

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2007**

scape architecture approved by the board, with graduation evidenced by a diploma setting forth a satisfactory degree and 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the board; or

(b) The applicant has training or practical experience, or a combination of both, that in the opinion of the board is fully equivalent to that required in division (a).

(2) An applicant for licensure as a landscape architect in this State who has a current and valid license from another jurisdiction and a certificate from a recognized council of landscape architecture registration boards may offer to render landscape architectural services in the State prior to licensure by the board as long as the applicant first notifies the board in writing that the applicant will be present in the State to offer to render landscape architectural services. The applicant may not render landscape architectural services until duly licensed by the board.

(3) An applicant for renewal of a license issued pursuant to this section shall submit evidence that the applicant meets the qualifications established by the board.

C. Corporations and partnerships are subject to the provisions of this paragraph.

(1) A corporation or partnership may not be licensed to practice landscape architecture in this State, but it is lawful for a corporation or partnership to practice landscape architecture in this State if:

(a) The practice of landscape architecture is under the direct supervision of a director or partner who is licensed to practice landscape architecture under this chapter; and

(b) At least 1/3 of the directors or partners of the corporation or partnership are licensed under the laws of any state to practice engineering, architecture or landscape architecture. If the total number of directors or partners is not divisible by 3, the number of directors or partners required to satisfy this requirement is determined by dividing the total number of directors or partners by 3 and rounding to the nearest whole number.

A corporation or partnership authorized to practice landscape architecture under this chapter shall, upon written request from the board, submit information concerning the

organization and activities of the corporation or partnership.

(2) A corporation or partnership authorized under this chapter to practice landscape architecture in the State may offer to render architectural services beyond those architectural services that are incidental to the rendering of landscape architectural services if:

(a) The person who is rendering architectural services is a licensed architect under this chapter; and

(b) The architectural services offered are rendered by or under the direct supervision of a licensed architect.

(3) A corporation or partnership that may not otherwise offer to render landscape architectural services may offer to render those services if:

(a) A landscape architect licensed in the State or otherwise permitted to offer to render landscape architectural services participates substantially in all material aspects of the offering and supervises directly the landscape architectural services provided;

(b) The corporation or partnership provides written disclosure at the time of the offering that the landscape architect is engaged by and responsible contractually to the corporation or partnership; and

(c) The corporation or partnership provides written notice to any person who engages the corporation or partnership to receive the landscape architectural services offered, prior to termination of the landscape architect involved in the offering.

See title page for effective date.

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**CHAPTER 391**

**S.P. 561 - L.D. 1617**

**An Act To Repeal Strict Foreclosure**

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

**Sec. 1. 14 MRSA §6201**, as amended by PL 1987, c. 736, §16, is repealed.

**Sec. 2. 14 MRSA §6202** is repealed.

**Sec. 3. 14 MRSA §6203**, as amended by PL 1987, c. 667, §13, is repealed.

**Sec. 4. 14 MRSA §6204**, as amended by PL 1993, c. 321, §1, is repealed.

**Sec. 5. 14 MRSA §6204-B**, as enacted by PL 1989, c. 829, §2, is repealed.

**Sec. 6. 14 MRSA §6251** is amended to read:

**§6251. Form of complaint**

The mortgagee or person claiming under ~~him~~ the mortgagee in an action for possession may declare on ~~his~~ the mortgagee's own seizin, in a real action, without naming the mortgage or assignment. If it appears that the plaintiff is entitled to possession and that the condition had been broken when the action was commenced, the court shall, on motion of either party, award the conditional judgment, unless it appears that the tenant is not the mortgagor or a person claiming under ~~him~~ the mortgagor, ~~or that the owner of the mortgage proceeded for foreclosure conformably to sections 6203 and 6204 before the action was commenced~~, the plaintiff not consenting to such judgment. Unless such judgment is awarded, judgment ~~shall be~~ is entered as at common law.

**Sec. 7. 14 MRSA §6301** is amended to read:

**§6301. Accounting required**

Any mortgagor or other person having a right to redeem lands mortgaged may demand of the mortgagee or person claiming under ~~him~~ the mortgagee a true account of the sum due on the mortgage, and of the rents and profits, and money expended in repairs and improvements, if any. If ~~he~~ the mortgagee unreasonably refuses or neglects to render such an account in writing, or in any other way by ~~his~~ default prevents the plaintiff from performing or tendering performance of the condition of the mortgage, ~~he~~ the mortgagor may bring a civil action for the redemption of the mortgaged premises within the time limited in former section 6204, and therein offer to pay the sum found to be equitably due, or to perform any other condition, as the case may require. Such an offer has the same force as a tender of payment or performance before the commencement of the action. The action ~~shall~~ must be sustained without such a tender, and thereupon ~~he~~ shall be the mortgagor is entitled to judgment for redemption and costs.

**Sec. 8. 14 MRSA §6306** is amended to read:

**§6306. -- payment to clerk of court**

When a mortgagee or person claiming under ~~him~~ a mortgagee residing out of the State, or whose residence is unknown to the party entitled to redeem, has commenced proceedings ~~under section 6203 in accordance with this chapter~~, or when such a mortgagee or claimant having no tenant, agent or attorney in possession on whom service can be made has commenced proceedings ~~under section 6201 in accordance with this chapter~~, in either case the party entitled to redeem

may bring the civil action, as prescribed in section 6301, and pay at the same time to the clerk of the court and sum due, which payment ~~shall have~~ has the same effect as a tender before the action. The court shall order such a notice to be given of the pendency of the action, as it judges proper.

**Sec. 9. 14 MRSA §6321**, as amended by PL 1991, c. 744, §§1 and 2, 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~~ the mortgagee 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~~ in which the mortgaged premises or any part ~~thereof~~ of the mortgaged premises 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~~ the mortgagee 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~~ in which the mortgaged premises or any part ~~thereof~~ of the mortgaged premises is located. Parties in interest having a superior priority ~~shall~~ may not be joined nor will their interests be affected by the proceedings, but the resulting sale under section 6323 ~~shall be~~ is 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 must be commenced in accordance with the Maine Rules of Civil Procedure, and the mortgagee shall also record a copy of the complaint or a clerk's certificate of the filing of the complaint in each registry of deeds in which the mortgage deed is or by law ought to be recorded and such a recording thereafter constitutes record notice of commencement of foreclosure. The complaint must allege with specificity the plaintiff's claim by mortgage on such real estate, describe the mortgaged premises intelligibly, state the existence of public utility easements, if any, that were recorded subsequent to the mortgage and prior to the commencement of the foreclosure proceeding and without mortgagee consent, 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 must be in accordance with the Maine Rules of Civil Procedure. "Parties in interest" ~~include~~ includes 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 the 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 does not invalidate the action nor any subsequent proceedings as to those joined. Failure of the mortgagee to join, as a party in interest, the holder of any public utility easement recorded subsequent to the mortgage and prior to commencement of foreclosure proceedings is deemed consent by the mortgagee to ~~such that~~ that easement. 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 has no claim against the real estate after completion of the foreclosure sale; ~~provided, except~~ 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.

For purposes of this section, "public utility easements" means any easements held by: public utilities, as defined in Title 35-A, section 102; sewer districts, as defined in Title 38, section 1251; or sanitary districts, as formed under Title 38, chapter 11.

The acceptance, before the expiration of the right of redemption and after the commencement of foreclosure proceedings of any mortgage of real property, of anything of value to be applied on or to the mortgage indebtedness by the mortgagee or any person holding under the mortgage constitutes a waiver of the foreclosure unless an agreement to the contrary in writing is signed by the person from whom the payment is accepted or unless the bank returns the payment to the mortgagor within 10 days of receipt. The receipt of income from the mortgaged premises by the mortgagee or the mortgagee's assigns while in possession of the premises does not constitute a waiver of the foreclosure proceedings of the mortgage on the premises.

The mortgagee and the mortgagor may enter into an agreement to allow the mortgagor to bring the mortgage payments up to date with the foreclosure process being stayed as long as the mortgagor makes payments according to the agreement. If the mortgagor does not make payments according to the agreement, the mortgagee may, after notice to the mortgagor, resume the foreclosure process at the point at which it was stayed.

See title page for effective date.

## CHAPTER 392 S.P. 635 - L.D. 1791

### An Act To Amend the Oil and Solid Fuel Board and Propane and Natural Gas Board Licensing Laws

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

**Whereas,** the need to weatherize Maine's existing housing inventory is critical to the health, safety and welfare of the citizens of the State; and

**Whereas,** the weatherization of existing homes across the State will require qualified individuals to perform energy efficiency and combustion testing on weatherized homes for safety reasons; and

**Whereas,** Maine law currently limits combustion testing of oil-fired and gas-fired heating appliances to individuals who are licensed as oil burner technicians or natural gas and propane technicians, therefore limiting the number of individuals permitted to perform combustion testing in connection with residential weatherization; and

**Whereas,** it is necessary to increase the number of individuals permitted to perform combustion testing on weatherized homes; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 32 MRSA §2401-B, sub-§2-A** is enacted to read:

**2-A. Limited energy auditor technician.** The board may issue a limited energy auditor technician license to a person who presents to the board, at a minimum, satisfactory evidence of relevant training and written and field certification that conform to standards established by a nationally recognized building performance industry certification and quality assurance program, the equivalent Maine residential energy auditor certification program or an equivalent training and education program as determined by the board. Privileges of practice are restricted to the performance of combustion safety and efficiency testing on oil-fired space heating or water heating equipment to ensure health and safety standards and do not include any adjustment of oil-fired space heating or water heating equipment.