

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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**Sec. 1. 14 MRSA §6201**, as amended by PL 1987, c. 736, §16, is repealed.

**Sec. 2. 14 MRSA §6202** is repealed.

**Sec. 3. 14 MRSA §6203**, as amended by PL 1987, c. 667, §13, is repealed.

**Sec. 4. 14 MRSA §6203-A**, as amended by PL 1995, c. 106, §1, is repealed.

**Sec. 5. 14 MRSA §6203-B**, as enacted by PL 1967, c. 424, §2, is repealed.

**Sec. 6. 14 MRSA §6203-C**, as enacted by PL 1967, c. 424, §2, is repealed.

**Sec. 7. 14 MRSA §6203-D**, as enacted by PL 1967, c. 424, §2, is repealed.

**Sec. 8. 14 MRSA §6203-E**, as amended by PL 1987, c. 736, §17, is repealed.

**Sec. 9. 14 MRSA §6203-F**, as repealed and replaced by PL 1991, c. 707, §2, is repealed.

**Sec. 10. 14 MRSA §6204**, as amended by PL 1993, c. 321, §1, is repealed.

**Sec. 11. 14 MRSA §6204-B**, as enacted by PL 1989, c. 829, §2, is repealed.

**Sec. 12. 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. 13. 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 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 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 tender, and thereupon ~~he shall be~~ the mortgagor is entitled to judgment for redemption and costs.

**Sec. 14. 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 mortgagee or claimant having no tenant, agent or attorney in possession on whom service can be made has commenced proceedings ~~under section 6204~~ 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 notice to be given of the pendency of the action, as it judges proper.

**Sec. 15. 14 MRSA §6321, first ¶**, as amended by PL 1983, c. 447, §2, is further amended to read:

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 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 former sections 6201 and 6203 and is specifically subject to the order of priorities set out in section 6205.

## SUMMARY

This bill repeals the laws that permit foreclosure of a mortgage on real property by possession and by sale of the property.