## MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)

42

44

	L.D. 1148
2	
4	(Filing No. H- 363)
7	
6	
8	STATE OF MAINE HOUSE OF REPRESENTATIVES
Ū	116TH LEGISLATURE
10	FIRST REGULAR SESSION
10	$\wedge$
12	COMMITTEE AMENDMENT "H" to H.P. 843, L.D. 1148, Bill, "Ar
14	Act to Amend the Power of Sale Foreclosure Laws"
1.6	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
18	L.D.) and inserting in its place the following: 'For mortgage
• •	deeds executed on or after October 1, 1993, the power of sale may
20	be used only if the mortgage deed states that it is given
	primarily for a business, commercial or agricultural purpose.'
22	Function among the hill in section 1 in the first second
24	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
LI	in L.D.) and inserting in its place the following: 'The power of
26	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
28	real estate is used exclusively for residential purposes, the
	real estate has 4 or fewer residential units and one of the units
30	is the principal residence of the owner of at least 1/2 of the
	beneficial interest in the trust. If the mortgage deed contains
32	a statement that at the time the mortgage deed is given the real
	estate encumbered by the mortgage deed is not used exclusively
34	for residential purposes, that the real estate has more than 4
_	residential units or that none of the residential units is the
36	principal residence of the owner of at least 1/2 of the
	beneficial interest in the trust, the statement conclusively
88	establishes these facts and the mortgage deed may be foreclosed
10	by the power of sale.'
±υ	Further amend the bill in section 3 in the first paragraph
	rarcher amena the pitt in section 2 in the litst baradraph

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 " to H.P. 843, L.D. 1148

real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units 2 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 6 for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the 8 principal residence of the owner of at least 1/2 of the 10 beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed 12 by the power of sale.'

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

16

14

#### 'FISCAL NOTE

18

20

22

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

24

26

#### STATEMENT OF FACT

This amendment replaces new language in sections 1 and 3 of the original bill to clarify that certain additional restrictions 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 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 purposes;
  - 2. The property consists of no more than 4 residential units; and
  - 3. One of the units is the principal residence of the owner of at least 1/2 of the beneficial interest of the trust.

44

46

48

38

40

42

- If the mortgage deed states that at the time the mortgage deed is given, at least one of the following is true, the statement conclusively establishes these facts and the mortgage deed can be foreclosed by power of sale:
- 1. The real estate is not used exclusively for residential purposes;

R.ofs.	
1	

# COMMITTEE AMENDMENT " to H.P. 843, L.D. 1148

2	<ol><li>The property consists of more than 4 residential units;</li></ol>
	or
4	
	3. None of the units is the principal residence of the
6	owner of at least 1/2 of the beneficial interest in the
	trust.
8	
	These restrictions address the concern regarding the use of
LO	the power of sale to foreclose on the principal residence of an
	unsuspecting trust beneficiary.
12	
	The requirement that the mortgage deed state that the
14	mortgage deed is given primarily for a business, commercial or
	agricultural purpose also applies to trusts and provides further
Lб	protection for those residing on mortgaged property.
L <b>8</b>	The amendment also adds a fiscal note to the bill.

Reported by the Committee on Judiciary
Reproduced and sitributed under the direction of the Clerk of the
House
5/18/93 (Filing No. H-363)

Page 3-LR1108(2)