

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "*A*" to H.P. 555, L.D. 798, Bill, "An Act to Amend the Power of Sale Foreclosure Laws"

Amend the bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 14 MRSA §6203-A, first ¶, as amended by PL 1987, c. 667, §14, is further amended to read:

Any mortgagee holder of a mortgage on real estate ~~of that~~ secures a loan primarily for business, commercial or agricultural purposes extended to a corporation having a mortgage containing, partnership or trust and contains a power of sale, or his the assignee of the holder, or a person authorized by the power of sale, or the attorney duly authorized by a writing under seal, or the person acting in the name of such the mortgagee or person, may, upon breach of condition and without action, do all the acts authorized or required by the power; but ~~no~~ a sale under such the power ~~shall-be~~ is not effectual to foreclose a mortgage unless, previous to such the sale, notice thereof has been published once in each of 3 successive weeks, the first publication to be not less than 21 days before the day of the sale in a newspaper of general circulation in the town where the land lies. This provision ~~shall-be~~ is implied in every power of sale mortgage in which it is not expressly set forth. A copy of said the notice shall must be served on the mortgagor or its representative in interest, or may be sent by registered mail addressed to it or such the representative at its last known address, or to such the person and to such the address as may be agreed upon in said the mortgage, at least 21 days before the date of the sale under the power in the mortgage. The power of sale may not be used to foreclose on the primary residence of any mortgagor who is a

2 natural person. Any power of sale incorporated into a mortgage  
3 executed after October 1, 1991 is not affected by the subsequent  
4 transfer of the mortgaged premises from a corporation,  
5 partnership or trust to any other type of organization or to an  
6 individual or individuals.'

7 Further amend the bill by striking out all of section 3 and  
8 inserting in its place the following:

9 'Sec. 3. 33 MRSA §501-A, first ¶, as enacted by PL 1967, c.  
10 424, §4, is amended to read:

11 The following "power" shall be known as "The Statutory  
12 Power of Sale" and may be included in any mortgage or  
13 incorporated by reference in any mortgage wherein that secures a  
14 loan primarily for business, commercial or agricultural purposes  
15 extended to a corporation is-the-mortgager, partnership or trust,  
16 provided that the power of sale is not used to foreclose on the  
17 primary residence of any mortgagor who is a natural person.'

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22 **STATEMENT OF FACT**

23 This amendment limits the scope of the bill as follows:

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26 1. The power of sale encompasses mortgages securing loans  
27 that are primarily for business, commercial or agricultural  
28 purposes and that are extended to partnerships and trusts, as  
29 well as those to corporations; and

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31 2. A properly incorporated power of sale is not affected by  
32 the transfer of the property to an entity or individual other  
33 than a corporation, partnership or trust. Therefore, the power  
34 of sale is effective against any subsequent holder of the  
35 mortgaged premises. The power of sale, however, can not be used  
36 to foreclose on the primary residence of a mortgagor who is a  
natural person.

Reported by the Committee on Judiciary  
Reproduced and distributed under the direction of the Clerk of the  
House  
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