

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 Amend the Laws Regarding Orders of Abandonment for Residential Properties in Foreclosure**

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

**Sec. 1. 14 MRSA §6326, sub-§§1 and 3**, as enacted by PL 2013, c. 521, Pt. B, §1 and affected by §2, are amended to read:

**1. Plaintiff or party in interest request.** The plaintiff or a condominium association that is a party in interest in a judicial foreclosure action may present evidence of abandonment as described in subsection 2 and may request a determination pursuant to subsection 3 that the mortgaged premises have been abandoned if:

- A. More than 50% of the mortgaged premises is used for residential purposes; and
- B. The mortgaged premises are the subject of an uncontested foreclosure action or an uncontested foreclosure judgment has been issued with respect to the premises and a foreclosure sale with respect to the premises is pending pursuant to this subchapter. An action or judgment is uncontested if:

(1) The mortgagor has not appeared in the action to defend against foreclosure;

(2) There has been no communication from or on behalf of the mortgagor to the plaintiff for at least 90 days showing any intent of the mortgagor to continue to occupy the premises or there is a document of conveyance or other written statement, signed by the mortgagor, that indicates a clear intent to abandon the premises; and

(3) Either all mortgagees with interests that are junior to the interests of the plaintiff have waived any right of redemption pursuant to section 6322 or the plaintiff has obtained or has moved to obtain a default judgment against such junior mortgagees.

**3. Court determination of abandonment; vacation of order.** The plaintiff or a condominium association that is a party in interest may at any time after commencement of a foreclosure action under section 6321 file with the court a motion to determine that the mortgaged premises have been abandoned.

- A. If the court finds by clear and convincing evidence, based on testimony or reliable hearsay, including affidavits by public officials and other neutral nonparties, that the mortgaged premises have been abandoned, the court may issue an order granting the motion and determining that the premises are abandoned.

B. The court may not grant the motion if the mortgagor or a lawful occupant of the mortgaged premises appears and objects to the motion.

C. The court shall vacate the order under paragraph A if the mortgagor or a lawful occupant of the mortgaged premises appears in the action and objects to the order prior to the entry of judgment.

**Sec. 2. 14 MRSA §6326, sub-§4, ¶C**, as enacted by PL 2013, c. 521, Pt. B, §1 and affected by §2, is amended to read:

C. If the mortgaged premises include dwelling units occupied by tenants as their primary residence, the plaintiff shall assume the duties of landlord for the rental units as required by chapter 709 upon the later of the issuance of the judgment of foreclosure and the order of abandonment. Within 15 days after receiving any rent pursuant to this paragraph, the plaintiff shall pay to a condominium association that is a party in interest all such rent after deducting the plaintiff's reasonable costs for acting as landlord; and

## SUMMARY

This bill allows a condominium association to act as a party in interest in a judicial foreclosure action to present evidence of abandonment of mortgaged premises and file a motion to determine that the premises are abandoned. This bill also requires a plaintiff prevailing in a foreclosure action against premises that include dwelling units occupied by tenants to pay any rent received from those tenants, after deducting reasonable costs for acting as the landlord, to a condominium association that is a party in interest.