

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1736

H. P. 1300

House of Representatives, March 29, 1973

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. McMahon of Kennebunk.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Shortening the Period of Real Estate Mortgage Foreclosures.**

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

**Sec. 1. R. S., T. 14, § 6202, amended.** Section 6202 of Title 14 of the Revised Statutes is amended by adding at the end a new sentence to read as follows:

**This section shall apply to mortgages created on or before December 31, 1973.**

**Sec. 2. R. S., T. 14, § 6202-A, additional.** Title 14 of the Revised Statutes is amended by adding a new section 6202-A to read as follows:

**§ 6202-A. Foreclosure in 6 months**

Possession obtained in either of these 3 modes and continued for 6 months forever forecloses the right of redemption. This section shall apply to mortgages created on or after January 1, 1974.

**Sec. 3. R. S., T. 14, § 6204, amended.** Section 6204 of Title 14 of the Revised Statutes, as amended by section 3 of chapter 424 of the public laws of 1967, is further amended by adding at the end a new sentence to read as follows:

**This section shall apply to mortgages created on or before December 31, 1973.**

**Sec. 4. R. S., T. 14, §§ 6204-A and 6204-B, additional.** Title 14 of the Revised Statutes is amended by adding 2 new sections, 6204-A and 6204-B, to read as follows:

**§ 6204-A. Mortgagor may redeem within 6 months; waiver**

The mortgagor or person claiming under him may redeem the mortgaged premises within 6 months after the first publication or the service of the

notice mentioned in section 6203, and if not so redeemed, his right of redemption is forever foreclosed.

The mortgagor and mortgagee may agree upon any period of time, not less than 6 months, in which the mortgage shall be forever foreclosed, which agreement shall be inserted in the mortgage and be binding on the parties, their heirs, legal representatives and assigns and shall apply to all the modes of foreclosure of mortgages on real estate.

The mortgagor or those claiming under him shall have the right to redeem the mortgaged premises from any or all thereof under and by virtue of authority and power contained in such mortgage or from any sale of the mortgaged premises under or by virtue of a separate instrument executed at or about the same time with the mortgage, and being a part of the same transaction, by paying or tendering to the mortgagee or to those claiming under him as appears by record at the registry of deeds where the mortgage is properly recorded, the debt, interest, costs of foreclosure and other obligations provided in the mortgage, at any time within 6 months from the date of such sale. Nothing in this section shall apply to a sale under the statutory power of sale in a corporate mortgage as provided for in sections 6203-A to 6203-E, to railroad mortgages, so called, or to bond issues of corporations, or to bonds forming a part of a mortgage indebtedness of any corporation or corporations wherein the method of sale is provided in the deed of trust or any similar instrument.

The acceptance, before the expiration of the right of redemption and after the commencement of foreclosure proceedings of any mortgage of real property, of anything of value to be applied on or to the mortgage indebtedness by the mortgagee or any person holding under him shall constitute a waiver of such foreclosure unless an agreement to the contrary in writing be signed by the person from whom the same is accepted. Except the receipt of income from the mortgaged premises, by the mortgagee or his assigns while in possession thereof, shall not constitute a waiver of the foreclosure proceedings of the mortgage on such premises. This section shall apply to mortgages created on or after January 1, 1974.

#### § 6204-B. Disposition of proceeds of foreclosure sale

The holder of a mortgage of real estate, or his representative, out of the money arising from a completed sale after the period of redemption has expired pursuant to a foreclosure under this chapter, shall be entitled to retain all sums then secured by the mortgage, whether then or thereafter payable, including all costs, charges or expenses incurred or sustained by him or them by reason of any default in the performance or observance of the condition of the mortgage or of any prior or subsequent mortgage, rendering the surplus, if any, to the mortgagor or his heirs, successors or assigns, unless otherwise agreed upon in the mortgage. The mortgagee shall also be entitled to deduct from the proceeds of the sale all costs incurred from the expiration of the redemption period to the date of sale. No person other than the holder of the mortgage shall be bound to see to the application of the money arising from such sale nor submit an account relating to same and in the

absence of fraud the consideration received by the mortgagee or his representative shall be deemed to be adequate consideration and the mortgagor shall have no claim that the sale price was inadequate.

#### STATEMENT OF FACT

The bill will reduce the period of redemption on a mortgage foreclosure from one year to 6 months. It also provides that, upon sale by the mortgagee, the mortgagor shall be paid any surplus remaining after the mortgagee has recovered all of its costs.