

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 918

H. P. 773

House of Representatives, February 19, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Davis of Monmouth.

Cosponsors: Representative Soule of Westport and Representative Livesay of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Law Relating to Foreclosure Proceedings by Civil Action.

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

Sec. 1. 14 MRSA § 6101, as amended by PL 1967, c. 424, § 1, is further amended to read:

§ 6101. Attorney's fees

For the foreclosure of a mortgage ~~by either method prescribed by section 6201, subsections 2 and 3, or by section 6203, or by sale under a power of sale in the mortgage by any method authorized by this chapter,~~ the mortgagee or the person claiming under him may charge a reasonable attorney's fee which shall be a lien on the mortgaged estate, and shall be included with the expense of publication, service and recording in making up the sum to be tendered by the mortgagor or the person claiming under him in order to be entitled to redeem, provided ~~said~~ the sum has actually been paid in full or partial discharge of an attorney's fee.

Sec. 2. 14 MRSA § 6321, first ¶, first sentence, as enacted by PL 1975, c. 552, § 5, is amended to read:

After breach of condition in ~~the~~ a mortgage of first priority, the mortgagee or any person claiming under him may proceed for the purpose of foreclosure by a

civil action against all parties in interest in either the Superior Court or the District Court in the division wherein the mortgaged premises or any part thereof is located.

**Sec. 3.** 14 MRSA § 6321, as repealed and replaced by PL 1977, c. 564, § 69, is amended by adding at the end of the first paragraph a new paragraph to read:

**After breach of condition of any mortgage other than one of the first priority, the mortgagee or any person claiming under him may proceed for the purpose of foreclosure by a civil action against all parties in interest, except for parties in interest having a superior priority to the foreclosing mortgagee, in either the Superior Court or the District Court in the division wherein the mortgaged premises or any part thereof is located. Parties in interest having a superior priority shall not be joined nor will their interest be affected by the proceedings, but the resulting sale under section 6323 shall be of the defendant or mortgagor's equity of redemption only. The plaintiff shall notify the priority parties in interest of the action by sending a copy of the complaint to the parties in interest by certified mail.**

**Sec. 4.** 14 MRSA § 6324, 4th sentence, as enacted by PL 1975, c. 552, § 5, is amended to read:

**In the event the mortgagee has been the purchaser at the public sale of an owner-occupied single family dwelling, any deficiency shall be limited to the difference between the fair market value of the premises at the time of the sale, as established by an independent appraisal, and the sum due the mortgagee as established by the court with interest plus the expenses incurred in making the sale.**

#### STATEMENT OF FACT

The purpose of this bill is to clarify the application of standard fees to all forms of foreclosure in Title 14, chapter 713.

This bill also establishes foreclosure priorities and reduces expense to mortgagors by eliminating the requirement that priority mortgagees need defend against subsequent mortgage foreclosures.

The purpose of Title 14, section 6324 is to limit deficiencies in the case of homeowners.