MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1707

H.P. 1208

House of Representatives, January 6, 2010

An Act To Clarify the Application of Certain Statutory Requirements to Foreclosures

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203:

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TREAT of Hallowell.

1 2	Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
3 4 5	Whereas, provisions in Public Law 2009, chapter 402 relating to the notices of a mortgagor's right to cure default were intended to apply to all residential mortgage loans; and
6 7	Whereas, an exception to the notice provision applicable to certain mortgage loans was not repealed in Public Law 2009, chapter 402; and
8 9	Whereas, this legislation repeals the exception so that the requirements for notices to cure default apply to all residential mortgages; and
10 11 12 13	Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
14	Be it enacted by the People of the State of Maine as follows:
15 16	Sec. 1. 14 MRSA §6111, sub-§5, as enacted by PL 1997, c. 579, §4, is amended to read:
17	5. Exceptions. This section does not apply to:
18 19 20	A. A mortgage subject to the provisions of Title 9-A, section 5-111 or a mortgage, other than a first lien mortgage, that is made subject to the provisions of Title 9-A, section 5-111 by agreement of the parties to the mortgage; or
21 22 23 24 25 26	B. A mortgage that contains a requirement that a reinstatement notice, a notice of right to cure or an equivalent notice be given to the mortgager at least 30 days prior to accelerating the maturity of the unpaid balance of the obligation or otherwise enforcing the mortgage against the mortgager, if the mortgage gives such a notice to the mortgager and to any cosigner against whom the mortgagee seeks to enforce the obligation secured by the mortgage; or
27 2 8 29	C. A mortgage when the mortgagee accelerates the maturity of the unpaid balance of the obligation or otherwise enforces the mortgage on or after July 4, 1996 if the mortgage meets the requirements of paragraph A or B.
30	Sec. 2. Retroactivity. This Act applies retroactively to June 15, 2009.
31 32	Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.
33	SUMMARY
34 35	This bill clarifies that the changes in the notice period for cure of defaults of mortgages made in Public Law 2009, chapter 402 apply to all residential mortgages. The

bill applies the clarification retroactively to the date Public Law 2009, chapter 402 took
 effect.