

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 469

H.P. 344

House of Representatives, February 1, 2005

An Act To Simplify the Real Estate Foreclosure Process

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CRESSEY of Cornish.
Cosponsored by Senator DAMON of Hancock and
Representatives: BERUBE of Lisbon, BIERMAN of Sorrento, BISHOP of Boothbay, CEBRA
of Naples, OTT of York, PERCY of Phippsburg, SAMPSON of Auburn, Senator: TURNER of
Cumberland.

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

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Sec. 1. 14 MRSA §6323, sub-§1, as enacted by PL 1993, c. 544, §1, is amended to read:

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

SUMMARY

This bill requires a lender who sells a property at auction after foreclosure to deliver the writ of possession to the buyer along with the deed to the property.