

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 401

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H.P. 267

House of Representatives, February 12, 2015

### **An Act To Create Transparency in the Mortgage Foreclosure Process**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BEAVERS of South Berwick.  
Cosponsored by Senator JOHNSON of Lincoln and  
Representatives: COOPER of Yarmouth, GINZLER of Bridgton, McCREIGHT of Harpswell,  
TUCKER of Brunswick, VEROW of Brewer, Senator: BURNS of Washington.

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

2 **Sec. 1. 14 MRSA §6321, first and 2nd ¶¶**, as amended by PL 2007, c. 391, §9,  
3 are further amended to read:

4 After breach of condition in a mortgage of first priority, the mortgagee or any person  
5 claiming under the mortgage, as long as that person is the owner of the mortgage loan  
6 secured by the mortgage and also is the party entitled to enforce the debt secured by the  
7 mortgage, may proceed for the purpose of foreclosure by a civil action against all parties  
8 in interest in either the Superior Court or the District Court in the division in which the  
9 mortgaged premises or any part of the mortgaged premises is located, regardless of the  
10 amount of the mortgage claim.

11 After breach of condition of any mortgage other than one of the first priority, the  
12 mortgagee or any person claiming under the mortgage, as long as that person is the  
13 owner of the mortgage loan secured by the mortgage and also is the party entitled to  
14 enforce the debt secured by the mortgage, may proceed for the purpose of foreclosure by  
15 a civil action against all parties in interest, except for parties in interest having a superior  
16 priority to the foreclosing mortgagee, in either the Superior Court or the District Court in  
17 the division in which the mortgaged premises or any part of the mortgaged premises is  
18 located. Parties in interest having a superior priority may not be joined nor will their  
19 interests be affected by the proceedings, but the resulting sale under section 6323 is of the  
20 defendant or mortgagor's equity of redemption only. The plaintiff shall notify the priority  
21 parties in interest of the action by sending a copy of the complaint to the parties in  
22 interest by certified mail.

23 **Sec. 2. 14 MRSA §6321**, as amended by PL 2013, c. 555, §2, is further amended  
24 by adding after the 2nd paragraph a new paragraph to read:

25 As used in this section, "owner" means the ultimate economic beneficiary of the loan  
26 secured by the mortgage, except that, if the loan is held in trust for the benefit of investors  
27 or as a means to provide investment interests in a pool of loans, the trustee is considered  
28 to be the owner.

29 **SUMMARY**

30 This bill requires a mortgage loan owner to conduct a foreclosure in the name of the  
31 mortgage loan owner, instead of a mortgage loan servicer, to ensure that courts and  
32 parties know that the foreclosing plaintiff is the mortgage loan owner and the entity  
33 whose loan modification programs affect the ability of homeowners to obtain loan  
34 modifications.