

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

August 2015

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 127th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

<i>CARRIED OVER</i>	<i>carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i>	<i>chapter # of constitutional resolution passed by both houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; legislation died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i>	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i>	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i>	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i>	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i>	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i>	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i>	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i>	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i>	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i>	<i>ought-not-to-pass report accepted; legislation died</i>
<i>P&S XXX</i>	<i>chapter # of enacted private & special law</i>
<i>PUBLIC XXX</i>	<i>chapter # of enacted public law</i>
<i>RESOLVE XXX</i>	<i>chapter # of finally passed resolve</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's veto</i>

The effective date for non-emergency legislation enacted in the First Regular Session of the 127th Legislature is October 15, 2015. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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3. Clarifying that the Penobscot Nation has concurrent jurisdiction with the State over criminal offenses as authorized by the federal Violence Against Women Reauthorization Act of 2013.

This bill was carried over to any special or regular session of the 127th Legislature by joint order, H.P. 992.

LD 276 An Act Regarding Maine's Power of Sale Foreclosure Law

PUBLIC 147

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FREDETTE	OTP-AM	H-201

This bill makes several changes to the power of sale mortgage foreclosure law in order to clarify certain provisions, improve notice to interested parties and ensure the marketability of titles.

Committee Amendment "A" (H-201)

This amendment clarifies that a power of sale foreclosure may be used only if a mortgage deed executed on or after October 1, 1993 states that it is given primarily for one or more of the following purposes: business, commercial or agricultural. The deed is not required to name all three purposes. The amendment amends the bill to retain a cross-reference to existing notice requirements and clarifies a cross-reference to provisions listing foreclosure procedures.

Enacted Law Summary

Public Law 2015, chapter 147 makes the following changes to the power of sale mortgage foreclosure law.

1. It clarifies that the statutory power of sale applies to a mortgage granted by a limited liability partnership.
2. It provides cross-references between the power of sale laws in the Maine Revised Statutes, Title 14 and those in Title 33.
3. It clarifies that a power of sale foreclosure may be used only if a mortgage deed executed on or after October 1, 1993 states that it is given primarily for one or more of the following purposes: business, commercial or agricultural. The deed is not required to name all three purposes.
3. It requires that written notice of sale be sent to all parties in interest, not just the mortgagor.
4. It provides that a written foreclosure notice may be given to the mortgagor at an address provided in writing by the mortgagor to the mortgagee.
5. It defines "parties in interest."
6. It clarifies that written foreclosure notices may be delivered to the mortgagor by certified mail in addition to registered mail.
7. It provides that a copy of a notice of foreclosure may be provided to a residential tenant by posting the notice conspicuously at each entrance to the mortgaged premises.
8. It clarifies the information that must be included in a foreclosure notice of sale.
9. It provides that property may be sold free and clear of the interests of the mortgagor and other junior parties in interest who have been sent a foreclosure notice of sale, but specifies that parties in interest having a superior

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priority are not affected by the foreclosure.

10. It requires a foreclosing mortgagee to execute a purchase and sale agreement with the highest bidder at a public sale and provides that, if the highest bidder fails to perform on the agreement, the foreclosing mortgagee may execute an agreement with the next highest bidder.

11. It provides that a foreclosure sale may be adjourned for up to 30 days and from time to time until a sale is made.

12. It clarifies the information relating to a foreclosure that must be included in the recorded foreclosure affidavit

13. It provides that a foreclosure affidavit must be recorded within 30 days after the date of delivery of the deed to the purchaser at the foreclosure sale rather than 30 days after the date of the sale.

14. It requires a mortgagee to correct an error in a recorded foreclosure affidavit. Current law provides for such an error to be corrected by the Superior Court. The bill retains the provision of current law that provides that the amended affidavit does not prejudicially affect any title or interest in land that may have arisen or have been created between the recording of the original and the amended affidavits.

15. It provides that, if a mortgagee is the purchaser at a public sale, any deficiency is limited to the difference between the fair market value of the premises at the time of the sale, as established by an independent appraisal, and the sum due the mortgagee with interest plus the expenses incurred in making the sale.

16. It provides that the assignment of a mortgage during the foreclosure process does not affect the validity of the foreclosure and, upon the recording of the assignment of mortgage, the assignee of the mortgage may complete the foreclosure.

17. It exempts individuals conducting mortgage foreclosure sales from auctioneer licensing requirements of Title 32. Current law exempts only individuals conducting foreclosure sales pursuant to a court order.

18. It provides that a public foreclosure sale must be held in the county where the real estate is situated rather than on or near the premises.

LD 303 An Act To Improve Communications Regarding Executive Sessions

ONTP

Sponsor(s)

BRAKEY
TURNER

Committee Report

ONTP

Amendments Adopted

This bill allows public disclosure of otherwise confidential records and information related to an executive session regarding a public employee when that employee publicly discloses information about the matter discussed in that executive session. The bill applies to records and information held by the Department of Administrative and Financial Services, Bureau of Human Resources for an employee of the executive or legislative branch, as well as records and information held by a county or municipality.