MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2223

H.P. 1576

House of Representatives, January 27, 1992

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.

EDWIN H. PERT, Clerk

Presented by Representative OLIVER of Portland.

Cosponsored by Representative CARROLL of Gray, Representative GEAN of Alfred and Representative TREAT of Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-TWO

An Act to Prevent Foreclosures on Residential Mortgages.

(EMERGENCY)



2	Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted
4	as emergencies; and
-	Whereas, residential real estate mortgages are falling into
6	default at an alarming rate due to the economic times; and
8	Whereas, Maine residents risk losing their homes as a result of these foreclosures; and
10	WB/D
12	Whereas, many Maine residents could perform their obligations under their mortgages in alternative ways that could yield the mortgagees more than the mortgagees may otherwise
14	obtain; and
16	Whereas, binding arbitration could provide the structure for the alternative performance of the mortgage obligation; and
18	Whereas, in the judgment of the Legislature, these facts
20	create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately
22	necessary for the preservation of the public peace, health and safety; now, therefore,
24	Be it enacted by the People of the State of Maine as follows:
26	
28	Sec. 1. 14 MRSA §6201, first ¶ is amended to read:
	After breach of the condition and after binding arbitration
30	performed by a member of the State Board of Arbitration and Conciliation for all mortgages of single-family, owner-occupied
32	residences, if the mortgagee or anyone claiming under him the mortgagee desires to obtain possession of the premises for the
34	purpose of foreclosure, he the mortgagee or anyone claiming under the mortgagee may proceed in either of the following ways.
36	Sec. 2. 14 MRSA §6203, first ¶ is amended to read:
38	• • • • • • • • • • • • • • • • • • •
40	If, after breach of the condition and after binding arbitration performed by a member of the State Board of Arbitration and Conciliation for all mortgages of single-family,
42 .	owner-occupied residences, the mortgages or any person claiming under him the mortgagee is not desirous of taking and holding
44	possession of the premises, he the mortgagee or any person
	claiming under the mortgagee may proceed for the purpose of
46	foreclosure in either of the following modes.
48	Sec. 3. 26 MRSA §937-A is enacted to read:
50	§937-A. Binding arbitration of mortgage foreclosure matters

	The board shall hear mortgage arbitration matters pursuant
2	to Title 14, sections 6201 and 6203 and shall issue decisions
	that are binding on the parties. If a party fails to attend
4	arbitration and the board determines that notice had been given
	and that good cause exists to proceed, the board shall hear the
6	matter on the evidence presented to it. A decision in favor of
	mortgage foreclosure may be issued by the board only if the
8	mortgagee demonstrates that foreclosure will provide a greater
	monetary return to the mortgagee than performance of alternative
10	obligations by the mortgagor.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

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STATEMENT OF FACT

This bill requires that mortgagees participate in binding arbitration prior to foreclosure of mortgages of single-family, owner-occupied residences. The arbitration, performed by the State Board of Arbitration and Conciliation, will be binding on the parties and will be in favor of foreclosure only if the mortgagee shows that foreclosure will provide a greater monetary return to the mortgagee than performance of alternative obligations by the mortgagor.