

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 868

H.P. 657

House of Representatives, February 23, 2007

### An Act To Amend the Civil Foreclosure Laws

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SIMPSON of Auburn.  
Cosponsored by Senator HOBBS of York and  
Representatives: BERUBE of Lisbon, DILL of Cape Elizabeth, HOLMAN of Fayette,  
JACOBSEN of Waterboro, MILLS of Farmington, NASS of Acton, Senators: HASTINGS of  
Oxford, NUTTING of Androscoggin.

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

2 **Sec. 1. 14 MRSA §6323, sub-§1**, as amended by PL 2005, c. 291, §1, is further  
3 amended to read:

4 **1. Procedures for all civil actions.** Upon expiration of the period of redemption, if  
5 the mortgagor or the mortgagor's successors, heirs or assigns have not redeemed the  
6 mortgage, any remaining rights of the mortgagor to possession terminate, and the  
7 mortgagee shall cause notice of a public sale of the premises stating the time, place and  
8 terms of the sale to be published once in each of 3 successive weeks in a newspaper of  
9 general circulation in the county in which the premises are located, the first publication to  
10 be made not more than 90 days after the expiration of the period of redemption. The  
11 public sale must be held not less than 30 days nor more than 45 days after the first date of  
12 that publication and may be adjourned, for any time not exceeding 7 days and from time  
13 to time until a sale is made, by announcement to those present at each adjournment. The  
14 mortgagee, in its sole discretion, may allow the mortgagor to redeem or reinstate the loan  
15 after the expiration of the period of redemption but before the public sale. The mortgagee  
16 may convey the property to the mortgagor or execute a waiver of foreclosure, and all  
17 other rights of all other parties remain as if no foreclosure had been commenced. The  
18 mortgagee shall sell the premises to the highest bidder at the public sale and deliver a  
19 deed of that sale and the writ of possession, if a writ of possession was obtained during  
20 the foreclosure process, to the purchaser. The deed conveys the premises free and clear  
21 of all interests of the parties in interest joined in the action. The mortgagee or any other  
22 party in interest may bid at the public sale. If the mortgagee is the highest bidder at the  
23 public sale, there is no obligation to account for any surplus upon a subsequent sale by  
24 the mortgagee. Any rights of the mortgagee to a deficiency claim against the mortgagors  
25 are limited to the amount established as of the date of the public sale. The date of the  
26 public sale is the date on which bids are received to establish the sales price, no matter  
27 when the sale is completed by the delivery of the deed to the highest bidder. If the  
28 property is conveyed by deed pursuant to a public sale in accordance with this subsection,  
29 a copy of the judgment of foreclosure and evidence of compliance with the requirements  
30 of this subsection for the notice of public sale and the public sale itself must be attached  
31 to or included within the deed, or both, or otherwise be recorded in the registry of deeds.

32 **SUMMARY**

33 This bill amends the laws governing civil action foreclosure to require that the  
34 judgment of foreclosure entered by the court and evidence of compliance with the notice  
35 and public sale requirements be attached to or included within the deed, or both, or  
36 otherwise be recorded in the registry of deeds.