

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1522

S.P. 471

In Senate, April 9, 2019

**An Act To Amend the Laws Regarding Orders of Abandonment for
Residential Properties in Foreclosure**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator FOLEY of York.
Cosponsored by Representative CAMPBELL of Orrington and
Senators: FARRIN of Somerset, GUERIN of Penobscot, Representatives: LYFORD of
Eddington, SKOLFIELD of Weld.

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

2 **Sec. 1. 14 MRSA §6326, sub-§§1 and 3**, as enacted by PL 2013, c. 521, Pt. B,
3 §1 and affected by §2, are amended to read:

4 **1. Plaintiff or party in interest request.** The plaintiff or a condominium
5 association that is a party in interest in a judicial foreclosure action may present evidence
6 of abandonment as described in subsection 2 and may request a determination pursuant to
7 subsection 3 that the mortgaged premises have been abandoned if:

8 A. More than 50% of the mortgaged premises is used for residential purposes; and

9 B. The mortgaged premises are the subject of an uncontested foreclosure action or an
10 uncontested foreclosure judgment has been issued with respect to the premises and a
11 foreclosure sale with respect to the premises is pending pursuant to this subchapter.
12 An action or judgment is uncontested if:

13 (1) The mortgagor has not appeared in the action to defend against foreclosure;

14 (2) There has been no communication from or on behalf of the mortgagor to the
15 plaintiff for at least 90 days showing any intent of the mortgagor to continue to
16 occupy the premises or there is a document of conveyance or other written
17 statement, signed by the mortgagor, that indicates a clear intent to abandon the
18 premises; and

19 (3) Either all mortgagees with interests that are junior to the interests of the
20 plaintiff have waived any right of redemption pursuant to section 6322 or the
21 plaintiff has obtained or has moved to obtain a default judgment against such
22 junior mortgagees.

23 **3. Court determination of abandonment; vacation of order.** The plaintiff or a
24 condominium association that is a party in interest may at any time after commencement
25 of a foreclosure action under section 6321 file with the court a motion to determine that
26 the mortgaged premises have been abandoned.

27 A. If the court finds by clear and convincing evidence, based on testimony or reliable
28 hearsay, including affidavits by public officials and other neutral nonparties, that the
29 mortgaged premises have been abandoned, the court may issue an order granting the
30 motion and determining that the premises are abandoned.

31 B. The court may not grant the motion if the mortgagor or a lawful occupant of the
32 mortgaged premises appears and objects to the motion.

33 C. The court shall vacate the order under paragraph A if the mortgagor or a lawful
34 occupant of the mortgaged premises appears in the action and objects to the order
35 prior to the entry of judgment.

36 **Sec. 2. 14 MRSA §6326, sub-§4, ¶C**, as enacted by PL 2013, c. 521, Pt. B, §1
37 and affected by §2, is amended to read:

38 C. If the mortgaged premises include dwelling units occupied by tenants as their
39 primary residence, the plaintiff shall assume the duties of landlord for the rental units

1 as required by chapter 709 upon the later of the issuance of the judgment of
2 foreclosure and the order of abandonment. Within 15 days after receiving any rent
3 pursuant to this paragraph, the plaintiff shall pay to a condominium association that is
4 a party in interest all such rent after deducting the plaintiff's reasonable costs for
5 acting as landlord; and

6 **SUMMARY**

7 This bill allows a condominium association to act as a party in interest in a judicial
8 foreclosure action to present evidence of abandonment of mortgaged premises and file a
9 motion to determine that the premises are abandoned. This bill also requires a plaintiff
10 prevailing in a foreclosure action against premises that include dwelling units occupied
11 by tenants to pay any rent received from those tenants, after deducting reasonable costs
12 for acting as the landlord, to a condominium association that is a party in interest.