



Maine Equal Justice

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**Testimony of Frank D'Alessandro,
Maine Equal Justice
In Opposition to LD 184,
Resolve, Establishing the Commission to Study the Foreclosure Process
February 12, 2025**

Good afternoon, Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary. My name is Frank D'Alessandro, and I am the Legal Services Director of Maine Equal Justice. We are a civil legal services organization, and we work with and for people with low income seeking solutions to poverty through policy, education, and legal representation. Thank you for the opportunity to offer testimony in opposition to LD 184.

Why Maine Equal Justice Opposes LD 184

Maine Equal Justice opposes LD 184 because there is no evidence that Maine's Foreclosure Process is a broken system in need of comprehensive repair. While we agree that there are changes needed to correct recent rollback of homeowner protections in the foreclosure process, we believe that those issues are better addressed by individual pieces of legislation specifically designed to address those issues. This is especially true given the proposed makeup of the Commission. As you have no doubt noticed, the "Commission" proposed by this resolve does not include the participation of a single homeowner representative. This omission makes me question whether the purpose of the commission is to improve the foreclosure process to the benefit of all parties or, rather, to simply make it easier for lenders to remove Maine

families from their homes. Whether homeowner representatives may ultimately be included as part of any Commission that may be created if this Resolve is ultimately passed by the Maine Legislature, this does not change the intent of the parties involved in the drafting of this legislation.

Since the Foreclosure Crisis the Foreclosure Process has been the Subject Repeated Legislative Action and a Comprehensive Foreclosure Study Conducted in 2014 Chaired by then Attorney General Janet Mills

Maine was at the center of the “robo signing scandal” whereby Plaintiffs in foreclosure cases relied upon falsified affidavits in support of motions for summary judgments in foreclosure cases. *See FNMA v. Bradbury*, 2011 ME 120, ¶¶16-17, 32 A.3d 1014, 1018-19. As noted by the Law Court: “the dishonesty associated with the preparation and notarization of Stephan's affidavit [the affidavit submitted by the Plaintiff] was severe.” *Id.* at ¶ 17.

In response to the foreclosure crisis of the 2007-2009, the Maine Legislature has been intimately involved in the foreclosure process and has enacted numerous changes to the statutes that govern the foreclosure process in the State of Maine. These changes to the foreclosure process made by the legislature include:

- Imposed heightened pleading and proof standards, *see* 2009 Me. Legis. Serv. Ch. 402, Sec. 17 (H.P. 994) (L.D. 1418) *and* 2015 Me. Legis. Serv. Ch. 229, Sec. 1 (H.P. 267) (L.D. 401) (amending 14 M.R.S. § 6321);
- Required greater financial details in pre-foreclosure notices of default and right to cure, 2009 Me. Legis. Serv. Ch. 402, Sec. 11-14 (amending 14 M.R.S. § 6111);
- Created a special process to prosecute cases where the home is abandoned, 2013 Me. Legis. Serv. Ch. 521, Sec. B-1 (H.P. 992) (L.D. 1389) (enacting 14 M.R.S. § 6326), or where the homeowner has failed to appear, 2015 Me. Legis. Serv. Ch. 243 (H.P. 580) (L.D. 846) (enacting 14 M.R.S. § 6321-B); and
- Created a mandatory foreclosure mediation program, 2009 Me. Legis. Serv. Ch. 402, Sec. 18 (enacting 14 M.R.S. § 6321-A).
- Implemented changes to the Notice Procedure to be employed in serving the Notice of mortgagor’s right to cure, 2019 Me. Legis. Serv. Ch. 361 (amending 14 M.R.S. § 6111)

- Implemented a duty of good faith upon Mortgage Loan Servicers in Dealings with Homeowners, 2019 Me. Legis. Serv. Ch. 363 which it amended in 2021, 2021 Me. Legis. Serv. Ch. 203 (enacting and amending 14 M.R.S. § 6113)
- Set forth specific limits preventing repeated postponement of the sale of foreclosed properties, 2019 Me. Legis. Serv. Ch. 408 (amending 14 M.R.S. § 6323).

As a result of a legislative resolve a foreclosure study was conducted in 2014 and chaired by then Attorney General Janet Mills. As noted by the report generated by that study, Maine has all the elements in place for a good system and there was no need to radically change what is in place. (Report, p. 22). One of the recommendations of the report was to speed up the process when it could be done without infringing on homeowner protections.

To that end there are numerous sections of Maine’s foreclosure statutes that provide opportunities for foreclosing plaintiffs to expedite the foreclosure process. Even prior to the foreclosure study was conducted Maine had adopted a law that allowed foreclosure plaintiffs to speed up the process in cases in which the property had been abandoned. (14 M.R.S. § 6326, PL 2013, C. 521, Pt. B). Shortly after the foreclosure study the legislature adopted a statute allowing foreclosing parties to request an expedited hearing in a foreclosure case where the homeowner had not filed an answer. (14 M.R.S. § 6321-B PL 2015, C. 243, C.1). Again, in 2019 the legislature further amended the foreclosure process to provide an expedited process when necessary to abate a nuisance or for preservation of the property being foreclosed upon. (14 M.R.S. § 6327, PL 2019, C 647 §1).

Despite the existence of these statutes, they are rarely used by foreclosing parties, which begs the question of why another study is needed.

The Number of Foreclosure Court Filings in Maine has Fallen Significantly

Maine ranks among the 10 states with the lowest foreclosure rate. While home foreclosures are on the rise across the United States, Mainers appear to be at less risk of losing their homes than residents in most other states.¹ In 2018,

¹ https://mainecut.org/weekly_update_story/maine-home-foreclosures-plummet-while-sales-drop-prices-inch-up/

2,467 foreclosure cases were filed in the State of Maine Courts. In 2020, the last year before the pandemic, this number was 1,286. In 2023, the first full year after the pandemic the number of foreclosure filings was 1,005. In 2024 the number was 752,² a 25% decrease from the previous year, a decrease of over 40% from 2020 and less than a third of what it had been in 2018. The request for a Commission to study foreclosures is essentially a solution in search of a problem and is unnecessary.

Foreclosure has a Disproportionate effect on Communities of Color

Maintaining the foreclosure protections contained in Maine law are necessary to stave off preventable foreclosures.

Communities of color in the United States, especially Black and Latinx communities, are particularly vulnerable to foreclosures.

In the second quarter of 2022, the homeownership rate for white households was 75 percent compared to 45 percent for Black households, 48 percent for Hispanic households, and 57 percent for non-Hispanic households of any other race. Like the overall racial wealth gaps, these gaps in homeownership rates have changed little over the last three decades (see Figure 1). In fact, the Black-white gap in homeownership rates was the same in 2020 as it was in 1970, just two years after the passage of the Fair Housing Act of 1968, which sought to end racial discrimination in the housing market.

But even as large gaps persist in homeownership levels, homeownership trends have recently diverged. While white and Hispanic homeownership rates have roughly mirrored the national trend, the Black homeownership rate has experienced a much steeper and longer decline since 2004, falling to a historical low of 40.6 percent in the second quarter of 2019 before edging up in recent quarters.

Notably, just prior to and during the Great Recession, foreclosure rates skyrocketed for Hispanic and Black households and increased relatively modestly for white households.

The large increases in rates of foreclosure for Black and Hispanic households during the Great Recession led to larger losses of housing equity wealth during this period for these groups. From peak to trough prior to and during the Great

² <https://www.courts.maine.gov/about/stats/statewide.pdf>

Recession, total housing equity wealth for white households in the United States fell by 41 percent. In contrast, housing equity wealth fell by 51 percent for other race households, 53 percent for Black households, and over 70 percent for Hispanic households.³

CONCLUSION

There is no evidence to support the need to reform the foreclosure process in order to make it easier to remove people from their homes. This is especially true given the recent foreclosure study conducted in 2014 and the numerous legislative actions taken by the Maine legislature to address the foreclosure process. Rather, it is critical that the foreclosure protections provided in Maine law remain in place to protect homeowners from unnecessary foreclosures.

Thank you for the opportunity to testify and I am happy to answer any questions.

³ <https://home.treasury.gov/news/featured-stories/racial-differences-in-economic-security-housing>