



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 401

H.P. 267

House of Representatives, February 12, 2015

An Act To Create Transparency in the Mortgage Foreclosure Process

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BEAVERS of South Berwick.
Cosponsored by Senator JOHNSON of Lincoln and
Representatives: COOPER of Yarmouth, GINZLER of Bridgton, McCREIGHT of Harpswell,
TUCKER of Brunswick, VEROW of Brewer, Senator: BURNS of Washington.

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

2 **Sec. 1. 14 MRSA §6321, first and 2nd ¶¶**, as amended by PL 2007, c. 391, §9,
3 are further amended to read:

4 After breach of condition in a mortgage of first priority, the mortgagee or any person
5 claiming under the mortgage, as long as that person is the owner of the mortgage loan
6 secured by the mortgage and also is the party entitled to enforce the debt secured by the
7 mortgage, may proceed for the purpose of foreclosure by a civil action against all parties
8 in interest in either the Superior Court or the District Court in the division in which the
9 mortgaged premises or any part of the mortgaged premises is located, regardless of the
10 amount of the mortgage claim.

11 After breach of condition of any mortgage other than one of the first priority, the
12 mortgagee or any person claiming under the mortgage, as long as that person is the
13 owner of the mortgage loan secured by the mortgage and also is the party entitled to
14 enforce the debt secured by the mortgage, may proceed for the purpose of foreclosure by
15 a civil action against all parties in interest, except for parties in interest having a superior
16 priority to the foreclosing mortgagee, in either the Superior Court or the District Court in
17 the division in which the mortgaged premises or any part of the mortgaged premises is
18 located. Parties in interest having a superior priority may not be joined nor will their
19 interests be affected by the proceedings, but the resulting sale under section 6323 is of the
20 defendant or mortgagor's equity of redemption only. The plaintiff shall notify the priority
21 parties in interest of the action by sending a copy of the complaint to the parties in
22 interest by certified mail.

23 **Sec. 2. 14 MRSA §6321**, as amended by PL 2013, c. 555, §2, is further amended
24 by adding after the 2nd paragraph a new paragraph to read:

25 As used in this section, "owner" means the ultimate economic beneficiary of the loan
26 secured by the mortgage, except that, if the loan is held in trust for the benefit of investors
27 or as a means to provide investment interests in a pool of loans, the trustee is considered
28 to be the owner.

29 **SUMMARY**

30 This bill requires a mortgage loan owner to conduct a foreclosure in the name of the
31 mortgage loan owner, instead of a mortgage loan servicer, to ensure that courts and
32 parties know that the foreclosing plaintiff is the mortgage loan owner and the entity
33 whose loan modification programs affect the ability of homeowners to obtain loan
34 modifications.