

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and First Legislature

OF THE

STATE OF MAINE

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The Knowlton and McLeary Company
Farmington, Maine
1963

PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the One Hundred and First Legislature

1963

Chapter 418

AN ACT Shortening the Period of Real Estate Mortgage Foreclosure.

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

Sec. 1. R. S., c. 177, § 4, amended. Section 4 of chapter 177 of the Revised Statutes is amended by adding at the end a new sentence to read as follows:

‘This section shall apply to mortgages created on or before December 31, 1963.’

Sec. 2. R. S., c. 177, § 4-A, additional. Chapter 177 of the Revised Statutes is amended by adding a new section 4-A, to read as follows:

‘Sec. 4-A. Foreclosure in 6 months. Possession obtained in either of these 3 modes and continued for 6 months forever forecloses the right of redemption. This section shall apply to mortgages created on or after January 1, 1964.’

Sec. 3. R. S., c. 177, § 7, amended. Section 7 of chapter 177 of the Revised Statutes is amended by adding at the end a new sentence to read as follows:

‘This section shall apply to mortgages created on or before December 31, 1963.’

Sec. 4. R. S., c. 177, § 7-A, additional. Chapter 177 of the Revised Statutes is amended by adding a new section 7-A, to read as follows:

‘Sec. 7-A. Mortgagor may redeem within 6 months; waiver. The mortgagor or person claiming under him may redeem the mortgaged premises within 6 months after the first publication or the service of the notice mentioned in section 5, and if not so redeemed, his right of redemption is forever foreclosed.

The mortgagor and mortgagee may agree upon any period of time not less than 6 months in which the mortgage shall be forever foreclosed, which agreement shall be inserted in the mortgage and be binding on the parties, their heirs, legal representatives and assigns and shall apply to all the modes of foreclosure of mortgages on real estate.

The mortgagor or those claiming under him shall have the right to redeem the mortgaged premises from any or all sales thereof under and by virtue of authority and power contained in such mortgage or from any sale of the mortgaged premises under or by virtue of a separate instrument executed at or about the same time with the mortgage, and being a part of the same transaction, by paying or tendering to the mortgagee or to those claiming under him as appears by record at the registry of deeds where the mortgage is properly recorded, the debt, interest, costs of foreclosure and other obligations provided in the mortgage, at any time within 6 months from the date of such sale. Nothing herein shall apply to railroad mortgages, so called, or to bond issues of corporations, or to bonds forming a part of a mortgage indebtedness of any corporation or corporations wherein the method of sale is provided in the deed of trust or any similar instrument.

The acceptance, before the expiration of the right of redemption and after the commencement of foreclosure proceedings of any mortgage of real property, of anything of value to be applied on or to the mortgage indebtedness by the mortgagee or any person holding under him shall constitute a waiver of such foreclosure unless an agreement to the contrary in writing be signed by the person from whom the same is accepted. Except the receipt of income from the mortgaged premises, by the mortgagee or his assigns while in possession thereof, shall not constitute a waiver of the foreclosure proceedings of the mortgage on such premises. This section shall apply to mortgages created on or after January 1, 1964.'

Sec. 5. R. S., c. 177, § 7-B, additional. Chapter 177 of the Revised Statutes is amended by adding a new section 7-B, to read as follows:

'Sec. 7-B. Application of surplus. If a mortgagee within 2 years after the completion of a foreclosure under this chapter sells the property and the sales price exceeds the balance of the principal due on the mortgage on said completion date, interest to the date of sale, taxes, insurance, costs of maintenance, repairs and improvements to said property, and expenses of foreclosure and sale, he shall pay over such surplus to the mortgagor within 30 days after written request therefor. This section shall apply to mortgages created on or after January 1, 1964.

During such 2-year period if the mortgagee has not sold nor contracted to sell such property, the mortgagor may require the mortgagee by notice in writing to him and filed in the Registry of Deeds of the county where the property is located to sell such property at public sale, at which sale the mortgagee may be a bidder and the surplus from said sale, if any, as defined in this section, shall be paid over to the mortgagor as aforesaid. Notice of the time and place of such sale shall be published by the mortgagee in a newspaper of general circulation in the county where the property is situated once a week for 2 successive weeks, the last publication to be at least 7 days prior to the date of the sale.'