

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1405

H.P. 1020

House of Representatives, March 26, 2019

An Act To Amend the Laws Governing Foreclosure To Ensure Timely Completion

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative CARNEY of Cape Elizabeth.
Cosponsored by Representative: CARDONE of Bangor.

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

2 **Sec. 1. 14 MRSA §6323, sub-§1**, as amended by PL 2013, c. 521, Pt. C, §1, is
3 further amended to read:

4 **1. Procedures for all civil actions.** Upon expiration of the period of redemption, if
5 the mortgagor or the mortgagor's successors, heirs or assigns have not redeemed the
6 mortgage, any remaining rights of the mortgagor to possession terminate, and the
7 mortgagee shall cause notice of a public sale of the premises stating the time, place and
8 terms of the sale to be published once in each of 3 successive weeks in a newspaper of
9 general circulation in the county in which the premises are located, the first publication to
10 be made not more than 90 days after the expiration of the period of redemption. Except
11 when otherwise required under 12 Code of Federal Regulations, Section 1024.41 or any
12 successor provision, the public sale must be held not less than 30 days nor more than 45
13 days after the first date of that publication. Except for sales of premises that the court has
14 determined to be abandoned pursuant to section 6326, the public sale may be adjourned,
15 for any time not exceeding 7 30 days and from time to time until a sale is made, by
16 announcement to those present at ~~each~~ any such adjournment. The court, upon motion of
17 the mortgagee, filed before the deadline for sale and showing good cause, may grant such
18 further extensions of the mortgagee's time to sell as it considers appropriate. For sales of
19 premises that the court has determined to be abandoned pursuant to section 6326, the
20 public sale may be adjourned once for any time not exceeding 7 days, except that the
21 court may permit one additional adjournment for good cause shown. Adjournments may
22 also be made in accordance with the requirements of 12 Code of Federal Regulations,
23 Section 1024.41 or any successor provision. The mortgagee, in its sole discretion, may
24 allow the mortgagor to redeem or reinstate the loan after the expiration of the period of
25 redemption but before the public sale. The mortgagee ~~may~~ shall convey the property to
26 the mortgagor upon redemption or may execute a waiver of foreclosure, ~~and in~~
27 conjunction with a reinstatement only with the written consent of the mortgagor. Any
28 waiver and the written consent of the mortgagor must be filed with the court along with a
29 motion to dismiss the foreclosure, and upon such a waiver all other rights of all other
30 parties remain as if no foreclosure had been commenced. The mortgagee shall sell the
31 premises to the highest bidder at the public sale and deliver a deed of that sale and ~~the~~ any
32 writ of possession, if a writ of possession was obtained during the foreclosure process,
33 that has been issued to the purchaser. The deed conveys the premises free and clear of all
34 interests of the parties in interest joined in the action. The mortgagee or any other party in
35 interest may bid at the public sale. If the mortgagee is the highest bidder at the public
36 sale, there is no obligation to account for any surplus upon a subsequent sale by the
37 mortgagee. Any rights of the mortgagee to a deficiency claim against the mortgagors are
38 limited to the amount established as of the date of the public sale. The date of the public
39 sale is the date on which bids are received to establish the sales price, no matter when the
40 sale is completed by the delivery of the deed to the highest bidder. If the property is
41 conveyed by deed pursuant to a public sale in accordance with this subsection, a copy of
42 the judgment of foreclosure and evidence of compliance with the requirements of this
43 subsection for the notice of public sale and the public sale itself must be attached to or
44 included within the deed, or both, or otherwise be recorded in the registry of deeds.

