

# 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)

DATE: 2-9-98

(Filing No. H-787)

BANKING AND INSURANCE

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1376, L.D. 1929, Bill, "An Act Concerning Notices Given in Connection with Mortgage Foreclosures"

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

'Sec. 1. 14 MRSA §6111, sub-§1, as amended by PL 1995, c. 654, §1, is further amended to read:

1. Notice; payment. With respect to mortgages upon residential property located in this State when the mortgagor is occupying all or a portion of the property as the mortgagor's primary residence and the mortgage secures a loan for personal, family or household use, the mortgagee may not accelerate maturity of the unpaid balance of the obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make any required payment, tax payment or insurance premium payment, by any method authorized by this chapter until at least 30 days after the date that written notice is given by the mortgagee to the mortgagor and any cosigner against whom the mortgagee is enforcing the obligation secured by the mortgage at the last known addresses of the mortgagor and any cosigner 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.

COMMITTEE AMENDMENT

H. of S.

2           Sec. 2. 14 MRSA §6111, sub-§3, as amended by PL 1995, c. 654,  
§3, is further amended to read:

4           3. Notice procedure. A mortgagee gives shall provide  
notice to a mortgagor and any cosigner under this section by  
6 ~~mailing the notice by certified mail, return receipt requested.~~  
~~If the notice is undeliverable by certified mail, the mortgagee~~  
8 ~~must send the notice to the mortgagor and any cosigner by~~  
~~ordinary mail.~~ The time when notice is given is the date the  
10 mortgagor or any cosigner signs the receipt or, if the notice is  
undeliverable by certified mail, the date the notice was sent by  
12 ordinary mail, to the last known addresses of the mortgagor and  
cosigner by:

14           A. Certified mail, return receipt requested. For the  
16 purposes of this paragraph, the time when the notice is  
18 given to the mortgagor or cosigner is the date the mortgagor  
or cosigner signs the receipt or, if the notice is  
20 undeliverable, the date the post office last attempts to  
deliver it; or

22           B. Ordinary first class mail, postage prepaid. For the  
24 purposes of this paragraph, the time when the notice is  
26 given to the mortgagor or cosigner is the date when the  
28 mortgagor or cosigner receives that notice. A post office  
department certificate of mailing to the mortgagor or  
cosigner is conclusive proof of receipt on the 3rd calendar  
day after mailing.

30           Sec. 3. 14 MRSA §6111, sub-§4, as enacted by PL 1995, c. 654,  
§4, is repealed.

32           Sec. 4. 14 MRSA §6111, sub-§5 is enacted to read:

34           5. Exceptions. This section does not apply to:

36           A. A mortgage subject to the provisions of Title 9-A,  
38 section 5-111 or a mortgage, other than a first lien  
mortgage, that is made subject to the provisions of Title  
40 9-A, section 5-111 by agreement of the parties to the  
mortgage;

42           B. A mortgage that contains a requirement that a  
44 reinstatement notice, a notice of right to cure or an  
equivalent notice be given to the mortgagor at least 30 days  
46 prior to accelerating the maturity of the unpaid balance of  
the obligation or otherwise enforcing the mortgage against  
48 the mortgagor, if the mortgagee gives such a notice to the  
mortgagor and to any cosigner against whom the mortgagee  
50 seeks to enforce the obligation secured by the mortgage; or

# COMMITTEE AMENDMENT

2 C. A mortgage when the mortgagee accelerates the maturity  
3 of the unpaid balance of the obligation or otherwise  
4 enforces the mortgage on or after July 4, 1996 if the  
5 mortgage meets the requirements of paragraph A or B.'

6  
7 Further amend the bill by inserting at the end before the  
8 summary the following:

#### 10 ·FISCAL NOTE

12  
13 The Office of Consumer Credit Regulation and the Bureau of  
14 Banking within the Department of Professional and Financial  
15 Regulation will incur some minor additional costs to administer  
16 certain notice requirements pertaining to mortgage foreclosures.  
17 These costs can be absorbed within the agencies' existing  
18 budgeted resources.'

#### 20 SUMMARY

22  
23 This amendment replaces and clarifies the bill. It requires  
24 that at least 30 days' notice of right to cure be given by  
25 mortgagees to any cosigners against whom the mortgagee seeks to  
26 enforce the loan or obligation securing the mortgage. It allows  
27 notice of right to cure to mortgagors and cosigners to be  
28 provided by either certified mail or ordinary mail consistent  
29 with the notice of right to cure provisions for consumer credit  
30 transactions under the Maine Consumer Credit Code.

32 The amendment exempts from the requirements of the Maine  
33 Revised Statutes, Title 14, section 6111 mortgages subject to the  
34 notice of right to cure provisions of the Maine Consumer Credit  
35 Code; mortgages other than first mortgages made subject to the  
36 Code by agreement of the parties; and mortgages containing a  
37 30-day notice of right to cure provision when notice is given to  
38 the mortgagor and to any cosigner against whom the mortgagee  
39 seeks to enforce the mortgage.

40  
41 The amendment makes the exemptions from the Title 14,  
42 section 6111 notice requirements applicable to mortgages enforced  
43 on or after July 4, 1996.

44  
45 The amendment also adds a fiscal note to the bill.