

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

# STATE OF MAINE,

DURING ITS SESSION

**A. D. 1844.**

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

1844.

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TWENTY-FOURTH LEGISLATURE.

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No. 44.]

[SENATE.

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A N A C T

IN RELATION TO

MORTGAGES ON REAL ESTATE.

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



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# STATE OF MAINE.

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

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AN ACT for the better regulating the foreclosure of  
mortgages on real estate.

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*Be it enacted by the Senate and House of Represen-  
tatives in Legislature assembled—as follows :*

SECTION 1. Where a mortgagee or assignee of a mortgage on real estate has taken possession of the property mortgaged for condition broken or foreclosed, he shall not from that time have a right to pursue at law, or otherwise, any remedy upon the debt for which the mortgage is collateral security ; except for the balance, if any, which may be found due beyond what the fair and just value of the mortgaged property shall be sufficient to pay.

SEC. 2. In such cases where a suit is pending upon the debt thus secured, or where a suit or suits may be brought upon such debt after the entry of the mortgagee or his assignee as aforesaid, the value of the property mortgaged shall be ascertained by three appraisers, disinterested discreet men of the county where the mortgaged property is situated ; who may

8 be agreed upon by the parties under the sanction of  
9 the court where such suit or suits may be pending :  
10 or if the parties do not agree, to be appointed by the  
11 court, and to be under oath for the faithful and im-  
12 partial discharge of their duty ; and they shall be  
13 required to make return of their doings to the court  
14 under whose authority they were appointed, at such  
15 time as the court shall order. And if upon such  
16 return it shall appear that the property mortgaged  
17 and taken is of sufficient value to pay the entire debt,  
18 then the defendant or defendants in such suit or suits  
19 shall have judgment. But if the mortgaged property  
20 is not found of sufficient value to pay the debt, the  
21 plaintiff or plaintiffs shall have judgment for the  
22 balance.

SEC. 3. If, prior to such entry to foreclose, judg-  
2 ment shall have been entered against the debtor upon  
3 the personal security and not satisfied, the same shall  
4 not be enforced by any legal process after such entry :  
5 but if the creditor or creditors would claim more than  
6 the mortgaged property shall be of sufficient value to  
7 pay, he or they may bring an action upon the judg-  
8 ment in any court proper to try the same ; upon  
9 which suit the same proceedings shall be had as are  
10 provided for in the second section of this act.

SEC. 4. No debtor shall be imprisoned or held in  
2 prison on any debt secured by mortgage on real es-  
3 tate of sufficient value to pay the entire debt thus  
4 secured ; and any creditor or creditor's attorney who

5 shall imprison or cause to be imprisoned, or hold in  
6 prison any debtor contrary to the provisions of this  
7 section, shall be liable to such debtor in an action for  
8 damages.

SEC. 5. This act shall take effect and be in force  
2 from and after its passage.

## STATE OF MAINE.

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IN SENATE, February 29, 1844.

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

JERE HASKELL, *Secretary.*