



STATE OF MAINE  
OFFICE OF THE GOVERNOR  
1 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0001

Paul R. LePage  
GOVERNOR

23 June 2017

The 128th Legislature of the State of Maine  
State House  
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1047, "An Act to Protect Homeowners from Improper Foreclosure Fees."


This bill concerns a problem that arose many years ago. The lending crisis that had plagued our economy, coupled with a disruptive decision by the Law Court, sent our foreclosure system into disarray. Executives at mortgage companies often believed they validly held mortgages only to find out, after pursuing litigation, they could not prove that they held the mortgage. In 2011, the Legislature passed a law that allowed courts to award attorney fees to those against whom mortgage companies brought foreclosure actions and lost. The law provided the court with discretion to award attorney fees if the mortgage holder (mortgagee) was either unsuccessful in the foreclosure action or if the action was brought in bad faith.

It is claimed this bill is submitted in response to a "loophole" in the 2011 amendment to the law. The claim is that foreclosure plaintiffs who are found to have not held the relevant mortgage, but who acted in good faith, were intended to be subject to attorney fee penalty. This is plainly not the case. The argument advanced by the proponents of this bill ignores the fact that the law as it currently exists reflects that plaintiffs can bring foreclosure action and lose for reasons other than failure to prove that they hold the relevant mortgages. The intent of the law is that those lenders should be subject to a potential attorney fee penalty.

Since the 2011 amendment took effect, mortgage holders have changed their foreclosure practice in a way that is consistent with the intent of the 2011 amendment. It is now a relative rarity that foreclosure actions are unsuccessfully brought and rarer still for courts to disallow attorney fees when mortgagors request them after successfully defending a foreclosure action. For these reasons, this bill is unnecessary and adds needless cost to what should be a speedy procedure.

For these reasons, I return LD 1047 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

  
Paul R. LePage  
Governor



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