

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# DOCUMENTS

PRINTED BY ORDER OF

# THE LEGISLATURE

OF THE

# STATE OF MAINE,

DURING ITS SESSION

**A. D. 1844.**

---

**AUGUSTA:**  
WM. R. SMITH & Co., PRINTERS.

1844.

---

---

TWENTY-FOURTH LEGISLATURE.

---

No. 41.]

[SENATE.

---

---

AN ACT

IN RELATION TO

MORTGAGES OF REAL ESTATE.

---

---

[WM R. SMITH & Co....Printers.]



---

---

# STATE OF MAINE.

---

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND  
FORTY-FOUR.

---

---

AN ACT giving to mortgagees of real estate, a lien on  
policies of assurance against fire.

---

*Be it enacted by the Senate and House of Repre-  
2 sentatives in Legislature assembled—as follows:*

3 SECTION 1. Whenever the mortgagor of any real  
4 estate shall hold or obtain, from any insurance com-  
5 pany or companies within this State, a policy or  
6 policies of assurance against loss by fire, upon any  
7 building or buildings thereon situated, the mortgagee  
8 of said real estate shall have a lien upon said policy  
9 or policies of assurance and upon any and all monies,  
10 which may become due upon the same, by reason of  
11 the destruction by fire of any such building or build-  
12 ings, to the full amount of the sum or sums, which  
13 may be equitably due on the mortgage. *Provided,*  
14 *however,* his said lien shall not take effect except from  
15 and after the time the said mortgagee shall file with  
16 the secretary of said insurance company or compa-  
17 nies, a notice in writing of his holding a mortgage  
18 deed of said real estate, the amount which he claims

19 as equitably due thereon, and of his intention to se-  
20 cure to himself the benefit of the provisions of this  
21 act.

SEC. 2. All monies, which any mortgagee may  
2 receive by virtue of this act, shall be deemed as paid,  
3 and shall be allowed on his mortgage; and whenever  
4 he shall unreasonably neglect to demand or receive  
5 payment of any monies, which may be due or become  
6 due on said policy or policies of assurance, after he  
7 shall have perfected his lien thereon, the same shall  
8 be deemed and considered to be a debt due and ow-  
9 ing to himself, and shall be allowed pro tanto on the  
10 amount due on his said mortgage, in like manner as  
11 though he had received the money.

SEC. 3. Whenever any mortgagee shall apply to  
2 any insurance company, in person or by proxy, for  
3 any monies to which he may be entitled by virtue of  
4 any provision of this act, he shall present the written  
5 request of the mortgagor to the secretary of said com-  
6 pany, that the amount equitably due on the said pol-  
7 icy or policies of assurance, shall be paid over to the  
8 said mortgagee. And if the said mortgagor shall re-  
9 fuse or neglect to make such request, then the said  
10 mortgagee shall present to the secretary of said com-  
11 pany or companies the note or notes or other obliga-  
12 tion secured by, or connected with his said mortgage,  
13 together with his mortgage deed or a copy thereof, if  
14 the same has been recorded, duly attested by the reg-  
15 istrar of deeds, and shall make oath to the equitable

16 amount and the justice of his claim, and he has or  
17 has not obtained a policy of assurance on the building  
18 or buildings destroyed, from any other insurance com-  
19 pany or companies.

SEC. 4. The written receipt of any mortgagee,  
2 acknowledging the reception by him of any monies  
3 paid by any insurance company or companies by vir-  
4 tue of his lien as contemplated in the first section of  
5 this act, shall be a valid and sufficient discharge of all  
6 liability of said company or companies to the full  
7 amount so receipted for.

SEC. 5. Whenever any insurance company or  
2 companies, after having become liable to pay any  
3 money or monies on any policy or policies of assurance  
4 against fire, shall neglect or refuse to pay the same to  
5 any mortgagee, who may have perfected his lien  
6 thereon pursuant to the provisions of this act, for the  
7 space of thirty days after the same shall become  
8 payable and after demand, the mortgagee shall, with-  
9 in thirty days then next, cause to be sued out,  
10 on the debt secured by his mortgage, if then payable,  
11 a writ of foreign attachment against the mortgagor  
12 and the said liable company or companies. And in  
13 case the debt secured by said mortgage shall not be  
14 payable within thirty days next after the said  
15 liability of the said company or companies shall first  
16 accrue, then the said mortgagee shall have the right,  
17 until after the expiration of thirty days from the

18 day on which the same shall become payable, to sue  
19 out his said writ of foreign attachment.

SEC. 6. If any mortgagee, who may be entitled  
2 to the benefit of the provisions of this act, shall be in  
3 possession of the mortgaged property, or shall have  
4 given legal notice of his intention to foreclose the  
5 mortgage, at the time any loss by fire, contemplated  
6 by this act, shall happen, the said insurance company  
7 or companies may deduct and withhold, the payment  
8 to the mortgagee, of the amount of all arrearages  
9 due on any assessments, made by said company or  
10 companies against the said mortgagor. And the said  
11 mortgagee shall guarantee the payment, to the said  
12 company or companies, all subsequent assessments,  
13 by them made against the mortgagor on any premium  
14 note or notes, which he may have given for and in  
15 consideration of any policy or policies of assurance on  
16 the building or buildings so destroyed by fire; and in  
17 case of his refusal so to do, he shall not be entitled  
18 to the benefit of any of the provisions of this act.

SEC. 7. Whenever two or more mortgagees shall  
2 claim to have the benefit of the provisions of this act,  
3 their several rights thereto shall be determined in the  
4 same order of priority, in which their individual  
5 claims under their respective mortgages to the prop-  
6 erty mortgaged would be determined by the principles  
7 of the common law or any statute provisions then  
8 existing and in force.





STATE OF MAINE.

---

IN SENATE, February 24, 1844.

ORDERED: That 300 copies of the foregoing Bill be printed for the use of the Legislature.

JERE HASKELL, *Secretary.*