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No. 1405

H.P. 1020

House of Representatives, March 26, 2019

An Act To Amend the Laws Governing Foreclosure To Ensure Timely Completion

Reference to the Committee on Judiciary suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative CARNEY of Cape Elizabeth. Cosponsored by Representative: CARDONE of Bangor.

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

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Sec. 1. 14 MRSA §6323, sub-§1, as amended by PL 2013, c. 521, Pt. C, §1, is further amended to read:

1. Procedures for all civil actions. Upon expiration of the period of redemption, if 4 the mortgagor or the mortgagor's successors, heirs or assigns have not redeemed the 5 mortgage, any remaining rights of the mortgagor to possession terminate, and the 6 mortgagee shall cause notice of a public sale of the premises stating the time, place and 7 terms of the sale to be published once in each of 3 successive weeks in a newspaper of 8 general circulation in the county in which the premises are located, the first publication to 9 be made not more than 90 days after the expiration of the period of redemption. Except 10 when otherwise required under 12 Code of Federal Regulations, Section 1024.41 or any 11 successor provision, the public sale must be held not less than 30 days nor more than 45 12 days after the first date of that publication. Except for sales of premises that the court has 13 14 determined to be abandoned pursuant to section 6326, the public sale may be adjourned, for any time not exceeding 7 30 days and from time to time until a sale is made, by 15 announcement to those present at each any such adjournment. The court, upon motion of 16 the mortgagee, filed before the deadline for sale and showing good cause, may grant such 17 further extensions of the mortgagee's time to sell as it considers appropriate. For sales of 18 19 premises that the court has determined to be abandoned pursuant to section 6326, the public sale may be adjourned once for any time not exceeding 7 days, except that the 20 court may permit one additional adjournment for good cause shown. Adjournments may 21 also be made in accordance with the requirements of 12 Code of Federal Regulations, 22 Section 1024.41 or any successor provision. The mortgagee, in its sole discretion, may 23 allow the mortgagor to redeem or reinstate the loan after the expiration of the period of 24 redemption but before the public sale. The mortgagee may shall convey the property to 25 the mortgagor upon redemption or may execute a waiver of foreclosure, and in 26 conjunction with a reinstatement only with the written consent of the mortgagor. Any 27 waiver and the written consent of the mortgagor must be filed with the court along with a 28 motion to dismiss the foreclosure, and upon such a waiver all other rights of all other 29 30 parties 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 and the any 31 writ of possession, if a writ of possession was obtained during the foreclosure process, 32 33 that has been issued to the purchaser. The deed conveys the premises free and clear of all interests of the parties in interest joined in the action. The mortgagee or any other party in 34 35 interest may bid at the public sale. If the mortgagee is the highest bidder at the public sale, there is no obligation to account for any surplus upon a subsequent sale by the 36 mortgagee. Any rights of the mortgagee to a deficiency claim against the mortgagors are 37 38 limited to the amount established as of the date of the public sale. The date of the public sale is the date on which bids are received to establish the sales price, no matter when the 39 sale is completed by the delivery of the deed to the highest bidder. If the property is 40 conveyed by deed pursuant to a public sale in accordance with this subsection, a copy of 41 the judgment of foreclosure and evidence of compliance with the requirements of this 42 43 subsection for the notice of public sale and the public sale itself must be attached to or included within the deed, or both, or otherwise be recorded in the registry of deeds. 44

1 Sec. 2. 14 MRSA §6324, as amended by PL 2003, c. 20, Pt. T, §10, is further 2 amended by adding at the end a new paragraph to read:

3 The report of sale required by this section must be filed with the court within the earlier of 60 days after the public sale and 30 days after the mortgagee's delivery of the 4 deed conveying the mortgaged property to the purchaser at the mortgage sale. Upon a 5 showing of good cause by the mortgagee, made by motion filed before the expiration of 6 the deadline, the court may extend the deadline for the filing of the report of sale for an 7 additional period of time as the court considers appropriate. In the event that the 8 mortgagee fails to timely file the report of sale, the mortgagee has no right to seek a 9 deficiency judgment. 10

SUMMARY

12 This bill amends the laws governing foreclosure proceedings in order to ensure 13 timely completion of foreclosure sales. This bill:

- 14 1. Extends the mortgagee's time to sell the property following an adjournment of the 15 sale, and requires that additional extensions of time be approved by the court;
- 16 2. Provides that a mortgagee may execute a waiver of foreclosure only with the 17 written consent of the mortgagor; and
- 18 3. Establishes a time frame for the mortgagee to file a report of sale.

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