



**LEGAL SERVICES
FOR MAINE ELDERS**

LD 184 – Resolve, Establishing the Commission to Study the Foreclosure Process

Testimony of John Brautigam, Esq. for Legal Services for Maine Elders
Joint Standing Committee on Health Coverage, Insurance, and Financial Services

February 12, 2025

Senator Carney, Representative Kuhn, and members of the Joint Standing Committee on the Judiciary.

My name is John Brautigam, and I am here today on behalf of Legal Services for Maine Elders. LSE provides free legal help for Mainers aged 60 and older when their basic human needs are at stake.

I have been practicing law for 34 years. I also served as Assistant Attorney General in the Consumer Protection Division and as a litigating attorney in the United States Securities and Exchange Commission. It was my privilege to represent my community in the 122nd and 123rd Legislatures.

Each year LSE represents several dozen homeowners facing foreclosure. The exact number varies depending on a variety of factors. In a typical year hundreds of foreclosure cases are filed in Maine. Currently our foreclosure cases are slightly lower than their peak a few years ago.

Foreclosure can be devastating to the homeowner. It can bring long-lasting personal, financial, emotional, and even health consequences. It affects people in all parts of Maine, especially rural communities.¹

It goes without saying that lenders have a right to be repaid and to take action when payment does not occur. The rules that govern foreclosure should be clear, strong, and enforceable.

However, LD 184 appears to be designed to tip the balance in favor of lenders and against homeowners. We noted immediately upon reading the bill that the proposed study commission would not include any advocate for homeowners or borrowers. Homeowners could reasonably conclude that LD 184 will pave the way for reduced homeowner protections – protections put into place over the years after careful consideration.

¹ The highest foreclosure rate in Maine is found in Aroostook County.
<https://www.sofi.com/learn/content/foreclosure-rates-for-50-states/#:~:text=Maine,one%20in%20every%205%2C187%20homes>.

LEGAL SERVICES FOR MAINE ELDERS, INC.
5 Wabon Street, Augusta, Maine 04333
(207) 621-0087 Fax (207) 621-0742
Offices in Augusta, Bangor, Lewiston, Biddeford and Presque Isle
LSE Helpline 1-800-750-5353 (Voice/TTY)
www.mainelse.org

In 2014 an in-depth study led by Attorney General Janet Mills investigated the foreclosure process. Both before and after the 2014 study, rules were amended for the benefit of lenders. Lenders' primary concern was the time it takes to conclude a foreclosure. To address this, new measures were enacted allowing for expedited foreclosure proceedings.²

LSE attorneys handling foreclosure cases do not see any indication that the foreclosure process needs fundamental reform. Those who disagree are free to propose specific legislative changes for consideration on their merits. But a study commission stacked in favor of one side or another is not the right path.

Most Maine-based lenders exhibit good citizenship, and some even promote innovative measures to work through foreclosures in their community.³ We applaud these lenders. Unfortunately, other lenders have a regrettable track record. During the pandemic, the Consumer Financial Protection Bureau catalogued the conduct of lenders nationally who twisted the process to the disadvantage of homeowners by providing incomplete information about forbearance options, incorrectly sending notices, altering preauthorized funds transfers without the borrower's consent, and manipulating or misusing forbearance requests from borrowers.⁴

While some foreclosures may be inevitable, in many cases the lender and homeowner can work out a solution that is beneficial to all and that creates conditions that reduce the risk of additional problems in the future. There are ways both to keep the homeowner in their home and to set up a repayment plan that works for the lenders. Good faith mediation is an excellent way to explore options that would preserve everyone's resources, including those of the courts. The judicial branch's Foreclosure Diversion Program notes that mediation succeeds in sixty percent of cases:

Benefits of mediation in a foreclosure

Parties have a chance to talk with each other in an informal setting with the help of a mediator. Both sides share an interest in keeping the homeowner in the home and paying the mortgage. A long-term benefit of mediation is improved communication between the parties. Mediation gives the homeowner and lender the chance to talk about how to meet their shared goals. The mediator can help focus the conversation and raise options the parties may not have thought of or known about. Since the foreclosure

² Current law already has many provisions to expedite foreclosure. In addition to the ordinary default judgment process, specific provisions of Title 14 allow lenders to expedite foreclosure when there has been no answer to a complaint (14 M.R.S. § 6321-B(1)(B)) and when the property has been abandoned (14 M.R.S. § 6326). These provisions already facilitate prompt foreclosure in the case of an absentee homeowner, so this rare occurrence should not be used to justify major reforms.

³ The Community Credit Union in Lewiston is developing measures to work more closely with community members who may be at risk of foreclosure. <https://www.turnerpublishing.net/news/2021/07/08/community-credit-union-gets-grant-to-help-community/>

⁴ The new administration in Washington D.C. has stopped the work of the CFPB and taken down the agency's website. See attachment. As a result, the cite for this information is no longer available.

mediation program began in 2010, approximately 60% of cases mediated have been dismissed (ended without a foreclosure).⁵

If the legislature wishes to adjust public policy on foreclosure, it should focus on mediation. We would welcome such a constructive approach. But that is not LD 184.

We urge you to vote ought not to pass.

Thank you.

⁵ <https://www.courts.maine.gov/programs/fdp/index.html>. The Foreclosure Diversion Program reports annually on the results from the prior year. The January, 2025 Report is here: <https://legislature.maine.gov/doc/11540>

Attachment

The screenshot shows a web browser window with the address bar displaying "consumerfinance.gov". The page content is a 404 error message. At the top, there is a navigation menu with links for "Consumer Education", "Rules & Policy", "Enforcement", "Compliance", "Data & Research", and "News". Below the navigation is a large black box with white text that reads "404: Page not found". The text explains that the page cannot be found and suggests visiting the homepage or contacting the bureau. There are two buttons: "Visit homepage" and "Contact us". Below the buttons, there is a link that says "Are you sure this is the right web address? Let us know". At the bottom of the page, there is a footer with links for "About Us", "Contact Us", "Careers", "Events", "Industry Whistleblowers", and "CFPB Ombudsman". There are also social media icons for Facebook, X, LinkedIn, YouTube, and Instagram.

consumerfinance.gov

An official website of the United States government. Español 中文 Tiếng Việt 한국어 Tagalog Pycckий العربية Kreyòl Ayisyen (855) 411-2372

cfpb Consumer Financial Protection Bureau

Search Submit a Complaint

Consumer Education Rules & Policy Enforcement Compliance Data & Research News

404: Page not found

We can't find the page you're looking for. Visit our homepage for helpful tools and resources, or contact us and we'll point you in the right direction.

Visit homepage Contact us

Are you sure this is the right web address? [Let us know](#)

About Us Contact Us Careers Events Industry Whistleblowers
CFPB Ombudsman

Facebook X LinkedIn YouTube Instagram

FOIA Office of Minority and Women USA.gov