

MAINE FACED PRIORITY LIEN and “RIGHT TO DRY” LEGISLATION THIS SESSION

On November 17, 2008, Maine was approved as CAI's 30th LAC.

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The Maine Legislative Action Committee (ME-LAC) had a busy first year working on, among other things, limited priority lien legislation and a “right-to-dry” bill that included industry amendments that received legislative support.

Priority Lien Bill Amended and Passed

Following a public hearing on April 8th and two working sessions of the Joint Standing Committee on Judiciary held April 15th and May 7th, the Maine House of Representatives by a vote of 112 to 30 approved on June 1st a committee amendment to the original priority lien bill [LD 961](#).

While the original bill would have amended the Maine Condominium Act to allow condominium associations to have a six month common charge priority over the pre-existing first mortgages on units, the amendment (Committee Amendment A) approved by the House instead:

authorizes a condominium association to require the payment into escrow of assessments to a total of six months' worth of assessments for each unit. Interest must be paid on the amounts escrowed. The association shall return the assessment payments made, together with interest earned, to the unit owner when the owner sells the unit and has fully paid all the assessments due. The association may use the balance in the account to offset any assessments remaining unpaid.

On June 2nd, the Senate also adopted this committee amendment, allowing for the escrow of assessments. Members of the ME-LAC expressed their concerns to legislators that this amendment is duplicative, impractical and would not likely be used by condominium associations in Maine. It was signed by the Governor on June 9, 2009, and is Chapter 332.

While the Maine LAC is disappointed LD 961 was not passed as originally drafted, the LAC expresses its appreciation to all condominium owners who contacted their legislators and testified in April in support of the original bill. In addition, the ME-LAC and members recognize bill sponsor Rep. Cynthia A. Dill (D-Cape Elizabeth) and Joint Standing Committee on Judiciary members Sen. Barry J. Hobbins (D-York), Rep. Mark E. Bryant (D-Windham), Rep. Sara R. Stevens (D-Bangor) and Rep. Wayne T. Mitchell

(Penobscot Nation) who voted in favor of a limited priority over the pre-existing first mortgages.

Solar Rights

Dubbed the “right to dry” bill by proponents as well as opponents of similar bills throughout the country, the Committee on Utilities and Energy, at the urging of ME-LAC members and Rep. Sean Flaherty (D-Scarborough), amended [LD 73](#) to exclude common elements of condominiums.

The amendment, as approved by the House and Senate, specifies that:

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 may not prohibit a person from installing or using a solar energy device on residential property owned by that person or from installing or using a solar clothes-drying device on residential property leased or rented by that person.

“Legal instrument” includes municipal ordinances, bylaws or regulations and rules, bylaws or regulations of an association of property owners, as well as deed restrictions, restrictive covenants and other similar binding agreements. However, the amendment specifies that a legal instrument may prohibit the installation and use of solar energy devices on residential property in common ownership with third parties or common elements of a condominium. The amendment also permits certain reasonable restrictions on the installation and use of a solar energy device that protects public health and safety, shore lands, buildings and historic or aesthetic values.

Maine saw a number of energy and “right to dry” proposals this session, including:

ME H 62	LD:	73
	AUTHOR:	Hinck (D)
	TITLE:	Solar Drying of Clothes
	INTRODUCED:	01/06/2009
	ENACTED:	06/08/2009
	DISPOSITION:	Enacted
	LOCATION:	Chaptered
	CHAPTER:	273
	SUMMARY:	Prohibits a public or private entity from adopting or enforcing any law, ordinance, bylaw, rule, deed restriction, covenant, declaration, contract or other binding agreement or regulatory measure that prohibits or has the effect of prohibiting a person from installing or using solar collectors or clothes lines or other equipment for the solar drying of clothing.
	STATUS:	
	06/08/2009	Signed by GOVERNOR.
	06/08/2009	Public Law No. 273

ME H 581	LD:	845
	AUTHOR:	Adams (D)
	TITLE:	Renewable Energy Study
	INTRODUCED:	02/27/2009
	ENACTED:	06/15/2009

DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 131

SUMMARY:

Directs the Public Utilities Commission to conduct a 2-year outreach and education program to provide information to residents regarding renewable energy technology and systems for residential use and the renewable energy programs and incentives available through federal, state and local agencies; requires the Public Utilities Commission to submit reports; authorizes the commission to adopt rules as necessary to implement the program; adds an appropriation; allocates ARRA funds.

STATUS:

06/15/2009
06/15/2009

Signed by GOVERNOR.
Resolve No. 131

ME H 742

LD: 1075
AUTHOR: MacDonald (D)
TITLE: Community Based Energy
INTRODUCED: 03/16/2009
ENACTED: 06/09/2009
DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 329

SUMMARY:

Establishes the community-based renewable energy pilot program; limits the participation in the program to specified projects; specifies program incentives for contracting participants; authorizes investor-owned transmission and distribution utilities to enter into long-term contracts with program participants; requires related reporting; authorizes the state to give preference to such projects when purchasing electricity.

STATUS:

06/09/2009
06/09/2009

Signed by GOVERNOR.
Public Law No. 329

ME H 757

LD: 1095
AUTHOR: Beck (D)
TITLE: Installation of Alternative Energy
INTRODUCED: 03/18/2009
DISPOSITION: Failed
LOCATION: Died

SUMMARY:

Under current law governing the solar and wind energy rebate program, an owner or tenant of residential or commercial property may receive a rebate for a qualified solar energy system that is installed on the property. This bill amends the law to provide that the installer of a qualified solar energy system or the owner or tenant of the property on which the qualified solar energy system is installed may receive the rebate.

STATUS:

04/16/2009
04/16/2009

HOUSE adopts Majority Committee Report: Ought not to pass.
SENATE adopts Majority Committee Report: Ought not to pass.

ME H 1038

LD: 1485
AUTHOR: Office of Legislative Requests
TITLE: Efficiency Maine Trust
INTRODUCED: 06/01/2009
ENACTED: 06/12/2009
DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 372

SUMMARY:

Establishes the Efficiency Maine Trust to operate an integrated suite of energy efficiency and renewable energy programs including the Regional Greenhouse Gas

Initiative, electric energy conservation programs, natural gas energy conservation programs, federal energy programs, efficiency and weatherization programs; provides for bonds, construction and rehabilitation of affordable rental and manufactured housing units, green workforce development and efficiency of state facilities.

STATUS:

06/12/2009

Signed by GOVERNOR.

06/12/2009

Public Law No. 372

ME LR 310

AUTHOR: Hinck (D)
TITLE: Solar Energy
PREFILED: 01/06/2009
DISPOSITION: Pending - Carryover
LOCATION: Legislature

SUMMARY:

Protects the right to use solar energy.

STATUS:

01/06/2009

FILED.

01/06/2009

Assigned House Paper number 62 and LD 73.

ME S 138

LD: 396
AUTHOR: Nutting J (D)
TITLE: Solar Energy Systems
INTRODUCED: 02/05/2009
DISPOSITION: Failed
LOCATION: Died

SUMMARY:

Concerns rebate when the owner or tenant of a residential or commercial property performs the installation of a solar photovoltaic system or a solar thermal system designed to heat water, as long as the installation has been inspected and approved by the municipal electrical inspector, in the case of solar photovoltaic systems, or the municipal plumbing inspector in the case of solar thermal systems designed to heat water.

STATUS:

03/12/2009

SENATE adopts Majority Committee Report: Ought not to pass.

03/12/2009

HOUSE adopts Majority Committee Report: Ought not to pass.

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NOTE: Associations and managers are encouraged to contact legal council with questions and/or clarification of these new laws and how they affect your condominium association.