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An Act To Clarify the Application of Certain Statutory Requirements to Foreclosures

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, provisions in Public Law 2009, chapter 402 relating to the notices of a mortgagor's right to cure default were intended to apply to all residential mortgage loans; and

Whereas, an exception to the notice provision applicable to certain mortgage loans was not repealed in Public Law 2009, chapter 402; and

Whereas, this legislation repeals the exception so that the requirements for notices to cure default apply to all residential mortgages; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 14 MRSA §6111, sub-§5, as enacted by PL 1997, c. 579, §4, is amended to read:

5. Exceptions. This section does not apply to:

A. A mortgage subject to the provisions of Title 9-A, section 5-111 or a mortgage, other than a first lien mortgage, that is made subject to the provisions of Title 9-A, section 5-111 by agreement of the parties to the mortgage; or

~~B. A mortgage that contains a requirement that a reinstatement notice, a notice of right to cure or an equivalent notice be given to the mortgagor at least 30 days prior to accelerating the maturity of the unpaid balance of the obligation or otherwise enforcing the mortgage against the mortgagor, if the mortgagee gives such a notice to the mortgagor and to any cosigner against whom the mortgagee seeks to enforce the obligation secured by the mortgage; or~~

C. A mortgage when the mortgagee accelerates the maturity of the unpaid balance of the obligation or otherwise enforces the mortgage on or after July 4, 1996 if the mortgage meets the requirements of paragraph A ~~or B.~~

Sec. 2. Retroactivity. This Act applies retroactively to June 15, 2009.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill clarifies that the changes in the notice period for cure of defaults of mortgages made in Public Law 2009, chapter 402 apply to all residential mortgages. The bill applies the clarification retroactively to the date Public Law 2009, chapter 402 took effect.