

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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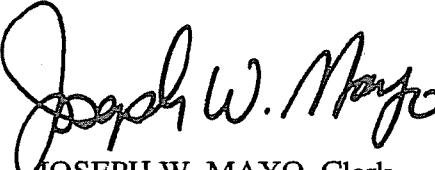
No. 1257

H.P. 934

House of Representatives, April 13, 1993

**An Act to Clarify the Laws Pertaining to Mortgages and the Laws
Pertaining to Taxation of Real Estate Transfers.**

Reference to the Committee on Taxation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative FARNSWORTH of Hallowell.

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

2
4 **Sec. 1. 14 MRSA §6111, sub-§1**, as enacted by PL 1991, c. 707, §1, is amended to read:

6 **1. Notice; payment.** With respect to mortgages upon
8 residential property located in this State when the mortgagor is
10 occupying all or a portion of the property as the mortgagor's
12 primary residence, the mortgagee may not accelerate maturity of
14 the unpaid balance of the obligation or otherwise enforce the
16 mortgage because of a default consisting of the mortgagor's
18 failure to make any required payment, tax payment or insurance
20 premium payment, by any method authorized by this chapter until
22 at least 30 days after the date that written notice is given by
the mortgagee to the mortgagor at the last known address of the
mortgagor that the mortgagor has the right to cure the default by
full payment of all amounts that are due without acceleration,
including reasonable interest and late charges specified in the
mortgage or note as well as reasonable attorney's fees. If the
mortgagor tenders payment of the amounts before the date
specified in the notice, the mortgagor is restored to all rights
under the mortgage deed as though the default had not occurred.

24 **Sec. 2. 14 MRSA §6111, sub-§4** is enacted to read:

26 **4. Application.** This section applies only to mortgages and
28 land installment contracts executed on or after June 30, 1992.

30 **Sec. 3. 14 MRSA §6323**, as repealed and replaced by PL 1883,
c. 447, §4, is amended to read:

32 **§6323. Sale following expiration of period of redemption**

34 Upon expiration of the period of redemption, if the
36 mortgagor, his or the mortgagor's successors, heirs or assigns
38 have not redeemed the mortgage, any remaining rights of the
mortgagor to possession shall terminate, and the mortgagee shall
40 cause notice of a public sale of the premises stating the time,
42 place and terms thereof of the sale to be published once in each
of 3 successive weeks in a newspaper of general circulation in
the county in which the premises are located; the first such
44 publication to be made not more than 90 days after the expiration
of the period of redemption. The public sale shall must be held
46 not less than 30 days nor more than 45 days after the first date
of that publication and may be adjourned, for any time not
exceeding 7 days and from time to time until a sale is made, by
announcement to those present at each adjournment. The mortgagee,
48 in its sole discretion, may allow the mortgagor to redeem or
reinstate the loan after the expiration of the period of
50 redemption but before the public sale. The mortgagee

2 may convey the property to the mortgagor (~~redemption~~) or execute
3 a waiver of foreclosure (~~reinstatement~~) and all other rights of
4 all other parties shall remain as if no foreclosure had been
5 commenced. The mortgagee shall sell the premises to the highest
6 bidder at the public sale and deliver a deed of that sale to the
7 purchaser, ~~which.~~ The deed shall must convey the premises free
8 and clear of all interests of the parties in interest joined in
9 the action. The mortgagee or any other party in interest may bid
10 at the public sale. Should If the mortgagee be is the highest
11 bidder at the public sale, there shall-be is no obligation to
12 account for any surplus upon a subsequent sale by the mortgagee.
13 Any rights of the mortgagee to a deficiency claim against the
14 mortgagors shall-be are limited to the amount established as of
15 the date of the public sale. The date of the "public sale" shall
16 be is the date on which bids are received to establish the sales
17 price, no matter when the sale is completed by the delivery of
18 the deed to the highest bidder.

19 **Sec. 4. 33 MRSA §482, sub-§1, ¶L,** as enacted by PL 1983, c.
20 368, is amended to read:

21 L. A statement of the rights of the buyer established by
22 Title 14, section 6111 to cure a default by the buyer;

23 **Sec. 5. 36 MRSA §943,** as amended by PL 1991, c. 245, §1 and
24 affected by §2, is further amended by adding at the end a new
25 paragraph to read:

26 Whenever the interest of any persons who claim or may claim
27 any right, title or interest in the premises adverse to the
28 estate of a municipality is reinstated, whether by operation of
29 law, by deed of the municipality or any successor to the
30 municipality, or otherwise, the rights of the other parties
31 claiming interest in the premises, including but not limited to
32 mortgagees, lien creditors and others similarly situated, remain
33 as if the tax lien mortgage had not been foreclosed.

34 **Sec. 6. 36 MRSA §4641-C, sub-§§2 and 4,** as enacted by PL 1977,
35 c. 318, §1, are amended to read:

36 **2. Mortgage deeds.** Mortgage deeds, discharges of mortgage
37 deeds and partial releases of mortgage deeds, deeds from a
38 mortgagor to a mortgagee in lieu of foreclosure and deeds from a
39 mortgagee to itself at a public sale held pursuant to Title 14,
40 section 6323. In the event of a deed to a 3rd party at such a
41 public sale, the tax imposed upon the grantor by section 4641-A
42 applies only to that portion of the proceeds of sale that exceeds
43 the sums required to satisfy in full the claims of the mortgagee
44 and all junior claimants originally made parties in interest in

2 the proceedings, or having subsequently intervened in the
3 proceedings, as established by the judgment of foreclosure and
4 sale. The tax must be deducted from the excess proceeds;

5 **4. Deeds between family members.** Deeds between husband and
6 wife, or parent and child, without actual consideration therefor
7 for the deed, and deeds between spouses in divorce proceedings;

8
9 **Sec. 7. 36 MRSA §4641-C, sub-§11,** as enacted by PL 1981, c.
10 148, §3, is amended to read:

11 **11. Deeds of distribution.** Deeds of distribution made
12 pursuant to Title 18-A and deeds of distribution made by a
13 corporation to its shareholders upon dissolution.

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STATEMENT OF FACT

19 This bill clarifies certain ambiguities in the laws
20 governing mortgage foreclosures and related elements of the
21 transfer tax laws.