

# MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

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SENATE

NO. 202

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*In Senate, Feb. 20, 1917.*

*Referred to Committee on Judiciary and five hundred copies ordered printed. Sent down for concurrence.*

*W. E. LAWRY, Secretary.*

*Presented by Mr. Hastings of Androscoggin.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND SEVENTEEN

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AN ACT in addition to Section 44, 45, 46 and 47, Chapter 86,  
Revised Statutes of 1916, relating to attachment of property  
mortgaged or pledged.

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

Section 1. Personal property, which is subject to a mort-  
2 gage and is in the possession of the mortgagor may be  
3 attached as if unencumbered; and the mortgagee or his as-  
4 signs may be summoned in the same action in which the  
5 property is attached as the trustee of the mortgagor or his  
6 assigns to answer such questions as may be put to him or

7 them by the court or by its order relative to the considera-  
8 tion of the mortgage and the amount due thereon.

Sect. 2. If upon such examination, or upon the verdict  
2 of a jury as hereinafter provided, it appears that the mort-  
3 gage is valid, the court, having first ascertained the amount  
4 justly due upon it, may direct the attaching creditor to pay  
5 the same to the mortgagee or his assigns within such time  
6 as it orders; and if he does not pay or tender the amount  
7 within the time prescribed, the attachment shall be void and  
8 the property shall be restored.

Sect. 3. If the attaching creditor denies the validity of  
2 the mortgage and moves that the validity may be tried by  
3 a jury, the court shall order such trial upon an issue which  
4 shall be framed under its direction and if, upon such exam-  
5 ination or verdict, the mortgage is adjudged valid, the mort-  
6 gagee or his assigns shall recover his costs.

Sect. 4. When the creditor has paid to the mortgagee or  
2 his assigns the amount ordered by the court, he may retain  
3 out of the proceeds of the property attached, when sold,  
4 the amount so paid with interest, and the balance shall be  
5 applied to the payment of his debt.

Sect. 5. If the attaching creditor, after having paid the  
2 amount ordered by the court, does not recover judgment,  
3 he may nevertheless hold the property until the debtor has  
4 repaid with interest the amount so paid.