

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

Sec. 3. 29 MRSA §941-A is enacted to read:

§941-A. Obedience to and required traffic-control devices

The driver of any vehicle shall obey the instructions of any official traffic-control device, applicable thereto placed in accordance with this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

The placing of traffic control devices in positions approximately conforming to the requirements of this chapter is prima facie evidence that the devices have been so placed by the official act or direction of lawful authority, unless the contrary is established by competent evidence.

Any official traffic-control device placed pursuant to this chapter and purporting to conform to the lawful requirements pertaining to these devices shall be presumed to comply with the requirements of this chapter, unless the contrary is established by competent evidence.

Sec. 4. 29 MRSA §944-B is enacted to read:

§944-B. Right-of-way; vehicle turning left

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close to the intersection as to constitute an immediate hazard.

Effective September 23, 1983.

CHAPTER 447

H.P. 1153 - L.D. 1523

AN ACT to Amend the Foreclosure Laws.

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

Sec. 1. 4 MRSA §152, as amended by PL 1983, c. 275, is repealed and the following enacted in its place:

§152. Jurisdiction

The District Court shall have jurisdiction in the following matters:

1. Jurisdiction exercised by trial justices and municipal courts. The civil jurisdiction exercised by all trial justices and municipal courts in the State on September 16, 1961;

2. Civil actions with damages claimed which do not exceed \$30,000. Original jurisdiction, concurrent with that of the Superior Court, of all civil actions when no equitable relief is demanded and the damages claimed do not exceed \$30,000;

3. Civil actions to enforce liens. Original jurisdiction, concurrent with the Superior Court, of all civil actions to enforce liens under Title 10, chapter 603, and the court shall determine the amount pursuant to Title 10, section 3258;

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34, chapter 229, mental retardation certification hearings under Title 34, chapter 229 and small claims actions under Title 14, chapter 738; and

5. Other actions. Original jurisdiction, concurrent with that of the Superior Court, of the following types of actions, and in these actions the District Court may grant equitable relief:

A. Actions for divorce, annulment of marriage or judicial separation and of proceedings under Title 19;

B. Actions to quiet title to real estate under Title 14, sections 6651 to 6658;

C. Actions to quiet title to real estate under Title 36, section 946;

D. Actions for breach of implied warranty and covenant of habitability under Title 14, section 6021;

E. Actions to foreclose mortgages under Title 14, chapter 713, subchapter VI; and

F. Actions for restitution under Title 5, section 213.

Actions for divorce, annulment or separation may be remanded, upon agreement of the parties, from the Superior Court to the District Court in accordance

with rules promulgated by the Supreme Judicial Court. An action so remanded shall remain in the District Court, which shall have exclusive jurisdiction thereafter, subject to the rights of appeal to the Superior Court as to matters of law.

The District Court shall possess the criminal jurisdiction exercised by all trial justices and municipal courts in the State on September 16, 1961, except as provided in Title 29, section 2302.

The District Court shall also possess, concurrent with the Superior Court, original jurisdiction to receive pleas of guilty in criminal cases in which the maximum term of imprisonment to which the defendant may be sentenced upon conviction of that crime is one year or more in which the defendant has in writing waived his right to indictment by grand jury and his right to appearance and trial in the Superior Court and has indicated his intention to enter a plea of guilty to the charges pending against him. When exercising such jurisdiction, the District Court shall possess all of the powers of the Superior Court. That jurisdiction shall be exercised in the manner which the Supreme Judicial Court shall by rule provide. Any person sentenced under this section shall be entitled to the rights provided by Title 15, chapter 306.

Sec. 2. 14 MRSA §6321, as amended by PL 1981, c. 429, §§2 and 3, is further amended to read:

§6321. Commencement of foreclosure by civil action

After breach of condition in a mortgage of first priority, the mortgagee or any person claiming under him may proceed for the purpose of foreclosure by a civil action against all parties in interest in either the Superior Court or the District Court in the division wherein the mortgaged premises or any part thereof is located, regardless of the amount of the mortgage claim. The method of foreclosure of real estate mortgages provided by this section is an alternative method to those provided in sections 6201 and 6203 and is specifically subject to the order of priorities set out in section 6205.

After breach of condition of any mortgage other than one of the first priority, the mortgagee or any person claiming under him may proceed for the purpose of foreclosure by a civil action against all parties in interest, except for parties in interest having a superior priority to the foreclosing mortgagee, in either the Superior Court or the District Court in the division wherein the mortgaged premises or any part thereof is located. Parties in interest having a superior priority shall not be joined nor will their

interests be affected by the proceedings, but the resulting sale under section 6323 shall be of the defendant or mortgagor's equity of redemption only. The plaintiff shall notify the priority parties in interest of the action by sending a copy of the complaint to the parties in interest by certified mail.

The foreclosure shall be commenced in accordance with the Maine Rules of Civil Procedure, by filing a complaint with the court and recording and the mortgagee shall also record a copy of the complaint or a clerk's certificate of the filing thereof in each registry of deeds in which the mortgage deed is or by law ought to be recorded and such recording shall thereafter constitute record notice of commencement of foreclosure. The complaint shall allege with specificity the plaintiff's claim by mortgage on such real estate, describe the mortgaged premises intelligibly, state the amount due on the mortgage, state the condition broken and by reason of such breach demand a foreclosure and sale. Service of process on all parties in interest and all proceedings shall be in accordance with the Maine Rules of Civil Procedure. "Parties in interest" shall include mortgagors, holders of fee interest, mortgagees, lessees pursuant to recorded leases or memoranda thereof, lienors and attaching creditors all as reflected by the indices in said registry of deeds and the documents referred to therein affecting the mortgaged premises, through the time of the recording of the complaint or the clerk's certificate. Failure to join any party in interest shall not invalidate the action nor any subsequent proceedings as to those joined. Any other party having a claim to the real estate whose claim is not recorded in the registry of deeds as of the time of recording of the copy of the complaint or the clerk's certificate need not be joined in the foreclosure action, and any such party shall have no claim against the real estate after completion of the foreclosure sale; provided that any such party may move to intervene in the action for the purpose of being added as a party in interest at any time prior to the entry of judgment.

Sec. 3. 14 MRSA §6322, last ¶, as enacted by PL 1977, c. 618, is amended to read:

On mortgages executed prior to October 1, 1975, unless the mortgage contains language to the contrary, the period of redemption shall be one year from the date of the judgment. On mortgages executed on or after October 1, 1975, the period of redemption shall be 90 days from the date of the judgment. In either case, the redemption period shall begin to run upon entry of the judgment of foreclosure, provided that no appeal is taken.

Sec. 4. 14 MRSA §6323, as enacted by PL 1975, c. 552, §5, is repealed and the following enacted in its place:

§6323. Sale following expiration of period of redemption

Upon expiration of the period of redemption, if the mortgagor, his successors, heirs or assigns have not redeemed the mortgage, any remaining rights of the mortgagor to possession shall terminate, and the mortgagee shall cause notice of a public sale of the premises stating the time, place and terms thereof to be published once in each of 3 successive weeks in a newspaper of general circulation in the county in which the premises are located; the first such publication to be made not more than 90 days after the expiration of the period of redemption. The public sale shall be held not less than 30 days nor more than 45 days after the first date of that publication. The mortgagee, in its sole discretion, may allow the mortgagor to redeem or reinstate the loan after the expiration of the period of redemption but before the public sale. The mortgagee may convey the property to the mortgagor (redemption) or execute a waiver of foreclosure (reinstatement) and all other rights of all other parties shall remain as if no foreclosure had been commenced. The mortgagee shall sell the premises to the highest bidder at the public sale and deliver a deed of that sale to the purchaser, which deed shall convey the premises free and clear of all interests of the parties in interest joined in the action. The mortgagee or any other party in interest may bid at the public sale. Should the mortgagee be the highest bidder at the public sale, there shall be no obligation to account for any surplus upon a subsequent sale by the mortgagee. Any rights of the mortgagee to a deficiency claim against the mortgagors shall be limited to the amount established as of the date of the public sale. The "public sale" shall be the date on which bids are received to establish the sales price, no matter when the sale is completed by the delivery of the deed to the highest bidder.

Sec. 5. 14 MRSA §6324, as enacted by PL 1975, c. 552, §5, is amended to read:

§6324. Proceeds of sale

After first deducting the expenses incurred in making the sale, the mortgagee shall disburse the remaining proceeds in accordance with the provisions of the judgment. The mortgagee shall file a report of the sale and the disbursement of the proceeds therefrom with the court and shall mail a copy to the mortgagor at his last known address. This report need

not be accepted or approved by the court, provided that the mortgagor or any other party in interest may contest the accounting by motion filed within 30 days of receipt of the report, but any such challenge shall be for money only and shall not affect the title to the real estate purchased by the highest bidder at the public sale. Any deficiency shall be assessed against the mortgagor and an execution shall be issued by the court therefor. In the event the mortgagee has been the purchaser at the public sale, any deficiency shall be limited to the difference between the fair market value of the premises at the time of the public sale, as established by an independent appraisal, and the sum due the mortgagee as established by the court with interest plus the expenses incurred in making the sale. Any surplus shall be paid to the mortgagor, his successors, heirs or assigns in the proceeding. If the mortgagor has not appeared personally or by an attorney, the surplus shall be paid to the clerk of courts, who shall hold the surplus in escrow for 6 months for the benefit of the mortgagor, his successors, heirs or assigns and, if the surplus remains unclaimed after 6 months, the clerk shall pay the surplus to the Treasurer of State to be credited to the General Fund.

Effective September 23, 1983.

CHAPTER 448

S.P. 557 - L.D. 1623

AN ACT to Define Connection under the Liquor Laws.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a business proprietor holding a liquor license for his retail store to sell malt liquor or table wine for off-premises consumption may wish to expand his business by obtaining a Class A restaurant liquor license for a separate portion of his premises; and

Whereas, this will improve the business climate and provide more jobs; and

Whereas, proprietors desirous of so expanding their businesses will benefit by immediate expansion in order to service the upcoming summer tourist