

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1466, L.D. 2078, Bill, "An Act to Require a Right-to-cure Notice in Residential Mortgages"

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

Sec. 1. 14 MRSA §6111 is enacted to read:

§6111. Notice of mortgagor's right to cure

1. Notice; payment. With respect to mortgages upon residential property located in this State when the mortgagor is in possession, the mortgagee may not accelerate maturity of the unpaid balance of the obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make any required payment, tax payment or insurance premium payment, by any method authorized by this chapter until at least 30 days after the date that written notice is given by the mortgagee to the mortgagor at the last known address of the mortgagor that the mortgagor has the right to cure the default by full payment of all amounts that are due without acceleration, including reasonable interest and late charges specified in the mortgage or note. If the mortgagor tenders payment of the amounts before the date specified in the notice, the mortgagor is restored to all rights under the mortgage deed as though the default had not occurred.

2. No application to supervised lender or supervised financial organization. This section does not apply to transactions involving a supervised lender or supervised financial organization as those terms are defined in Title 9-A, section 1-301.

2 3. Notice procedure. A mortgagee gives notice to a
4 mortgagor under this section by mailing the notice by certified
6 mail, return receipt requested. If the notice is undeliverable
8 by certified mail, the mortgagee must send the notice to the
 mortgagor by ordinary mail. The time when notice is given is the
 date the mortgagor signs the receipt or, if the notice is
 undeliverable by certified mail, the date the notice was sent by
 ordinary mail.

10 **Sec. 2. 14 MRSA §6203-F, as enacted by PL 1967, c. 544, §38,**
12 **is repealed and the following enacted in its place:**

14 **§6203-F. Foreclosure of bond for deed and contracts for sale of**
 real estate

16 1. Foreclosure procedure. If the purchaser of real estate
18 under a contract for the sale of real estate, including a bond
20 for a deed, is in default of any of the terms of that contract,
22 the seller or the seller's heirs or assigns may foreclose the
24 rights of the purchaser in the contract not less than 30 days
26 after giving the notice required by subsection 2 by any of the
28 means provided by law for the foreclosure of mortgages, except
30 that the redemption period is 60 days. Within the redemption
32 period, the purchaser or a person claiming under the purchaser
34 may apply to any Justice of the Supreme Judicial Court or
36 Superior Court for an extension of time to redeem, and after such
38 notice as the court may order, for good cause shown, the court
 may extend the redemption period to a maximum of one year. An
 extension order is not binding against any person without actual
 notice of the order unless, within the 60-day period, a written
 notice describing the land, identifying the instrument under
 which foreclosure proceedings have been brought and setting forth
 the fact that application for extension of the redemption period
 has been made, is recorded in the registry of deeds in the county
 in which the land is located. This section may not be construed
 to extend the life of options with an ascertainable time of
 termination. The remedy afforded by this section supplements
 other legal remedies that may be available to the seller.

40 2. Notice of right to cure; application. Before
42 foreclosing the rights of the purchaser described in subsection
44 1, the seller or the seller's heirs or assigns must given written
46 notice to the purchaser at the last known address of the
48 purchaser that the purchaser has 30 days to cure the default by
 full payment of all amounts past due including reasonable
 interest and late charges specified in the contract. If the
 purchaser tenders payment of the amount before the date specified
 in the notice, the purchaser is restored to all rights under the
 contract as though the default had not occurred.

2 A. A seller gives notice to the purchaser under this
4 section by mailing the notice by certified mail, return
6 receipt requested. If the notice is undeliverable by
8 certified mail, the seller must send the notice to the
10 purchaser by ordinary mail. The time when notice is given
12 is the date the purchaser signs the receipt or, if the
14 notice is undeliverable by certified mail, the date the
16 notice was sent by ordinary mail.

18 B. This subsection applies only to contracts for the sale
20 of residential real estate located in this State, when the
22 purchaser is in possession of the subject real estate. All
24 other transactions are governed by the terms of the contract
26 and applicable law.'

STATEMENT OF FACT

28 This amendment replaces the bill. It includes the following
30 changes.

32 1. It makes the right to cure applicable only to financial
34 defaults, which include monthly mortgage payments, tax bills and
36 insurance premiums.

38 2. This amendment clarifies that the right to cure applies
40 only to residential mortgages where the borrower is in possession
42 of the real estate.

44 3. This amendment exempts from these requirements
46 transactions by supervised lenders and financial organizations
48 that use standard forms that are required by governmental
50 entities like Federal Home Loan Mortgage Corporation and Federal
52 National Mortgage Association, for secondary market assignments,
54 because these mortgage deeds currently contain a 30-day right to
56 cure.

58 4. This amendment provides a specific procedure for giving
60 the notice and calculating the notice period. It differs from
62 the Maine Consumer Credit Code by requiring notice by certified
64 mail, and then mailing by ordinary mail if the notice was
66 undeliverable by certified mail.

68 5. This amendment makes the same changes applicable to bond
70 for deed transactions.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
3/3/92

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