

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2062

H. P. 1977

House of Representatives January 12, 1978

Filed by the Joint Standing Committee on Judiciary under Joint Rule 17

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Amend Foreclosure Proceedings by Civil Action.

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

14 MRSA § 6322, as enacted by PL 1975, c. 552, § 5, is repealed and the following enacted in its place:

§ 6322. Hearing and judgment

After hearing, the court shall determine whether there has been a breach of condition in the plaintiff's mortgage, the amount due thereon including reasonable attorney's fees and court costs, and the order or priority and those amounts, if any, which may be due to those other parties which may appear.

If the court determines that such a breach exists, a judgment of foreclosure and sale shall issue providing that if the mortgagor, his successors, heirs and assigns do not pay the sum that the court adjudges to be due and payable, with interest within the period of redemption, the mortgagee shall proceed with a sale as provided. If the mortgagor, his successors, heirs and assigns pay to the mortgagee the sum that the court adjudges to be due and payable to the mortgagee with interest within the period of redemption, then the mortgagee shall forthwith discharge the mortgage and file a dismissal of the action for foreclosure with the clerk of the court.

On mortgages executed prior to October 1, 1975, unless the mortgage contains language to the contrary, the period of redemption shall be one year from the date of the judgment. On mortgages executed on or after October 1, 1975, the period of redemption shall be 90 days from the date of the judgment.

STATEMENT OF FACT

The statutory provisions for foreclosure proceedings by civil action on mortgages executed prior to October 1, 1975, have been found to be unconstitutional because it does not allow a full year's period of redemption. This bill provides for a one-year period of redemption on those mortgages, thus allowing the use of foreclosure proceedings by civil action on those mortgages.