



In the race to file legislation for the new session, the Maine LAC (MELAC) went 3-for-4, finding a legislative sponsor for all but one of the measures on the committee's agenda. The least controversial of those measures, the committee's new chair, Charles Katz-Leavy believes, would extend the lien period for non-payment of assessments from five to six years, giving associations more time to foreclose and reducing the revenue they lose by delaying foreclosure actions. "The statute of limitations is six years for most issues," Katz-Leavy, a shareholder in Jensen Baird Gardner & Henry notes, "so there is some basis for consistency" supporting the proposed change. "I don't expect any opposition to it," he says.

The same can't be said of the other two measures, both of which are likely to encounter strong banking industry opposition. In a proposed bill tightening the foreclosure process for all residential property, the MELAC wants to add language specifying that lenders would become responsible for paying association fees as of the original date they set for the foreclosure sale. Under current law, Katz-Leavy explains, the fee liability doesn't begin until the actual foreclosure sale. If lenders postpone the sale, as many do multiple times, the association is left with a large gap in its revenue stream. This measure addresses that problem, prohibiting lenders from postponing their liability for fees by delaying the foreclosure sale.

The MELAC also wants to amend another general foreclosure bill that would allow lenders to ask a court to declare a residential property "abandoned" if the owner vacates and shows no interest in occupying it during the foreclosure process. The MELAC is proposing language that would give condominium associations the same authority to seek an abandonment declaration and collect

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rents on a property if the association is named an "interested party" in the foreclosure. The LAC language also specifies that if a lender initiates and obtains an abandonment ruling on a condominium unit, it must share the rents collected with the association.

Bruce McGlauffin, the former chair of the MELAC and a partner in Petrucci, Martin & Haddow LLP, says lenders won't particularly like this measure and will probably "fight hard" against the proposal to accelerate their liability for condominium fees. He predicts they will seek to combine the two foreclosure bills and oppose the condominium language in both of them.

The fourth bill on the LAC's wish list—the one that wasn't filed this year—would allow condominium associations to collect rents from a tenant occupying a unit owned by an owner who has unpaid assessments or fees. Many condominium documents establish that authority, Katz-Leavy explains, but this measure would allow associations to pursue the assignment-of-rents remedy even if their documents don't allow it. The LAC didn't file the measure this year, he says, only because the committee was not able to find a legislative sponsor for it before the filing deadline.

Under the "almost-but-not-quite" heading, the Legislature last year approved a measure the LAC had sought substituting a super majority

(80 percent to 90 percent) vote for the unanimous consent required to approve changes in some condominium property rights, but the governor vetoed it. The committee decided not to refile the measure this year, McGlauffin says, because members are still wrestling with how to distinguish between "extraordinary" changes in property rights that should require unanimous consent, and those that should not. "This is one of the more problematic sections in the condominium act," he notes, "We're trying to get everyone comfortable with redrafting language that doesn't create more problems than it solves, and we're not there yet."