

MAINE STATE LEGISLATURE

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H. of S.

L.D. 1584

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BANKING & INSURANCE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1187, L.D. 1584, Bill, "An Act to Amend the Laws Governing Foreclosure of Mortgages"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 14 MRSA §6323, as amended by PL 1993, c. 373, §2, is repealed and the following enacted in its place:

§6323. Sale following expiration of period of redemption

1. Procedures for all civil actions. Upon expiration of the period of redemption, if the mortgagor, or the mortgagor's successors, heirs or assigns have not redeemed the mortgage, any remaining rights of the mortgagor to possession terminate, and the mortgagee shall cause notice of a public sale of the premises stating the time, place and terms 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 publication to be made not more than 90 days after the expiration of the period of redemption. The public sale must be held 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, in its sole discretion, may allow the mortgagor to redeem or reinstate the loan after the expiration of the period of redemption but before the public sale. The mortgagee may convey the property to the mortgagor or execute a waiver of foreclosure and all other rights of all other parties remain as if no

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

16 2. Additional notice requirements for civil actions
17 commenced on or after January 1, 1995. In foreclosures by civil
18 action commenced on or after January 1, 1995, the mortgagee shall
19 cause notice of the public sale to be mailed by ordinary mail to
20 all parties who appeared in the foreclosure action or to their
21 attorneys of record. The notice must be mailed no less than 30
22 calendar days before the date of sale. Failure to provide notice
23 of the public sale to any party who appeared does not affect the
24 validity of the sale.

26 FISCAL NOTE

27 The Bureau of Banking will incur some minor additional costs
28 to enforce certain mortgage foreclosure requirements. These
29 costs can be absorbed within the bureau's existing budgeted
30 resources.
31

34 STATEMENT OF FACT

35 This amendment restructures the Maine Revised Statutes,
36 Title 14, section 6323 and, for foreclosures commenced on or
37 after January 1, 1995, it requires notice of the public sale to
38 be mailed by ordinary mail from the mortgagee to all parties who
39 appeared in the foreclosure action. It provides that failure to
40 provide notice does not affect the validity of the sale. The
41 amendment also adds a fiscal note to the bill.
42