

MAINE STATE LEGISLATURE

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L.D. 1148

(Filing No. H- 363)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 843, L.D. 1148, Bill, "An Act to Amend the Power of Sale Foreclosure Laws"

Amend the bill in section 1 in the first paragraph by striking out all of the 3rd sentence (page 1, lines 19 to 22 in L.D.) and inserting in its place the following: 'For mortgage deeds executed on or after October 1, 1993, the power of sale may be used only if the mortgage deed states that it is given primarily for a business, commercial or agricultural purpose.'

Further amend the bill in section 1 in the first paragraph by striking out all of the last sentence (page 1, lines 32 to 40 in L.D.) and inserting in its place the following: 'The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate encumbered by the mortgage deed is not used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale.'

Further amend the bill in section 3 in the first paragraph by striking out all of the last sentence (page 2, lines 2 to 9 in L.D.) and inserting in its place the following: 'The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the

COMMITTEE AMENDMENT

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2 real estate is used exclusively for residential purposes, the
4 real estate has 4 or fewer residential units and one of the units
6 is the principal residence of the owner of at least 1/2 of the
8 beneficial interest in the trust. If the mortgage deed contains
10 a statement that at the time the mortgage deed is given the real
12 estate encumbered by the mortgage deed is not used exclusively
for residential purposes, that the real estate has more than 4
residential units or that none of the residential units is the
principal residence of the owner of at least 1/2 of the
beneficial interest in the trust, the statement conclusively
establishes these facts and the mortgage deed may be foreclosed
by the power of sale.'

14 Further amend the bill by inserting at the end before the
16 statement of fact the following:

18 **FISCAL NOTE**

20 The Bureau of Banking will incur some minor additional costs
22 to enforce certain power of sale foreclosure requirements. These
costs can be absorbed within the bureau's existing budgeted
resources.'

26 **STATEMENT OF FACT**

28 This amendment replaces new language in sections 1 and 3 of
30 the original bill to clarify that certain additional restrictions
32 on power of sale foreclosure apply only to real estate owned by a
trust. If the trustee of a trust gives a mortgage deed, the
34 mortgagee may not foreclose the mortgage deed by power of sale if
all 3 of the following are true at the time the mortgage deed is
given:

- 36 1. The real estate is used exclusively for residential
38 purposes;
- 40 2. The property consists of no more than 4 residential
units; and
- 42 3. One of the units is the principal residence of the owner
44 of at least 1/2 of the beneficial interest of the trust.

46 If the mortgage deed states that at the time the mortgage
deed is given, at least one of the following is true, the
48 statement conclusively establishes these facts and the mortgage
deed can be foreclosed by power of sale:

- 50 1. The real estate is not used exclusively for residential
purposes;

