

MAINE STATE LEGISLATURE

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Date: 6/13/19

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1020, L.D. 1405, Bill, "An Act To Amend the Laws Governing Foreclosure To Ensure Timely Completion"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 14 MRSA §6323, sub-§1, as amended by PL 2013, c. 521, Pt. C, §1, is further amended to read:

1. Procedures for all civil actions. Upon expiration of the period of redemption, if the mortgagor or the mortgagor's successors, heirs or assigns have not redeemed the mortgage, any remaining rights of the mortgagor to possession terminate, and the mortgagee shall cause notice of a public sale of the premises stating the time, place and terms of the sale to be published once in each of 3 successive weeks in a newspaper of general circulation in the county in which the premises are located, the first publication to be made not more than 90 days after the expiration of the period of redemption. Except when otherwise required under 12 Code of Federal Regulations, Section 1024.41 or any successor provision, the public sale must be held not less than 30 days nor more than 45 days after the first date of that publication. Except for sales of premises that the court has determined to be abandoned pursuant to section 6326, the public sale may be adjourned, for any time not exceeding 7 60 days and from time to time until a sale is made, by announcement to those present at each any such adjournment. The court, upon motion of the mortgagee, filed before the deadline for sale and showing good cause, may grant such further extensions of the mortgagee's time to sell as it considers appropriate. For sales of premises that the court has determined to be abandoned pursuant to section 6326, the public sale may be adjourned once for any time not exceeding 7 days, except that the court may permit one additional adjournment for good cause shown. Adjournments may also be made in accordance with the requirements of 12 Code of Federal Regulations, Section 1024.41 or any successor provision. The mortgagee, in its sole discretion, may allow the mortgagor to redeem or reinstate the loan after the expiration of the period of redemption but before the public sale. The mortgagee may shall convey the property to the mortgagor upon redemption or may execute a waiver of foreclosure, and in conjunction with a reinstatement only with the written consent of the mortgagor. A

COMMITTEE AMENDMENT

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waiver of foreclosure and the consent of the mortgagor to the waiver must be included in a stipulation of dismissal of the foreclosure and signed by the mortgagee and mortgagor or their respective attorneys, and, upon the filing of the stipulation of dismissal with the court, all other rights of all other parties remain as if no foreclosure had been commenced. The mortgagee shall sell the premises to the highest bidder at the public sale and deliver a deed of that sale and the any writ of possession, if a writ of possession was obtained during the foreclosure process, that has been issued to the purchaser. The deed conveys the premises free and clear of all interests of the parties in interest joined in the action. The mortgagee or any other party in interest may bid at the public sale. If the mortgagee is the highest bidder at the public sale, there is no obligation to account for any surplus upon a subsequent sale by the mortgagee. Any rights of the mortgagee to a deficiency claim against the mortgagors are limited to the amount established as of the date of the public sale. The date of the public sale is the date on which bids are received to establish the sales price, no matter when the sale is completed by the delivery of the deed to the highest bidder. If the property is conveyed by deed pursuant to a public sale in accordance with this subsection, a copy of the judgment of foreclosure and evidence of compliance with the requirements of this subsection for the notice of public sale and the public sale itself must be attached to or included within the deed, or both, or otherwise be recorded in the registry of deeds.

Sec. 2. 14 MRSA §6324, as amended by PL 2003, c. 20, Pt. T, §10, is further amended by adding at the end a new paragraph to read:

The report of sale required by this section must be filed with the court within the earlier of 90 days after the public sale and 45 days after the mortgagee's delivery of the deed conveying the mortgaged property to the purchaser at the mortgage sale. Upon a showing of good cause by the mortgagee, made by motion filed before the expiration of the deadline, the court may extend the deadline for the filing of the report of sale for an additional period of time as the court considers appropriate. In the event that the mortgagee fails to timely file the report of sale, the mortgagee has no right to seek a deficiency judgment.'

SUMMARY

This amendment amends time limits in the bill to provide that a sale may be adjourned for any time not exceeding 60 days and the court may grant appropriate extensions.

It provides that, when there is a waiver of foreclosure, the waiver and the consent of the mortgagor must be included in a stipulation of dismissal of the foreclosure. The stipulation of dismissal must be signed by the mortgagee and mortgagor or their respective attorneys. Upon the filing of the stipulation of dismissal, along with the waiver and consent with the court, all other rights of the parties remain as if no foreclosure had been commenced.

It extends the time for the mortgagee to file a report of sale within the earlier of 90 days after the public sale and 45 days after the mortgagee's delivery of the deed conveying the mortgaged property. The court may extend the deadline upon a showing of good cause by the mortgagee.

COMMITTEE AMENDMENT