities are sold by the administrator before the expiration of one year after their delivery to the administrator, a person making a claim under this Act before the end of the one-year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this Act after the expiration of the one-year period is entitled to receive the securities delivered to the administrator by the holder, if the securities remain in the custody of the administrator, or the net proceeds received from sale and is not entitled to receive any appreciation in the value of the property occurring after delivery to the administrator, except in a case of intentional misconduct or malfeasance by the administrator.

[PL 2019, c. 498, §22 (NEW).]

2. Claim for securities of a single issue. Notwithstanding this section, the administrator may sell the securities of any single issue for which custodial costs are likely to exceed value 90 days or more after the securities have been published pursuant to section 2103. A person making a claim under this Act after the securities have been sold is entitled only to the net proceeds received from the sale.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2134. Purchaser owns property after sale

A purchaser of property at a sale conducted by the administrator under this Act takes the property free of all claims of the owner, a previous holder or a person claiming through the owner or holder. The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2135. Military medal or decoration

1. Sale prohibited. The administrator may not sell a medal or decoration awarded for military service in the Armed Forces of the United States.

[PL 2019, c. 498, §22 (NEW).]

2. Delivery of medal or decoration. The administrator, with the consent of the respective organization under paragraph A, agency under paragraph B or entity under paragraph C, may deliver a medal or decoration described in subsection 1, to be held in custody for the owner, to:

A. A military veterans' organization qualified under the federal Internal Revenue Code of 1986, 26 United States Code, Section 501(c)(19), as amended; [PL 2019, c. 498, §22 (NEW).]

B. The agency that awarded the medal or decoration; or [PL 2019, c. 498, §22 (NEW).]

C. A governmental entity. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

3. Not responsible after delivery. On delivery under subsection 2, the administrator is not responsible for safekeeping the medal or decoration.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 8

ADMINISTRATION OF PROPERTY

§2141. Deposit of funds by administrator

1. Unclaimed Property Fund. The administrator shall deposit in the Unclaimed Property Fund all funds received under this Act, including proceeds from the sale of property under subchapter 7. The Unclaimed Property Fund is a permanent account and may not lapse, but must be carried forward. [PL 2019, c. 498, §22 (NEW).]

2. Payment of claims from Unclaimed Property Fund. The administrator shall make prompt payment of claims the administrator duly allows as provided for in this Act from the Unclaimed Property Fund under subsection 1. This shall constitute an irrevocable and continuing appropriation of all amounts in the Unclaimed Property Fund necessary to make prompt payment of claims duly allowed by the administrator pursuant to this Act. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2142. Administrator to retain records of property

The administrator shall: [PL 2019, c. 498, §22 (NEW).]

1. Name and address of apparent owners. Record and retain the name and last known address of each person shown on a report filed under section 2091 to be the apparent owner of property delivered to the administrator; [PL 2019, c. 498, §22 (NEW).]

2. Name and address of insureds, annuitants and beneficiaries. Record and retain the name and last known address of each insured or annuitant and beneficiary shown on the report; [PL 2019, c. 498, §22 (NEW).]

3. Policy or account number, company and amount. For each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company and the amount due or paid; and [PL 2019, c. 498, §22 (NEW).]

4. Holder that filed report. For each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2143. Expenses and service charges of administrator

Before making a deposit of funds received under this Act to the Unclaimed Property Fund under section 2141, the administrator may deduct: [PL 2019, c. 498, §22 (NEW).]

1. Expenses of disposition of property. Expenses of disposition of property delivered to the administrator under this Act; [PL 2019, c. 498, §22 (NEW).]

2. Costs of mailing and publication. Costs of mailing and publication in connection with property delivered to the administrator under this Act; [PL 2019, c. 498, §22 (NEW).]

3. Reasonable service charges. Reasonable service charges; and
[PL 2019, c. 498, §22 (NEW).]

4. Expenses incurred. Expenses incurred in examining records of or collecting property from a putative holder or holder.
[PL 2019, c. 498, §22 (NEW).]

At the end of each year or more often, the administrator shall transfer to the General Fund all money in the Unclaimed Property Fund under section 2141 that is in excess of \$500,000. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2144. Administrator holds property as custodian for owner

Except as provided in section 2072, property received by the administrator under this Act is held in custody for the benefit of the owner and is not owned by the State. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 9

CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR

§2151. Claim of another state to recover property

1. Subject to superior claim of another state. If the administrator knows that property held by the administrator under this Act is subject to a superior claim of another state, the administrator shall:

- A. Report and pay or deliver the property to the other state; or [PL 2019, c. 498, §22 (NEW).]
- B. Return the property to the holder so that the holder may pay or deliver the property to the other state. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Agreement to transfer not required. The administrator is not required to enter into an agreement to transfer property to the other state under subsection 1.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2152. When property subject to recovery by another state

1. Subject to right of another state. Property held under this Act by the administrator is subject to the right of another state to take custody of the property if:

- A. The property was paid or delivered to the administrator because the records of the holder did not reflect a last known address in the other state of the apparent owner and:
 - (1) The other state establishes that the last known address of the apparent owner or other person entitled to the property was in the other state; or
 - (2) Under the law of the other state, the property has become subject to a claim by the other state of abandonment; [PL 2019, c. 498, §22 (NEW).]

B. The records of the holder did not accurately identify the owner of the property, the last known address of the owner was in another state and, under the law of the other state, the property has become subject to a claim by the other state of abandonment; [PL 2019, c. 498, §22 (NEW).]

C. The property was subject to the custody of the administrator under section 2085 and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or [PL 2019, c. 498, §22 (NEW).]

D. The property:

(1) Is a sum payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered to the administrator under section 2086; and

(2) Under the law of the other state, has become subject to a claim by the other state of abandonment. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Form prescribed. A claim by another state to recover property under this section must be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.

[PL 2019, c. 498, §22 (NEW).]

3. Decision within 90 days. The administrator shall decide a claim under this section not later than 90 days after it is presented. If the administrator determines that the other state is entitled under subsection 1 to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.

[PL 2019, c. 498, §22 (NEW).]

4. May require indemnification. The administrator may require another state, before recovering property under this section, to agree to indemnify this State and its agents, officers and employees against any liability on a claim to the property.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2153. Claim for property by person claiming to be owner

1. Claim for property. A person claiming to be the owner of property held under this Act by the administrator may file a claim for the property on a form prescribed by the administrator. The claimant must verify the claim as to its completeness and accuracy.

[PL 2019, c. 498, §22 (NEW).]

2. Waive; pay or deliver directly. The administrator may waive the requirement in subsection 1 and may pay or deliver property directly to a person if:

A. The person receiving the property or payment is shown to be the apparent owner included on a report filed under section 2091; and [PL 2019, c. 498, §22 (NEW).]

B. The administrator reasonably believes the person is entitled to receive the property or payment. [PL 2019, c. 498, §22 (NEW).]

If a claimant has an agreement pursuant to subchapter 13 with a professional investigator licensed under Title 32, chapter 89, the administrator shall deliver the payment or property to the professional investigator.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2154. When administrator must honor claim for property

1. Administrator shall pay claim. The administrator shall pay or deliver property to a claimant under section 2153, subsection 1 if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.

[PL 2019, c. 498, §22 (NEW).]

2. Approve or deny claim within 90 days. Not later than 90 days after a claim is filed and completed under section 2153, subsection 1, the administrator shall approve or deny the claim and give the claimant, or professional investigator licensed under Title 32, chapter 89 under an agreement with the claimant pursuant to subchapter 13, notice in a record of the decision. A claim is complete when a claimant has provided all the information and documentation requested by the administrator necessary to prove legal ownership of the property.

[PL 2019, c. 498, §22 (NEW).]

3. Claim denied; procedure; amended claim. If the claim is denied under subsection 2:

A. The administrator shall inform the claimant, or professional investigator under an agreement with the claimant pursuant to subchapter 13, of the reason for the denial; and [PL 2019, c. 498, §22 (NEW).]

B. The claimant, or professional investigator under an agreement with the claimant pursuant to subchapter 13, may file an amended claim with the administrator or commence an action under section 2156. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

4. Claim deemed denied. If the administrator does not take action on a claim during the 90-day period under subsection 2, the claim is deemed denied.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2155. Allowance of claim for property

1. Pay or deliver within 30 days. Not later than 30 days after a claim is approved under section 2154, subsection 2, the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled under section 2117. If a claimant has an agreement pursuant to subchapter 13 with a professional investigator licensed under Title 32, chapter 89, the administrator shall deliver the payment or property to the professional investigator. On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the administrator for less than one year or the administrator has not complied with the notice requirements under section 2131.

[PL 2019, c. 498, §22 (NEW).]

2. Subject to claim. Property held under this Act by the administrator is subject to a claim for the payment of an enforceable debt the owner owes in this State for:

A. Child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance; [PL 2019, c. 498, §22 (NEW).]

B. A final court judgment; or [PL 2019, c. 498, §22 (NEW).]

C. State or federal taxes, penalties and interest that have been determined to be delinquent by the relevant tax authority. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2156. Action by person whose claim is denied

Not later than one year after being denied a claim under section 2154, the claimant may commence an action against the administrator in the Superior Court of Kennebec County to establish a claim. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 10

VERIFIED REPORT OF PROPERTY; EXAMINATION OF RECORDS

§2161. Verified report of property

If a person does not file a report required by section 2091 or the administrator believes that a person may have filed an inaccurate, incomplete or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator. The verified report must: [PL 2019, c. 498, §22 (NEW).]

1. Reportable property. State whether the person is holding property reportable under this Act; [PL 2019, c. 498, §22 (NEW).]

2. Describe property. Describe property not previously reported or about which the administrator has inquired; [PL 2019, c. 498, §22 (NEW).]

3. Specifically identify disputed property. Specifically identify property described under subsection 2 about which there is a dispute whether it is reportable under this Act; and [PL 2019, c. 498, §22 (NEW).]

4. Amount or value. State the amount or value of the property. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2162. Examination of records to determine compliance

The administrator, at reasonable times and on reasonable notice, may: [PL 2019, c. 498, §22 (NEW).]

1. Examine records. Examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this Act; [PL 2019, c. 498, §22 (NEW).]

2. Issue administrative subpoena. Issue an administrative subpoena requiring the person under subsection 1 or agent of the person to make records available for examination; [PL 2019, c. 498, §22 (NEW).]

3. Examination even if person believes not in possession. The administrator may conduct the examination under subsection 1 even if the person believes it is not in possession of any property that must be reported, paid or delivered under this Act; and [PL 2019, c. 498, §22 (NEW).]

4. Bring enforcement action. Bring an action seeking judicial enforcement of the subpoena under subsection 2.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2163. Rules for conducting examination

The administrator may adopt rules governing procedures and standards for an examination under section 2162. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2164. Records obtained in examination

Records obtained and records compiled, including work papers, by the administrator in the course of conducting an examination under section 2162: [PL 2019, c. 498, §22 (NEW).]

1. Confidentiality and security provisions. Are subject to the confidentiality and security provisions of subchapter 14 and are not public records; [PL 2019, c. 498, §22 (NEW).]

2. Use to collect property, enforce the Act. May be used by the administrator in an action to collect property or otherwise enforce this Act; [PL 2019, c. 498, §22 (NEW).]

3. Use in joint examination. May be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to that under subchapter 14; [PL 2019, c. 498, §22 (NEW).]

4. Disclosure. Must be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this subchapter, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to that under subchapter 14; [PL 2019, c. 498, §22 (NEW).]

5. Produced pursuant to subpoena. Must be produced by the administrator under an administrative or judicial subpoena or administrative or court order; and [PL 2019, c. 498, §22 (NEW).]

6. Produced upon request in proceeding. Must be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2165. Evidence of unpaid debt or undischarged obligation

1. Prima facie evidence of debt or obligation. A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation. [PL 2019, c. 498, §22 (NEW).]

2. Preponderance of evidence. A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in subsection 1 or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

[PL 2019, c. 498, §22 (NEW).]

3. Overcome prima facie evidence. A putative holder may overcome prima facie evidence under subsection 1 by establishing by a preponderance of the evidence that a check, draft or similar instrument was:

A. Issued as an unaccepted offer in settlement of an unliquidated amount; [PL 2019, c. 498, §22 (NEW).]

B. Issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected; [PL 2019, c. 498, §22 (NEW).]

C. Issued to a party affiliated with the issuer; [PL 2019, c. 498, §22 (NEW).]

D. Paid, satisfied or discharged; [PL 2019, c. 498, §22 (NEW).]

E. Issued in error; [PL 2019, c. 498, §22 (NEW).]

F. Issued without consideration; [PL 2019, c. 498, §22 (NEW).]

G. Issued but there was a failure of consideration; [PL 2019, c. 498, §22 (NEW).]

H. Voided not later than 90 days after issuance for a valid business reason set forth in a contemporaneous record; or [PL 2019, c. 498, §22 (NEW).]

I. Issued but not delivered to a 3rd-party payee for a sufficient reason recorded within a reasonable time after issuance. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

4. Evidence of course of dealing. In asserting a defense under this section, and subject to section 2094, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2166. Failure of person examined to retain records

If a person subject to examination under section 2162 does not retain the records as required by section 2094, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under and in accordance with section 2163. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2167. Report to person whose records were examined

At the conclusion of an examination under section 2162, upon request, the administrator shall provide to the person whose records were examined a report that specifies: [PL 2019, c. 498, §22 (NEW).]

1. Work performed. The work performed; [PL 2019, c. 498, §22 (NEW).]

2. Property types. The property types reviewed;
[PL 2019, c. 498, §22 (NEW).]

3. Methodology. The methodology of any estimation technique, extrapolation or statistical sampling used in conducting the examination;
[PL 2019, c. 498, §22 (NEW).]

4. Calculation. Each calculation showing the value of property determined to be due; and
[PL 2019, c. 498, §22 (NEW).]

5. Findings. The findings of the person conducting the examination.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2168. Complaint to administrator about conduct of person conducting examination

If a person subject to examination under section 2162 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the administrator to intervene and take appropriate remedial action, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the examination or reassigning the examination to another person. The administrator shall respond to all such requests within 30 days of receipt of the complaint. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2169. Administrator's contract to conduct examination

The administrator may contract with a person to conduct an examination under this subchapter.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2170. Determination of liability for unreported reportable property

If the administrator determines from an examination conducted under section 2162 that a putative holder failed or refused to pay or deliver to the administrator property that is reportable under this Act, the administrator shall issue a determination of the putative holder's liability to pay or deliver and shall give notice in a record to the putative holder of the determination. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 11

DETERMINATION OF LIABILITY; PUTATIVE HOLDER REMEDIES

§2181. Informal conference

1. Request for informal conference. Not later than 30 days after receipt of a notice under section 2170, the putative holder may request an informal conference with the administrator to review the determination. The holder must include in the request the specific items to be discussed. Except as

otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator.

[PL 2019, c. 498, §22 (NEW).]

2. Response to request for informal conference. If a putative holder makes a timely request under subsection 1 for an informal conference:

A. Not later than 30 days after the date of the request, the administrator shall set the time and place of the conference; [PL 2019, c. 498, §22 (NEW).]

B. The administrator shall give the putative holder notice in a record of the time and place of the conference; [PL 2019, c. 498, §22 (NEW).]

C. The conference may be held in person, by telephone or by electronic means, as determined by the administrator; [PL 2019, c. 498, §22 (NEW).]

D. The request tolls the 90-day period under sections 2183 and 2184 until notice of a decision under paragraph G has been given to the putative holder or the putative holder withdraws the request for the conference; [PL 2019, c. 498, §22 (NEW).]

E. The conference may be postponed, adjourned and reconvened as the administrator determines appropriate; [PL 2019, c. 498, §22 (NEW).]

F. The administrator or administrator's designee with the approval of the administrator may modify a determination made under section 2170 or withdraw the determination; and [PL 2019, c. 498, §22 (NEW).]

G. The administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than 30 days after the conference ends. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

3. Conference not administrative remedy; procedure. A conference under subsection 1 is not an administrative remedy. An oath is not required and rules of evidence do not apply in the conference. [PL 2019, c. 498, §22 (NEW).]

4. Opportunity to confer informally. At a conference under subsection 2, the putative holder must be given an opportunity to confer informally with the administrator and the person that examined the records of the putative holder to:

A. Discuss the determination made under section 2170; and [PL 2019, c. 498, §22 (NEW).]

B. Present any issue concerning the validity of the determination made under section 2170. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

5. Failure to act within period. If the administrator fails to act within the period prescribed in subsection 2, paragraph A or G, the failure does not affect a right of the administrator, except that interest does not accrue on the amount for which the putative holder was determined to be liable under section 2170 during the period in which the administrator failed to act until the earlier of:

A. The date under section 2183 on which the putative holder initiates administrative review or the date on which the putative holder files an action under section 2184; and [PL 2019, c. 498, §22 (NEW).]

B. Ninety days after the putative holder received notice of the administrator's determination under section 2170 if no review was initiated under section 2183 and no action was filed under section 2184. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

6. Informal conference before administrative review. The administrator may hold an informal conference with a putative holder about a determination under section 2170 without a request at any time before the putative holder initiates administrative review under section 2183 or files an action under section 2184.

[PL 2019, c. 498, §22 (NEW).]

7. Interest and penalties. Interest and penalties under section 2194 continue to accrue on property not reported, paid or delivered as required by this Act after the initiation, and during the pendency, of an informal conference under this section.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2182. Review of administrator's determination

A putative holder may seek relief from a determination under section 2170 by: [PL 2019, c. 498, §22 (NEW).]

1. Administrative review. Administrative review under section 2183; or
[PL 2019, c. 498, §22 (NEW).]

2. Judicial review. Judicial review under section 2184.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2183. Administrative review

1. Review under Maine Administrative Procedure Act. Not later than 90 days after receiving notice of the administrator's determination under section 2170, a putative holder may initiate a proceeding under the Maine Administrative Procedure Act for review of the administrator's determination.

[PL 2019, c. 498, §22 (NEW).]

2. Judicial review; de novo proceeding. A final decision in an administrative proceeding initiated under subsection 1 is subject to judicial review by the Superior Court as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence as a supplement to the record.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2184. Judicial remedy

1. Action by putative holder. Not later than 90 days after receiving notice of the administrator's determination under section 2170, the putative holder may:

A. File an action against the administrator in the Superior Court of Kennebec County challenging the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or [PL 2019, c. 498, §22 (NEW).]

B. Pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than 6 months after payment or delivery, file an action against the administrator in the Superior Court of Kennebec County for a refund of all or part of the amount paid or return of all or part of the property delivered. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Continue action. If a putative holder pays or delivers property that the administrator determined must be paid or delivered to the administrator at any time after the putative holder files an action under subsection 1, paragraph A, the court shall continue the action as if it had been filed originally as an action for a refund or return of property under subsection 1, paragraph B.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 12

ENFORCEMENT BY ADMINISTRATOR

§2191. Judicial action to enforce liability

1. Enforcement of determination. If a determination under section 2170 becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the Superior Court of Kennebec County or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid or undeliverable property. The action must be brought not later than 5 years after the determination becomes final.

[PL 2019, c. 498, §22 (NEW).]

2. Court having jurisdiction. In an action under subsection 1, if no court in this State has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2192. Interstate and international agreement; cooperation

1. Exchange or examination. Subject to subsection 2, the administrator may:

A. Exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and [PL 2019, c. 498, §22 (NEW).]

B. Authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine the administrator's records of a putative holder as provided in subchapter 10. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Confidentiality and security protections. An exchange or examination under subsection 1 may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in subchapter 14 or agrees in a record to be bound by this State's confidentiality and security requirements.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2193. Action involving another state or foreign country

1. Joint examination and enforcement. The administrator may join another state or foreign country to examine and seek enforcement of this Act against a putative holder.

[PL 2019, c. 498, §22 (NEW).]

2. Action by Attorney General. On request of another state or foreign country, the Attorney General may commence an action on behalf of the other state or country to enforce in this State the law of the other state or country against a putative holder subject to a claim by the other state or country.
[PL 2019, c. 498, §22 (NEW).]

3. Requested action in another state or foreign country. The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the administrator. This State may pay the costs, including reasonable attorney's fees and expenses, incurred by the other state or foreign country in an action under this subsection.
[PL 2019, c. 498, §22 (NEW).]

4. Recovery of property in another state. The administrator may pursue an action on behalf of this State to recover property subject to this Act but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.
[PL 2019, c. 498, §22 (NEW).]

5. Retain an attorney. With the consent of the Attorney General, the administrator may retain an attorney in this State, another state or a foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee or a percentage of the amount or value of property recovered in the action.
[PL 2019, c. 498, §22 (NEW).]

6. Expenses. Expenses incurred by this State in an action under this section may be paid from property received under this Act or the net proceeds of the property. Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this Act by the owner.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2194. Interest and penalty for failure to act in timely manner

1. Interest. A holder that fails to report, pay or deliver property within the time prescribed by this Act shall pay to the administrator interest at an annual rate of 18%, or 10% above the annual rate of discount in effect on the date the property should have been paid or delivered for the most recent issue of 52-week United States Treasury bills, on the property or value thereof from the date the property should have been reported, paid or delivered.
[PL 2019, c. 498, §22 (NEW).]

2. Civil penalty. Except as otherwise provided in section 2195 or 2196, the administrator may require a holder that fails to report, pay or deliver property within the time prescribed by this Act to pay to the administrator, in addition to interest included under subsection 1, a civil penalty of \$200 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2195. Other civil penalties

1. Evading obligation or willfully failing to perform. If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this Act or otherwise willfully fails to perform a duty imposed on the holder under this Act, the administrator may require the holder to pay the administrator, in addition to interest as provided in section 2194, subsection 1, a civil penalty of

\$1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000, plus 25% of the amount or value of property that should have been but was not reported, paid or delivered as a result of the evasion or failure to perform.

[PL 2019, c. 498, §22 (NEW).]

2. Fraudulent report. If a holder makes a fraudulent report under this Act, the administrator may require the holder to pay to the administrator, in addition to interest under section 2194, subsection 1, a civil penalty of \$1,000 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000, plus 25% of the amount or value of any property that should have been reported but was not included in the report or was underreported.

[PL 2019, c. 498, §22 (NEW).]

3. Lack of knowledge of death. A holder who fails to report, pay or deliver property within the time prescribed by this Act is not required to pay interest under section 2194, subsection 1 or subject to penalties under section 2194, subsection 2 if the failure to report, pay or deliver the property was due to lack of knowledge of a death that established the period of abandonment under this Act.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2196. Waiver of interest and penalty

The administrator: [PL 2019, c. 498, §22 (NEW).]

1. Waive interest and penalties. May waive, in whole or in part, interest under section 2194, subsection 1 and penalties under section 2194, subsection 2 or section 2195; and

[PL 2019, c. 498, §22 (NEW).]

2. Good faith, without negligence. Shall waive a penalty under section 2194, subsection 2 if the administrator determines that the holder acted in good faith and without negligence.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 13

AGREEMENT TO LOCATE PROPERTY OF APPARENT OWNER HELD BY ADMINISTRATOR

§2201. Agreements to locate property

1. Agreements within 24 months. An agreement by an owner the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the administrator. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim.

[PL 2019, c. 498, §22 (NEW).]

2. Agreement requirements. An agreement by an owner the primary purpose of which is to locate, deliver, recover or assist in the recovery of property is enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the

apparent owner and states the value of the property before and after the fee or other compensation has been deducted.

[PL 2019, c. 498, §22 (NEW).]

3. Mineral proceeds. If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

[PL 2019, c. 498, §22 (NEW).]

4. Unconscionable compensation. An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has agreed to pay compensation that is unconscionable, or the administrator on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorney's fees to an owner who prevails in the action.

[PL 2019, c. 498, §22 (NEW).]

5. Other grounds not precluded. This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than unconscionable compensation.

[PL 2019, c. 498, §22 (NEW).]

6. Limitation on fees or compensation. Fees or compensation under agreements made more than 24 months but less than 36 months after the date the property is paid or delivered to the administrator may not exceed 15%.

[PL 2019, c. 498, §22 (NEW).]

7. Unfair trade practice. A person who makes a claim for compensation in violation of this section commits an unfair trade practice in violation of Title 5, section 207.

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 14

CONFIDENTIALITY AND SECURITY OF INFORMATION

§2211. Definitions; applicability

1. Personal information defined. As used in this subchapter, "personal information" means:

A. Information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:

- (1) Social security number or other government-issued number or identifier;
- (2) Date of birth;
- (3) Home or physical address;
- (4) E-mail address or other online contact information or Internet protocol address;
- (5) Financial account number or credit or debit card number;
- (6) Biometric data, health or medical data or insurance information; or
- (7) Passwords or other credentials that permit access to an online or other account; [PL 2019, c. 498, §22 (NEW).]

B. Personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and [PL 2019, c. 498, §22 (NEW).]

C. Any combination of data that, if accessed, disclosed, modified or destroyed without authorization of the owner of the data or if lost or misused, would require notice or reporting under Title 10, section 1348 and federal privacy and data security law, whether or not the administrator or the administrator's agent is subject to the law. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

2. Applies to administrator's agent. A provision of this subchapter that applies to the administrator or the administrator's records applies to an administrator's agent.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2212. Confidential information

1. Confidential. Except as otherwise provided in this Act, the following are confidential and exempt from public inspection and disclosure:

A. Records of the administrator and the administrator's agent related to the administration of this Act; [PL 2019, c. 498, §22 (NEW).]

B. Reports and records of a holder in the possession of the administrator or the administrator's agent; [PL 2019, c. 498, §22 (NEW).]

C. Personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this Act of the records of a person; and [PL 2019, c. 498, §22 (NEW).]

D. The identity of a person subject to an examination under section 2162. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

2. Continues to be confidential. A record or other information that is confidential under the laws of this State other than this Act, of another state or of the United States continues to be confidential when disclosed or delivered under this Act to the administrator or administrator's agent.
[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2213. When confidential information may be disclosed

1. To enforce or implement Act. When reasonably necessary to enforce or implement this Act, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only to:

A. An apparent owner or the apparent owner's attorney, other legal representative or relative; [PL 2019, c. 498, §22 (NEW).]

B. The personal representative, executor, other legal representative or relative of a deceased apparent owner or a person entitled to inherit from a deceased apparent owner; [PL 2019, c. 498, §22 (NEW).]

C. Another department or agency of this State or the United States; [PL 2019, c. 498, §22 (NEW).]

D. The person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator and if the other state is required to maintain the confidentiality and security of obtained information in a manner substantially equivalent to that under this subchapter; or [PL 2019, c. 498, §22 (NEW).]

E. Pursuant to section 2164, subsection 6, the person subject to an examination. [PL 2019, c. 498, §22 (NEW).]
[PL 2019, c. 498, §22 (NEW).]

2. Name of apparent owners; additional information. Except as otherwise provided in section 2212, subsection 1, the administrator shall include on the website required by section 2103, subsection 1 the name of each apparent owner of property held by the administrator. The administrator may include in published notices, printed publications, telecommunications, the Internet or other media and on the website or in the database additional information concerning the apparent owner's property if the administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner. [PL 2019, c. 498, §22 (NEW).]

3. No use of confidential information; exception. The administrator and the administrator's agent may not use confidential information provided to them or in their possession except as expressly authorized by this Act or required by law other than this Act. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2214. Confidentiality agreement

A person to be examined under section 2162 may require, as a condition of disclosure of the records of the person to be examined, that the administrator or the administrator's agent execute and deliver to the person to be examined a confidentiality agreement that: [PL 2019, c. 498, §22 (NEW).]

1. Form. Is in a form that is reasonably satisfactory to the administrator; and [PL 2019, c. 498, §22 (NEW).]

2. Compliance with subchapter. Requires the person having access to the records to comply with the provisions of this subchapter applicable to the person. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2215. Security breach

1. Notice to holder. Except to the extent prohibited by law other than this Act, the administrator or administrator's agent shall notify a holder as soon as practicable of:

A. A suspected loss, misuse or unauthorized access, disclosure, modification or destruction of confidential information obtained from the holder in the possession of the administrator or an administrator's agent; and [PL 2019, c. 498, §22 (NEW).]

B. Any interference with operations in any system hosting or housing confidential information that:

(1) Compromises the security, confidentiality or integrity of the information; or

(2) Creates a substantial risk of identity fraud or theft. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Disclosure of breach limited. Except as necessary to inform an insurer, attorney, investigator or others as required by law, the administrator and an administrator's agent may not disclose, without the express consent in a record of the holder, an event described in subsection 1 to a person whose confidential information was supplied by the holder.

[PL 2019, c. 498, §22 (NEW).]

3. Action of administrator and administrator's agent. If an event described in subsection 1 occurs, the administrator and the administrator's agent shall:

A. Take action necessary for the holder to understand and minimize the effect of the event and determine its scope; and [PL 2019, c. 498, §22 (NEW).]

B. Cooperate with the holder with respect to:

(1) Any notification required by law concerning a data or other security breach; and

(2) A regulatory inquiry, litigation or similar action. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2216. Indemnification for breach

1. Indemnification of holder by State. If a claim is made or action commenced arising out of an event described in section 2215, subsection 1 relating to confidential information possessed by the administrator, this State shall indemnify, defend and hold harmless a holder and the holder's affiliates, officers, directors, employees and agents as to:

A. Any claim or action; and [PL 2019, c. 498, §22 (NEW).]

B. A liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge or other expense, including reasonable attorney's fees and costs, established by the claim or action. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

2. Indemnification by administrator's agent. If a claim is made or action commenced arising out of an event described in section 2215, subsection 1 relating to confidential information possessed by an administrator's agent, the administrator's agent shall indemnify, defend and hold harmless a holder and the holder's affiliates, officers, directors, employees and agents as to:

A. Any claim or action; and [PL 2019, c. 498, §22 (NEW).]

B. A liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge or other expense, including reasonable attorney's fees and costs, established by the claim or action. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

3. Insurance for indemnification. The administrator shall require an administrator's agent that will receive confidential information required under this Act to maintain adequate insurance for indemnification obligations of the administrator's agent under subsection 2. The administrator's agent required to maintain the insurance shall provide evidence of the insurance to:

A. The administrator not less frequently than annually; and [PL 2019, c. 498, §22 (NEW).]

B. The holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed by the administrator or the administrator's agent because the confidential information is no longer reasonably needed under this Act. [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

SUBCHAPTER 15

MISCELLANEOUS PROVISIONS

§2221. Relation to Electronic Signatures in Global and National Commerce Act

This Act modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b). [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2222. Transitional provision

This Act does not relieve a holder of a duty that arose before October 1, 2019 to report, pay or deliver property. Subject to section 2120, subsection 2, a holder that did not comply with the law governing unclaimed property before October 1, 2019 is subject to applicable provisions for enforcement and penalties in effect before October 1, 2019. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

§2223. Effective date

This Act takes effect October 1, 2019. [PL 2019, c. 498, §22 (NEW).]

SECTION HISTORY

PL 2019, c. 498, §22 (NEW).

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