

## CHAPTER 212-A

### MAINE MARINA AND BOATYARD STORAGE ACT

#### §1381. Short title

This Act may be known and cited as the "Maine Marina and Boatyard Storage Act." [PL 1993, c. 263, §1 (NEW).]

#### SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

#### §1382. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 263, §1 (NEW).]

**1. Default.** "Default" means the failure to pay obligations incurred by the storage of a boat, boat motor or boat trailer.

[PL 1993, c. 263, §1 (NEW).]

**2. Facility.** "Facility" means a marina, boatyard or marine repair facility that provides, as part of its commercial operation, the storage of boats, boat motors or boat trailers.

[PL 1993, c. 263, §1 (NEW).]

**3. Lienholder.** "Lienholder" or "lienholder of record" means a person who claims an interest in or lien on the property pursuant to a financing statement filed with the Secretary of State or other public filing.

[PL 1993, c. 263, §1 (NEW).]

**4. Property.** "Property" means a boat, boat motor or boat trailer in storage at a facility.

[PL 1993, c. 263, §1 (NEW).]

#### SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

#### §1383. Lien

**1. Lien created.** A facility owner has a lien on property stored at that facility for rent, labor or other charges and for expenses reasonably incurred in the sale of that property under the provisions of this chapter.

[PL 1993, c. 263, §1 (NEW).]

**2. Exclusion.** This chapter does not create a lien on a documented vessel subject to a preferred ship mortgage or other preferred maritime lien pursuant to 46 United States Code, Chapter 313.

[PL 2011, c. 691, Pt. A, §2 (AMD).]

#### SECTION HISTORY

PL 1993, c. 263, §1 (NEW). PL 2011, c. 691, Pt. A, §2 (AMD).

#### §1384. Notice of lien

A property owner must be notified of the lien created by this chapter before enforcement of the lien by a facility owner. Notification of the lien created by this chapter is satisfied by: [PL 1993, c. 263, §1 (NEW).]

**1. Written storage agreement.** A written storage agreement signed by the property owner that includes a notice of the lien created by this chapter; or

[PL 1993, c. 263, §1 (NEW).]

**2. Written notice of lien.** Written notification of the lien sent by the facility owner to the property owner.

[PL 1993, c. 263, §1 (NEW).]

A facility owner who does not have a written storage agreement that includes a notice of the lien created by this chapter may not initiate an enforcement action under section 1385 until 30 days after the written notice of a lien required by subsection 2 is delivered to the property owner. [PL 1993, c. 263, §1 (NEW).]

## SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

### §1385. Enforcement of lien

A facility owner may enforce a lien created by this chapter only if the property owner has been notified of the lien as required by section 1384. [PL 1993, c. 263, §1 (NEW).]

**1. Sale; use of proceeds.** If a property owner is in default for a period of more than 90 days, a facility owner may enforce a lien by selling the stored property at a commercially reasonable public sale for cash. As used in this section, "commercially reasonable" has the same meaning as in the Uniform Commercial Code. The proceeds of the sale must be applied in the following order:

- A. To the reasonable expenses of the sale incurred by the facility owner including, to the extent not prohibited by law, reasonable attorney's fees and legal expenses; [PL 1993, c. 263, §1 (NEW).]
- B. To the satisfaction of the lien created by this chapter; [PL 1993, c. 263, §1 (NEW).]
- C. To the satisfaction of all other liens on the property held by all lienholders of record to be paid in the order of priority; and [PL 1993, c. 263, §1 (NEW).]
- D. To the extent that the proceeds of sale exceed the sum of the foregoing, the surplus must be paid by the facility owner to the property owner. [PL 1993, c. 263, §1 (NEW).]

If proceeds of the sale are not sufficient to satisfy the property owner's outstanding obligations to the facility owner or any lienholder of record, the property owner remains liable to the facility owner or lienholder for the deficiency.

[PL 1993, c. 263, §1 (NEW).]

**2. Advertisement; notice of default.** Before conducting a sale under this section, the facility owner shall:

- A. Send a notice of default to the property owner. The facility owner shall provide a copy of the notice to each lienholder of record. The notice must include:
  - (1) A statement that the property is subject to a lien held by the facility owner;
  - (2) A statement of the facility owner's claim indicating the charges due on the date of the notice, the amount of any additional charges that will become due before the date of sale and the date those additional charges will become due;
  - (3) A demand for payment of the charges due within a specified time not less than 30 days after the date the notice is delivered to the property owner and all lienholders of record;
  - (4) A statement that unless the claim is paid within the time stated the property will be sold, specifying the time and place of the sale; and

(5) The name, street address and telephone number of the facility owner, or the facility owner's designated agent, whom the property owner may contact to respond to the notice; and [PL 1993, c. 263, §1 (NEW).]

B. After the expiration of the 30-day period set forth in paragraph A, publish an advertisement of the sale once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the sale is to be held. The advertisement must include a general description of the property, the name of the property owner and the time and place of the sale. The date of the sale must be more than 15 days after the date the first advertisement of the sale is published. [PL 1993, c. 263, §1 (NEW).]

[PL 1993, c. 263, §1 (NEW).]

**3. Location of sale.** A sale under this chapter must be held at the facility or at the nearest suitable location.

[PL 1993, c. 263, §1 (NEW).]

**4. Purchasers.** A purchaser of property sold at a commercially reasonable sale pursuant to this chapter takes the property free and clear of any rights of persons against whom the lien was valid and all other lienholders of record.

[PL 1993, c. 263, §1 (NEW).]

**5. Facility owner liability.** If the facility owner complies with the provisions of this chapter, the facility owner's liability is as follows.

A. To a lienholder of record, the facility owner's liability is limited to payment from the net proceeds received from the sale of the property. [PL 1993, c. 263, §1 (NEW).]

B. To the property owner, the facility owner's liability is limited to the net proceeds received from the sale of the property after payment in full of all lienholders of record. [PL 1993, c. 263, §1 (NEW).]

[PL 1993, c. 263, §1 (NEW).]

**6. Denying access to storage facility.** A facility owner may deny a property owner who has been notified under subsection 2 access to the storage facility, except that the property owner is entitled to access to the facility during normal business hours for the purpose of satisfying the lien or viewing and verifying the condition of the property.

[PL 1993, c. 263, §1 (NEW).]

**7. Notices.** Except as otherwise provided, all notices required by this chapter must be sent by registered or certified mail, return receipt requested. Notices sent to a facility owner must be sent to the owner's business address or to the address of the owner's designated representative. Notices to a property owner must be sent to the property owner at the property owner's last known address. Notices to a lienholder of record must be sent to the address of the lienholder as provided in the public filings that serve to perfect the lienholder's interest in the property. Notices are considered delivered on the date the recipient of the notice signs the return receipt or, if the notice is undeliverable, the date the post office last attempts to deliver the notice.

[PL 1993, c. 263, §1 (NEW).]

## SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

### §1386. Cessation of enforcement actions

A facility owner shall cease enforcement actions immediately if: [PL 1993, c. 263, §1 (NEW).]

**1. Payment by owner.** The property owner pays the facility owner the full amount necessary to satisfy the lien. At any time before the conclusion of a sale conducted under this chapter, the property owner may redeem the property by paying the full amount necessary to satisfy the lien; or

[PL 1993, c. 263, §1 (NEW).]

**2. Payment by other lienholders.** A person other than the facility owner who has a lien on the property pays the facility owner the full amount necessary to satisfy the lien held by the facility owner. Upon payment by a lienholder of record, the facility owner shall hold the property for the benefit of and at the direction of that lienholder and may not deliver possession of the property to the property owner. Unless the facility owner and the lienholder enter into a new storage agreement, the lienholder shall arrange removal of the property from the facility.

[PL 1993, c. 263, §1 (NEW).]

#### SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

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