

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2283

H.P. 1650

House of Representatives, February 6, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in dark ink, appearing to read "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MARSANO of Belfast.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Provide Uniformity and Fairness after Mortgage Foreclosure.



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

Sec. 14 MRSA §6204-A, as enacted by PL 1975, c. 522, §4, is amended to read:

§6204-A. Disposition of proceeds of foreclosure sale

The holder of a mortgage of real estate, or his ~~the~~ holder's representative, out of the money arising from a completed sale after the period of redemption has expired pursuant to a foreclosure under ~~this--subchapter~~ section 6203-A, or from a completed sale within 2 years after the period of redemption has expired pursuant to a foreclosure under section 6201 or 6203, shall ~~be~~ is entitled to retain all sums which were secured by the mortgage, whether then or thereafter payable, including all costs, charges or expenses incurred or sustained by him ~~the~~ holder or ~~them~~ holders 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 ~~the~~ mortgagor's heirs, successors or assigns ~~assigns~~. The mortgagee shall is also be entitled to deduct from the proceeds of the sale all costs incurred and interest at the rate provided in the note which was secured by the mortgage from the expiration of the redemption period to the date of sale. No person other than the holder of the mortgage shall ~~may~~ be bound to see to the application of the money arising from such sale ~~nor~~ or to submit an account relating to same and in the absence of fraud the consideration received by the mortgagee or his ~~the~~ mortgagee's representative shall ~~be~~ is deemed to be adequate consideration and the mortgagor shall ~~have~~ has no claim that the sale price was inadequate.

STATEMENT OF FACT

The purpose of this bill is to make clear that mortgagees who take title to property under the strict foreclosure provisions must still account for any surplus from the mortgagee's sale of the property after the foreclosure is complete if the property is sold within 2 years after the period for redemption. When a foreclosure is executed through a sale, Title 14, section 6203-A, requires that the mortgagee pay the surplus of the proceeds to the mortgagor. The Maine Supreme Court has interpreted Title 14, section 6204-A to apply only to foreclosures executed through sale, and not strict foreclosures, as described in sections 6201 and 6203. Atlantic Ocean Kampgrounds, Inc. v. Camden National Bank, 473 A.2d 884 (Me. 1984).

2 This bill requires the mortgagee to pay the mortgagor the
4 proceeds of the sale of the property which occurs within 2 years
6 of the expiration of the period of redemption after the strict
8 foreclosure has occurred. Thus, mortgagors will receive the
benefits of successful sales of mortgaged property regardless of
whether the foreclosure procedure used is strict foreclosure or
foreclosure by sale.

10 No retroactive application of this change is intended.