

MAINE STATE LEGISLATURE

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PROPS

L.D. 1360

Date: 5/26/11

(Filing No. H-373)

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JUDICIARY

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STATE OF MAINE

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HOUSE OF REPRESENTATIVES

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125TH LEGISLATURE

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FIRST REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 999, L.D. 1360, Bill, "An Act To Provide Prevailing Mortgagees Attorney's Fees in the Foreclosure Process"

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Amend the bill in section 1 in §6101 by striking out all of the last underlined sentence (page 1, lines 11 to 13 in L.D.) and inserting the following: 'If the mortgagee does not prevail, or upon evidence that the action was not brought in good faith, the court may order the mortgagee to pay the mortgagor's reasonable court costs and attorney's fees incurred in defending against the foreclosure or any proceeding within the foreclosure action and deny in full or in part the award of attorney's fees and costs to the mortgagee. For purposes of this section, "does not prevail" does not mean a stipulation of dismissal entered into by the parties, an agreed-upon motion to dismiss without prejudice to facilitate settlement or successful mediation of the foreclosure action pursuant to section 6321-A.'

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SUMMARY

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This amendment carries out the intent of the bill and clarifies when the court may award reasonable costs and attorney's fees in a foreclosure action.

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The court may award reasonable costs and attorney's fees to the mortgagor in a foreclosure action if the mortgagee does not prevail or if the court finds evidence that the mortgagee did not bring the action in good faith. In either case, the court may deny in full or in part the award of costs and attorney's fees to the mortgagee. This amendment provides that the term "does not prevail" does not include a stipulation of dismissal entered into by the parties, an agreed-upon motion to dismiss the action without prejudice to facilitate settlement or successful mediation of the foreclosure action.

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