

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1125

S.P. 416

In Senate, March 25, 2009

An Act To Improve the Home Foreclosure Process

Reference to the Committee on Insurance and Financial Services 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 SIMPSON of Androscoggin.
Cosponsored by Representative PRIEST of Brunswick and
Senator: BLISS of Cumberland, Representatives: BEAULIEU of Auburn, BECK of
Waterville, BRYANT of Windham, CLEARY of Houlton, DILL of Cape Elizabeth, HILL of
York, KRUGER of Thomaston.

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

2 **Sec. 1. 14 MRSA §6321**, as amended by PL 2007, c. 391, §9, is further amended
3 by adding after the 3rd paragraph a new paragraph to read:

4 When the complaint is served on the mortgagor, the mortgagor answer form
5 described in section 6321-A must be included on the top of the complaint and any
6 accompanying documents. An envelope addressed to the court of jurisdiction within
7 which the mortgagor may return the form to the court must be included. The mortgagor's
8 return of the form to the court is considered an answer to the complaint. The mortgagee
9 commencing the foreclosure action shall provide the form and the addressed envelope.

10 **Sec. 2. 14 MRSA §6321-A** is enacted to read:

11 **§6321-A. Mortgagor answer form**

12 **1. Development of form.** The Supreme Judicial Court shall develop a mortgagor
13 answer form that may be used as an answer to a foreclosure complaint.

14 **2. Understandable; contents.** The form must be written in language that is plain
15 and readily understandable by the general public. It must contain the following:

16 A. A statement that failure to answer the complaint will result in foreclosure of the
17 property subject to the mortgage;

18 B. An explanation that the debtor may fill out the form and return it to the court in
19 the envelope provided as the answer to the complaint. If the debtor returns the form
20 to the court, the debtor does not need to file a more formal answer or responsive
21 pleading;

22 C. The affirmative defenses that a debtor may raise in a foreclosure action. The
23 affirmative defenses must be provided in a check-off format, with a simple
24 explanation of each defense; and

25 D. An opportunity to request mediation provided in a check-off format, if mediation
26 is available. The form must include a description of the mediation that may be
27 available.

28 **3. Availability of form online.** The judicial branch and the Department of
29 Professional and Financial Regulation, Bureau of Consumer Credit Protection shall post
30 the form on their publicly accessible websites.

31 **SUMMARY**

32 This bill requires that a mortgagee who is initiating a foreclosure action in Superior
33 Court or District Court must include a mortgagor answer form in the documents that are
34 served on the mortgagor with the complaint. The mortgagor answer form must be placed
35 on top of the documents and may serve as the mortgagor's answer to the foreclosure
36 complaint. The form must be readily understandable and provide explanations and

1 affirmative defenses in a check-off format for the mortgagor to complete. It must also
2 provide an opportunity for the mortgagor to request mediation, if mediation is available.

3 The Supreme Judicial Court shall develop the form. Both the judicial branch and the
4 Department of Professional and Financial Regulation, Bureau of Consumer Credit
5 Protection shall post the form on their publicly accessible websites.