

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1419, L.D. 2031, Bill, "An Act to Ensure the Retention of Utility Easements in Foreclosure Proceedings"

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 14 MRSA §6321, 3rd ¶, as amended by PL 1983, c. 447, §2, is further amended to read:

The foreclosure shall must be commenced in accordance with the Maine Rules of Civil Procedure, and the mortgagee shall also record a copy of the complaint or a clerk's certificate of the filing ~~thereof~~ of the complaint in each registry of deeds in which the mortgage deed is or by law ought to be recorded and such recording shall thereafter ~~constitute~~ constitutes record notice of commencement of foreclosure. The complaint shall ~~must~~ allege with specificity the plaintiff's claim by mortgage on such real estate, describe the mortgaged premises intelligibly, state the existence of public utility easements, if any, that were granted subsequent to the mortgage and without mortgagee consent, state the amount due on the mortgage, state the condition broken and by reason of such breach demand a foreclosure and sale. Service of process on all parties in interest and all proceedings shall ~~must~~ be in accordance with the Maine Rules of Civil Procedure. "Parties in interest" shall include mortgagors, holders of fee interest, mortgagees, lessees pursuant to recorded leases or memoranda thereof, lienors and attaching creditors all as reflected by the indices in said ~~the~~ the registry of deeds and the documents referred to therein affecting the mortgaged premises, through the time of the recording of the complaint or the clerk's certificate. Failure to join any party in interest shall ~~does~~ not invalidate the action nor any subsequent proceedings as to those joined. Failure of the mortgagee to join, as a party in interest, the holder of any easement for public utility purposes is deemed consent by the mortgagee to such easement.

2 Any other party having a claim to the real estate whose claim is
not recorded in the registry of deeds as of the time of recording
4 of the copy of the complaint or the clerk's certificate need not
be joined in the foreclosure action, and any such party shall
6 have has no claim against the real estate after completion of the
foreclosure sale; provided that any such party may move to
8 intervene in the action for the purpose of being added as a party
in interest at any time prior to the entry of judgment.

10 **Sec. 2. 14 MRSA §6321**, as amended by PL 1983, c. 447, §2, is
further amended by adding at the end a new paragraph to read:

12 For purposes of this section, "public utility easements"
14 means any easements held by: public utilities, as defined in
Title 35-A, section 102; sewer districts as defined in Title 38,
16 section 1251; or sanitary districts as formed under Title 38,
chapter 11.

18 **Sec. 3. 14 MRSA §6322, first ¶**, as repealed and replaced by PL
20 1977, c. 618, is amended to read:

22 After hearing, the court shall determine whether there has
been a breach of condition in the plaintiff's mortgage, the
24 amount due thereon, including reasonable attorney's fees and
court costs, and the order of priority and those amounts, if any,
26 which that may be due to these other parties which that may
appear and whether any public utility easements held by a party
28 in interest survive the proceedings. For purposes of this
section, "public utility easements" has the same meaning as set
30 forth in section 6321.'

34 STATEMENT OF FACT

36 This amendment replaces the bill.

38 This amendment clarifies that all public utility easements
are included in the bill as amended.
40

Reported by the Committee on Judiciary
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