

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 629

S.P. 193

In Senate, February 23, 1993

An Act to Prevent Mortgage Foreclosures.

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CONLEY of Cumberland.
Cosponsored by Representative: OLIVER of Portland.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §6201, first ¶ is amended to read:

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, owner-occupied residences, if the mortgagee or anyone claiming under him the mortgagee desires to obtain possession of the premises for the purpose of foreclosure, he the mortgagee or anyone claiming under the mortgagee may proceed in either of the following ways.

Sec. 2. 14 MRSA §6203, first ¶ is amended to read:

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, owner-occupied residences, the mortgagee or any person claiming under him the mortgagee is not desirous of taking and holding possession of the premises, he the mortgagee or any person claiming under the mortgagee may proceed for the purpose of foreclosure in either of the following modes.

Sec. 3. 26 MRSA §937-A is enacted to read:

§937-A. Binding arbitration of mortgage foreclosure matters

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

STATEMENT OF FACT

Section 169 of the Federal Housing and Community Development Act of 1989 requires lenders to refer homeowners that are subject to foreclosure actions to a credit counseling service certified by the Federal Department of Housing and Urban Development. In Maine, that certified service is Consumer Credit Counseling Services. The purpose of this bill is to amend state law in a way that encourages avoidance of foreclosure.

2 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
4 State Board of Arbitration and Conciliation, will be binding on
the parties and will be in favor of foreclosure only if the
6 mortgagee shows that foreclosure will provide a greater monetary
return to the mortgagee than performance of alternative
8 obligations by the mortgagor.