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An Act To Protect Homeowners Subject to Foreclosure by Requiring the Foreclosing Entity To Provide the Court with Original Documents

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

Sec. 1. 14 MRSA §6321, 3rd ¶, as amended by PL 2009, c. 476, Pt. B, §5 and affected by §9, is further amended to read:

The foreclosure must be commenced in accordance with the Maine Rules of Civil Procedure, and the mortgagee shall within 60 days of commencing the foreclosure also record a copy of the complaint or a clerk's certificate of the filing of the complaint in each registry of deeds in which the mortgage deed is or by law ought to be recorded and such a recording thereafter constitutes record notice of commencement of foreclosure. The mortgagee shall further certify and provide evidence that all steps mandated by law to provide notice to the mortgagor pursuant to section 6111 were strictly performed. The mortgagee shall certify proof of ownership of the mortgage note and produce evidence of the original mortgage note signed by the mortgagor, and evidence of the mortgage and all assignments and endorsements of the mortgage note and mortgage. The complaint must allege with specificity the plaintiff's claim by mortgage on such real estate, describe the mortgaged premises intelligibly, including the street address of the mortgaged premises, if any, which must be prominently stated on the first page of the complaint, state the book and page number of the mortgage, if any, state the existence of public utility easements, if any, that were recorded subsequent to the mortgage and prior to the commencement of the foreclosure proceeding and without mortgagee consent, state the amount due on the mortgage, state the condition broken and by reason of such breach demand a foreclosure and sale. If a clerk's certificate of the filing of the complaint is presented for recording pursuant to this section, the clerk's certificate must bear the title "Clerk's Certificate of Foreclosure" and prominently state, immediately after the title, the street address of the mortgaged premises, if any, and the book and page number of the mortgage, if any. Service of process on all parties in interest and all proceedings must be in accordance with the Maine Rules of Civil Procedure. "Parties in interest" includes mortgagors, holders of fee interest, mortgagees, lessees pursuant to recorded leases or memoranda thereof, lienors and attaching creditors all as reflected by the indices in the registry of deeds and the documents referred to therein affecting the mortgaged premises, through the time of the recording of the complaint or the clerk's certificate. Failure to join any party in interest does not invalidate the action nor any subsequent proceedings as to those joined. Failure of the mortgagee to join, as a party in interest, the holder of any public utility easement recorded subsequent to the mortgage and prior to commencement of foreclosure proceedings is deemed consent by the mortgagee to that easement. Any other party having a claim to the real estate whose claim is not recorded in the registry of deeds as of the time of recording of the copy of the complaint or the clerk's certificate need not be joined in the foreclosure action, and any such party has no claim against the real estate after completion of the foreclosure sale, except that any such party may move to intervene in the action for the purpose of being added as a party in interest at any time prior to the entry of judgment. Within 10 days of submitting the complaint for filing with the court, the mortgagee shall provide a copy of the complaint or of the clerk's certificate as submitted to the court that prominently states, immediately after the title, the street address of the mortgaged premises, if any, and the book and page number of the mortgage, if any, to

the municipal tax assessor of the municipality in which the property is located and, if the mortgaged premises is manufactured housing as defined in Title 10, section 9002, subsection 7, to the owner of any land leased by the mortgagor. The failure to provide the notice required by this section does not affect the validity of the foreclosure sale.

SUMMARY

This bill requires a mortgagee bringing a civil foreclosure action on real property to produce the original mortgage note, signed by the mortgagor, as part of the complaint.