

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1556, L.D. 2194, Bill, "An Act to Clarify the Law Regarding the Power of Sale Foreclosure Laws"

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 §6203-A, first ¶, as amended by PL 1991, c. 134, §1, is further amended to read:

Any holder of a mortgage on real estate that secures ~~a loan primarily for business, commercial or agricultural purposes~~ extended to is granted by a corporation, partnership or trustee of a trust and that contains a power of sale, ~~or the assignee of the holder,~~ or a person authorized by the power of sale, or the an attorney duly authorized by a writing under seal, or the a person acting in the name of the mortgagee holder of such mortgage or any such authorized person, may, upon breach of condition and without action, do all the acts authorized or required by the power; but a sale under the power is not effectual to foreclose a mortgage unless, previous to the sale, notice 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 is implied in every power of sale mortgage in which it is not expressly set forth. A copy of the notice must be served on the mortgagor or its representative in interest, or may be sent by registered mail addressed to it or the representative at its last known address, or to the person and to the address as may be agreed upon in 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 natural person.~~ Any

2 power of sale incorporated into a mortgage executed after October
4 1, 1991 is not affected by the subsequent transfer of the
6 mortgaged premises from a such corporation, partnership or
trustee of a trust to any other type of organization or to an
individual or individuals. This paragraph is repealed October 1,
1993.

8 **Sec. 2. 14 MRSA §6203-A**, as amended by PL 1991, c. 134, §1,
10 is further amended by adding after the first paragraph a new
paragraph to read:

12 Any holder of a mortgage on real estate that secures a loan
14 primarily for business, commercial or agricultural purposes
16 extended to a corporation, partnership or trust and contains a
18 power of sale, or the assignee of the holder, or a person
20 authorized by the power of sale, or the attorney duly authorized
22 by a writing under seal, or the person acting in the name of the
24 mortgagee or person, may, upon breach of condition and without
26 action, do all the acts authorized or required by the power; but
28 a sale under the power is not effectual to foreclose a mortgage
30 unless, previous to the sale, notice has been published once in
32 each of 3 successive weeks, the first publication to be not less
34 than 21 days before the day of the sale, in a newspaper of
36 general circulation in the town where the land lies. This
38 provision is implied in every power of sale mortgage in which it
is not expressly set forth. A copy of the notice must be served
on the mortgagor or its representative in interest, or may be
sent by registered mail addressed to it or the representative at
its last known address, or to the person and to the address as
may be agreed upon in 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 natural person. Any power of sale
incorporated into a mortgage executed after October 1, 1991 is
not affected by the subsequent transfer of the mortgaged premises
from a corporation, partnership or trust to any other type of
organization or to an individual or individuals. This paragraph
takes effect October 1, 1993.

40 **Sec. 3. 33 MRSA §501-A, first ¶**, as amended by PL 1991, c. 134,
42 §3, is further amended to read:

44 The following "power" is known as "The Statutory Power of
46 Sale" and may be included in any mortgage or incorporated by
48 reference in any mortgage that ~~secures a loan primarily for~~
50 ~~business, commercial or agricultural purposes extended to granted~~
by a corporation, partnership or trustee of a trust, provided
that the power of sale is not used to foreclose on the primary
residence of any mortgagor who is a natural person. This
paragraph is repealed October 1, 1993.

