



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 224

S.P. 70

In Senate, January 24, 2017

**An Act Regarding Actions for Failure To Follow Condominium
Association Requirements**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator COLLINS of York.
Cosponsored by Representative SHERMAN of Hodgdon and
Senators: HILL of York, KEIM of Oxford, WHITTEMORE of Somerset, Representatives:
BAILEY of Saco, BRADSTREET of Vassalboro, MOONEN of Portland.

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

2 **Sec. 1. 33 MRSA §1603-111, 2nd ¶**, as enacted by PL 1981, c. 699, is amended
3 to read:

4 If the wrong accrued during any period of declarant control, and if the association
5 gives the declarant reasonable notice of and an opportunity to defend against the action,
6 the declarant who then controlled the association is liable to the association or to any unit
7 owner: (1) For all tort losses not covered by insurance suffered by the association or that
8 unit owner; and (2) for all costs ~~which~~ that the association would not have incurred but
9 for the breach of contract or other wrongful act or omission. In any case where the
10 declarant is liable to the association under this section, the declarant is also liable for all
11 litigation expenses, including reasonable ~~attorneys'~~ attorney's fees, incurred by the
12 association. During any period in which the control of the declarant is limited to the
13 power to approve actions of the association or executive board, as provided in section
14 1603-103, subsection (d), the declarant ~~shall be~~ is liable under this section only for losses
15 caused by the exercise of declarant's right of disapproval. Any statute of limitation
16 affecting the association's right of action under this section is tolled until the period of
17 declarant control terminates. After the association provides reasonable notice and an
18 opportunity to be heard, the association may bring an action against a unit owner or a
19 group of unit owners for failure to follow requirements imposed by the declaration,
20 bylaws or adopted rules and regulations of the association. If the unit owner or the group
21 of unit owners is found liable, the unit owner or the group of unit owners is also liable for
22 all litigation expenses including reasonable attorney's fees incurred by the association in
23 bringing the action. After a unit owner or a group of unit owners provides reasonable
24 notice and an opportunity to be heard, the unit owner or the group of unit owners may
25 bring an action against the association for failure to follow requirements imposed by the
26 declaration, bylaws or adopted rules and regulations of the association. If the association
27 is found liable, it is also liable for all litigation expenses, including reasonable attorney's
28 fees incurred by the unit owner or the group of unit owners in bringing the action. A unit
29 owner is not precluded from bringing an action contemplated by this section because ~~he~~
30 the unit owner is a ~~unit owner or~~ a member or officer of the association. Liens resulting
31 from judgments against the association are governed by section 1603-117, other liens
32 affecting the condominium.

33 **SUMMARY**

34 This bill provides that, following reasonable notice and an opportunity to be heard, a
35 condominium association may bring an action against a unit owner or a group of unit
36 owners for violating requirements imposed by association documents and that, following
37 reasonable notice and an opportunity to be heard, a unit owner or a group of unit owners
38 may bring an action against an association for violating requirements imposed by those
39 same documents.