

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1617

S.P. 561

March 21, 2007

An Act To Repeal Strict Foreclosure

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator WESTON of Waldo.

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

2 **Sec. 1.** 14 MRSA §6201, as amended by PL 1987, c. 736, §16, is repealed.

3 **Sec. 2.** 14 MRSA §6202 is repealed.

4 **Sec. 3.** 14 MRSA §6203, as amended by PL 1987, c. 667, §13, is repealed.

5 **Sec. 4.** 14 MRSA §6203-A, as amended by PL 1995, c. 106, §1, is repealed.

6 **Sec. 5.** 14 MRSA §6203-B, as enacted by PL 1967, c. 424, §2, is repealed.

7 **Sec. 6.** 14 MRSA §6203-C, as enacted by PL 1967, c. 424, §2, is repealed.

8 **Sec. 7.** 14 MRSA §6203-D, as enacted by PL 1967, c. 424, §2, is repealed.

9 **Sec. 8.** 14 MRSA §6203-E, as amended by PL 1987, c. 736, §17, is repealed.

10 **Sec. 9.** 14 MRSA §6203-F, as repealed and replaced by PL 1991, c. 707, §2, is
11 repealed.

12 **Sec. 10.** 14 MRSA §6204, as amended by PL 1993, c. 321, §1, is repealed.

13 **Sec. 11.** 14 MRSA §6204-B, as enacted by PL 1989, c. 829, §2, is repealed.

14 **Sec. 12.** 14 MRSA §6251 is amended to read:

15 **§6251. Form of complaint**

16 The mortgagee or person claiming under ~~him~~ the mortgagee in an action for
17 possession may declare on ~~his~~ the mortgagee's own seizin, in a real action, without
18 naming the mortgage or assignment. If it appears that the plaintiff is entitled to possession
19 and that the condition had been broken when the action was commenced, the court shall,
20 on motion of either party, award the conditional judgment, unless it appears that the
21 tenant is not the mortgagor or a person claiming under ~~him~~ the mortgagor, ~~or that the~~
22 ~~owner of the mortgage proceeded for foreclosure conformably to sections 6203 and 6204~~
23 ~~before the action was commenced~~, the plaintiff not consenting to such judgment. Unless
24 such judgment is awarded, judgment ~~shall be~~ is entered as at common law.

25 **Sec. 13.** 14 MRSA §6301 is amended to read:

26 **§6301. Accounting required**

27 Any mortgagor or other person having a right to redeem lands mortgaged may
28 demand of the mortgagee or person claiming under ~~him~~ the mortgagee a true account of
29 the sum due on the mortgage, and of the rents and profits, and money expended in repairs
30 and improvements, if any. If ~~he~~ the mortgagee unreasonably refuses or neglects to render
31 such account in writing, or in any other way by ~~his~~ default prevents the plaintiff from
32 performing or tendering performance of the condition of the mortgage, ~~he~~ the mortgagor

1 may bring a civil action for the redemption of the mortgaged premises within the time
2 limited in former section 6204, and therein offer to pay the sum found to be equitably
3 due, or to perform any other condition, as the case may require. Such offer has the same
4 force as a tender of payment or performance before the commencement of the action. The
5 action ~~shall~~ must be sustained without such tender, and thereupon ~~he shall be~~ the
6 mortgagor is entitled to judgment for redemption and costs.

7 **Sec. 14. 14 MRSA §6306** is amended to read:

8 **§6306. -- payment to clerk of court**

9 When a mortgagee or person claiming under ~~him~~ a mortgagee residing out of the
10 State, or whose residence is unknown to the party entitled to redeem, has commenced
11 proceedings ~~under section 6203~~ in accordance with this chapter, or when such mortgagee
12 or claimant having no tenant, agent or attorney in possession on whom service can be
13 made has commenced proceedings ~~under section 6204~~ in accordance with this chapter, in
14 either case the party entitled to redeem may bring the civil action, as prescribed in section
15 6301, and pay at the same time to the clerk of the court and sum due, which payment
16 ~~shall have~~ has the same effect as a tender before the action. The court shall order such
17 notice to be given of the pendency of the action, as it judges proper.

18 **Sec. 15. 14 MRSA §6321, first ¶**, as amended by PL 1983, c. 447, §2, is further
19 amended to read:

20 After breach of condition in a mortgage of first priority, the mortgagee or any person
21 claiming under ~~him~~ the mortgagee may proceed for the purpose of foreclosure by a civil
22 action against all parties in interest in either the Superior Court or the District Court in the
23 division wherein the mortgaged premises or any part thereof is located, regardless of the
24 amount of the mortgage claim. The method of foreclosure of real estate mortgages
25 provided by this section is an alternative method to those provided in former sections
26 6201 and 6203 and is specifically subject to the order of priorities set out in section 6205.

27 **SUMMARY**

28 This bill repeals the laws that permit foreclosure of a mortgage on real property by
29 possession and by sale of the property.