**MAINE**

**LEGISLATIVE UPDATE DECEMBER 2018**

An “exhausted” Maine legislature, which was supposed to wrap up its session in May, finally adjourned at the end of the summer after an extended special session – extended, Maine Legislative Action Committee (MELAC) Chair Bruce McGlauflin, a partner in Petruccelli, Martin & Haddow, LLP, explains, because “the governor (Paul LePage) kept vetoing things.”

McGlauflin noted two measures that are likely to be MELAC priorities in the coming legislative session, one dealing with the foreclosure process and the other clarifying the term “use” in the state condominium statute, for purposes of determining the percentage of owners who must approve changes affecting their property rights.

The statute requires the approval of 100 percent of owners for any changes affecting the “use” of units, but it doesn’t define use, McGlauflin explains, “and some people have argued over the years that use means, literally, any activity for which the unit is used.” Under this definition, an amendment restricting rentals or prohibiting smoking would require the approval of all unit owners. The change the MELAC may propose would clarify that the 100 percent approval requirement applies only to zoning-type changes in “categories of use”─ from residential to commercial use, for example.

**Modest Improvement**

After several unsuccessful tries, the MELAC has abandoned any hope of winning legislative approval of a priority lien for condominium associations. But the committee is considering a measure that would deter banks from prolonging the foreclosure process, which many do by repeatedly canceling and rescheduling the foreclosure auction. The measure would require banks that cancel a scheduled auction to pay any fees that accrue after that, until the auction is held.

“It isn’t a big remedy,” McGlauflin agrees, “but it would modestly improve the ability of associations to protect their interests.” The prospects for the legislation are uncertain, he says, noting that “it will attract the same opposition from the banking industry lobby that has defeated our super lien proposals.”

On the other hand, the mid-term elections could shift the balance of Democrats and Republican in the Legislature, which, McGlauflin said, could affect the prospects for this measure and others. Whatever the outcome of the election, he expects the legislative process will be smoother overall, because Gov. LePage, known for his erratic behavior, is not on the ballot. The next governor, whether Republican or Democrat, “will be more predictable,” McGlauflin expects.