



132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

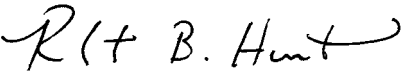
No. 403

H.P. 257

House of Representatives, February 4, 2025

An Act to Protect Holders of Distressed Mortgages from Fraud

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative ANKELES of Brunswick.
Cosponsored by Representatives: CLUCHEY of Bowdoinham, MATHIESON of Kittery.

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

2 **Sec. 1. 14 MRSA §6111, sub-§1**, as amended by PL 2009, c. 402, §10, is further
3 amended to read:

4 **1. Notice; payment.** With respect to mortgages upon residential property located in
5 this State when the mortgagor is occupying all or a portion of the property as the
6 mortgagor's primary residence and the mortgage secures a loan for personal, family or
7 household use, the mortgagee may not accelerate maturity of the unpaid balance of the
8 obligation, commence a foreclosure action or otherwise enforce the mortgage because of a
9 default consisting of the mortgagor's failure to make any required payment, tax payment or
10 insurance premium payment, by any method authorized by this chapter until at least 35
11 days but no more than 90 days after the date that written notice pursuant to subsection 1-A
12 is given by the mortgagee to the mortgagor and any cosigner against whom the mortgagee
13 is enforcing the obligation secured by the mortgage at the last known addresses of the
14 mortgagor and any cosigner that the mortgagor has the right to cure the default by full
15 payment of all amounts that are due without acceleration, including reasonable interest and
16 late charges specified in the mortgage or note as well as reasonable attorney's fees. If the
17 mortgagor tenders payment of the amounts before the date specified in the notice, the
18 mortgagor is restored to all rights under the mortgage deed as though the default had not
19 occurred.

20 **Sec. 2. 14 MRSA §6111, sub-§1-A, ¶G**, as amended by PL 2015, c. 36, §1, is
21 further amended to read:

22 G. Where mediation is available as set forth in section 6321-A, a statement that a
23 mortgagor may request mediation to explore options for avoiding foreclosure
24 judgment; ~~and~~

25 **Sec. 3. 14 MRSA §6111, sub-§1-A, ¶H**, as enacted by PL 2015, c. 36, §2, is
26 amended to read:

27 H. A statement that the total amount due does not include any amounts that become
28 due after the date of the notice; and

29 **Sec. 4. 14 MRSA §6111, sub-§1-A, ¶I** is enacted to read:

30 I. The following warning: "WARNING: Be cautious when seeking financial
31 assistance, a loan modification or any other agreement to cure or work out the default.
32 Criminals have been known to pose as legitimate negotiators who work with banks to
33 provide assistance to distressed borrowers, but these criminals may instead take your
34 money and private information without providing any assistance. You are encouraged
35 to seek help from a housing counselor who works for a housing counseling agency
36 approved by the United States Department of Housing and Urban Development (HUD)
37 or from an attorney licensed to practice in the State of Maine."

38 **Sec. 5. 14 MRSA §6321, 3rd ¶**, as amended by PL 2015, c. 229, §1, is further
39 amended to read:

40 The foreclosure must be commenced in accordance with the Maine Rules of Civil
41 Procedure, and the mortgagee shall within 60 days of commencing the foreclosure also
42 record a copy of the complaint or a clerk's certificate of the filing of the complaint in each
43 registry of deeds in which the mortgage deed is or by law ought to be recorded and such a

1 recording thereafter constitutes record notice of commencement of foreclosure. The
2 mortgagee shall further certify and provide evidence that all steps mandated by law to
3 provide notice to the mortgagor pursuant to section 6111 were strictly performed, including
4 that the foreclosure was commenced at least 35 days but no more than 90 days after the
5 date that the written notice required by section 6111 was given by the mortgagee to the
6 mortgagor and any cosigner against whom the mortgagee is enforcing the obligation. In
7 order to state a claim for foreclosure upon which relief can be granted, the complaint must
8 contain a certification of proof of ownership of the mortgage note. The mortgagee shall
9 certify proof of ownership of the mortgage note and produce evidence of the mortgage
10 note, mortgage and all assignments and endorsements of the mortgage note and mortgage.
11 The complaint must allege with specificity the plaintiff's claim by mortgage on such real
12 estate, describe the mortgaged premises intelligibly, including the street address of the
13 mortgaged premises, if any, which must be prominently stated on the first page of the
14 complaint, state the book and page number of the mortgage, if any, state the existence of
15 public utility easements, if any, that were recorded subsequent to the mortgage and prior to
16 the commencement of the foreclosure proceeding and without mortgagee consent, state the
17 amount due on the mortgage, state the condition broken and by reason of such breach
18 demand a foreclosure and sale. If a clerk's certificate of the filing of the complaint is
19 presented for recording pursuant to this section, the clerk's certificate must bear the title
20 "Clerk's Certificate of Foreclosure" and prominently state, immediately after the title, the
21 street address of the mortgaged premises, if any, and the book and page number of the
22 mortgage, if any. Service of process on all parties in interest and all proceedings must be
23 in accordance with the Maine Rules of Civil Procedure. "Parties in interest" includes
24 mortgagors, holders of fee interest, mortgagees, lessees pursuant to recorded leases or
25 memoranda thereof, lienors and attaching creditors all as reflected by the indices in the
26 registry of deeds and the documents referred to therein affecting the mortgaged premises,
27 through the time of the recording of the complaint or the clerk's certificate. Failure to join
28 any party in interest does not invalidate the action nor any subsequent proceedings as to
29 those joined. Failure of the mortgagee to join, as a party in interest, the holder of any public
30 utility easement recorded subsequent to the mortgage and prior to commencement of
31 foreclosure proceedings is deemed consent by the mortgagee to that easement. Any other
32 party having a claim to the real estate whose claim is not recorded in the registry of deeds
33 as of the time of recording of the copy of the complaint or the clerk's certificate need not
34 be joined in the foreclosure action, and any such party has no claim against the real estate
35 after completion of the foreclosure sale, except that any such party may move to intervene
36 in the action for the purpose of being added as a party in interest at any time prior to the
37 entry of judgment. Within 10 days of submitting the complaint for filing with the court,
38 the mortgagee shall provide a copy of the complaint or of the clerk's certificate as submitted
39 to the court that prominently states, immediately after the title, the street address of the
40 mortgaged premises, if any, and the book and page number of the mortgage, if any, to the
41 municipal tax assessor of the municipality in which the property is located and, if the
42 mortgaged premises is are manufactured housing as defined in Title 10, section 9002,
43 subsection 7, to the owner of any land leased by the mortgagor. The failure to provide the
44 notice required by this section does not affect the validity of the foreclosure sale.

SUMMARY

Under current law, when a mortgagor defaults on an obligation specified in a mortgage for residential property, the mortgagee may not accelerate the unpaid balance of the obligation or otherwise enforce the mortgage until at least 35 days after providing a written notice to the mortgagor, and any cosigner, of the mortgagor's right to cure the default by fully paying all amounts due, including reasonable interest and late charges specified in the mortgage or note and reasonable attorney's fees. This bill prohibits a mortgagee from enforcing the mortgage, including by initiating a foreclosure action, if the notice is more than 90 days old. It also requires that the written notice sent by the mortgagee warn distressed borrowers of potential fraudulent actors who may offer their assistance in negotiating with the mortgagee and recommend instead that they seek the assistance of a licensed Maine attorney or a housing counseling agency approved by the United States Department of Housing and Urban Development.