

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1864.



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1864.

FORTY-THIRD LEGISLATURE.

HOUSE.

No. 34.

STATE OF MAINE.

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

AN ACT relating to the redemption of railroad mortgages by subsequent mortgagees, and for the better protection of bondholders.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. In all cases where any entry has been
2 made or other steps have been, or shall hereafter be
3 taken with a view to foreclose, or commence the fore-
4 closure of any mortgage upon any railroad within this
5 state, or upon any part thereof, or upon its franchise
6 or other property, any subsequent mortgagees of the
7 same road, franchise or other property, holding in trust
8 for the benefit of any holders of the bonds or other
9 claims secured by such subsequent mortgage, in which

10 no provision for a sale is expressed, may pay the
11 amount due upon the mortgage so being in process of
12 foreclosure, at any time before such foreclosure shall
13 become absolute ; and upon payment or tender thereof
14 shall hold the same in trust for the persons holding
15 bonds or other claims secured by such subsequent mort-
16 gage, who severally shall have contributed to the pay-
17 ment and redemption thereof ; and each bondholder or
18 other person so contributing, shall be equitably inter-
19 ested therein, in proportion to the amount he shall
20 have paid ; and the trustees of the subsequent mort-
21 gage shall hold the same as assignees notwithstanding
22 its payment in trust for the benefit of the persons con-
23 tributing as aforesaid, in the same manner and with
24 the same effect that it would have been held by the
25 preceding mortgagees if it had not been paid or re-
26 deemed, subject, however, to the provisions for fur-
27 ther contribution hereinafter contained.

SECT. 2. For the purpose of paying any such pre-
2 ceding mortgage, the trustees under any subsequent
3 mortgage may with or without application as herein-
4 after provided, call a meeting of the bondholders or
5 other persons secured thereby, to be held at such time
6 and place as they or a majority of them shall appoint,
7 of which they shall give at least fourteen days notice

8 in the state paper and such other newspapers as they
9 may deem proper, therein stating the object of said
10 meeting ; and it shall be their duty to call such meet-
11 ing upon the written application of any one or more of
12 the persons interested in the subsequent mortgage as
13 aforesaid (upon the payment of all reasonable expenses
14 to be incurred thereby) provided the said application
15 shall be made at least six months before the preceding
16 mortgage will be absolutely foreclosed. The persons
17 interested as aforesaid, present at such meeting, may
18 organize the same by the choice of a moderator and
19 clerk, and may proceed to determine what measures,
20 if any, shall be taken for the payment or redemption
21 of the preceding mortgage ; and if persons holding a
22 majority of the interest there represented, shall vote
23 that it is expedient to pay or redeem the preceding
24 mortgage, it shall be the privilege of each and every
25 bondholder, or other person holding claims secured by
26 such subsequent mortgage, to contribute his proportion
27 to the payment thereof, and if any such bondholder or
28 other person shall, after due notice to be given as
29 hereinafter stated, fail to pay his proportion according
30 to the provisions of this act, his rights shall be forever
31 foreclosed and barred.

SECT. 3. Whenever, at any meeting held in pursu-

2 ance of the provisions of this act, it shall have been
3 voted that it is expedient to pay or redeem any prior
4 mortgage as aforesaid, the trustees under the subse-
5 quent mortgage, shall, immediately after being noti-
6 fied of the passage of such vote, give public notice
7 thereof, which notice shall be published at least three
8 weeks successively in the state paper, and such other
9 newspapers as the trustees may think proper, if the
10 time before the day of foreclosure will reasonably per-
11 mit, and shall therein call upon all bondholders and
12 other persons holding claims secured by such subse-
13 quent mortgage to pay their several proportions of the
14 sum to be paid for the redemption of the prior mort-
15 gage; and shall therein state the time and place, and
16 person to whom their several proportions shall be paid,
17 together with the rate per cent. which each hundred
18 dollars of the bonds or claims secured will be obliged
19 to pay as near as conveniently may be. And if any
20 person so interested shall fail to pay his proportion by
21 the time fixed in said notice, then any such deficiency
22 arising from such failure may be paid by any other
23 person or persons holding bonds or claims secured as
24 aforesaid; and the persons so paying any deficiency
25 as aforesaid, shall succeed to all the rights which the
26 person failing to pay as aforesaid would have had, if

27 reasonable payment had been made by him, subject
28 however, to the further right of redemption as herein-
29 after provided.

SECT. 4. If no such meeting shall be seasonably
2 called by the trustees of such subsequent mortgage as
3 is provided for in this act, or if at such meeting duly
4 called the bondholders or other persons holding claims
5 secured by such mortgage, shall fail to vote that it is
6 expedient to pay or redeem the prior mortgage, it
7 shall be lawful and competent for any one or more of
8 the bondholders or other persons so secured by such
9 subsequent mortgage to pay over to the trustees hold-
10 ing such mortgage, so much money as shall be neces-
11 sary to redeem the said prior mortgage ; and it shall
12 be the duty of such trustees upon reasonable payment
13 to them as aforesaid, to pay or redeem such prior
14 mortgage therewith ; and upon the redemption thereof,
15 the persons so paying the money, shall stand in the
16 same position and be vested with all the equitable
17 rights which the other bondholders or other persons
18 secured by such subsequent mortgage would have been
19 entitled to if they had paid in due season their propor-
20 tions thereof ; and the trustees of the subsequent
21 mortgage shall hold the real and personal property so
22 redeemed in trust for the benefit of the persons paying

23 or furnishing the redemption money as aforesaid, sub-
24 ject, however, to the same provision for further right
25 of redemption which is provided in the following sec-
26 tion for persons failing to pay their proportions after
27 notice as is therein required.

SECT. 5. Whenever any prior mortgage shall have
2 been paid or redeemed in pursuance of this act, and
3 it shall appear to the trustees making such payment
4 that any of the bondholders or other persons holding
5 claims secured by the subsequent mortgage, which they
6 represent have failed to pay their proportion of the
7 sum paid to redeem the prior mortgage, it shall be the
8 duty of such trustees to give public notice that all per-
9 sons who have failed to pay their proportion as afore-
10 said, may redeem their several proportions by payment
11 to said trustees or their agent of the sum so paid or
12 advanced in their behalf, with interest at the rate of
13 twelve per cent. per annum thereon, at any time within
14 one year from and after the first publication of said
15 notice ; and any payment so made to the trustees or
16 their agent within the time aforesaid, shall have the
17 effect to restore the persons so paying to the same po-
18 sition and interest in the property embraced in the
19 prior mortgage, which they would severally have been
20 entitled to, if they had paid their proportion thereof,

21 at any time before there would have been an absolute
22 foreclosure of the prior mortgage, if the same had not
23 been paid or redeemed ; and if no such payment shall
24 have been made within the year aforesaid, the rights
25 of all persons so failing to pay their proportion, with
26 interest as aforesaid, in and to the property conveyed
27 by the prior mortgage, shall be forever barred. All
28 moneys paid to said trustees in pursuance of this sec-
29 tion, shall be distributed *pro rata* among the several
30 persons who paid or advanced the same. The notice
31 aforesaid shall be published for at least ten weeks in
32 succession in the state paper, and the first publication
33 thereof shall not be until after the prior mortgage
34 would have become foreclosed, if it had not been paid
35 or redeemed.

SECT. 6. All persons who have contributed or shall
2 hereafter contribute to the payment of any prior mort-
3 gage in pursuance of the provisions of this act, shall
4 have the right to organize and form a new corporation
5 with such name as they may designate, to be certified
6 by the president and secretary of such new corporation
7 to the secretary of state ; and shall have and enjoy all
8 the rights and privileges which are provided by law,
9 or which would attach to the bondholders or other per-
10 sons holding claims secured by such prior mortgage, if

11 the same had been foreclosed without any payment or
12 redemption thereof; *provided, however*, that the said
13 rights and privileges, and also the chartered rights and
14 immunities conferred upon the holders of bonds secur-
15 ed by a mortgage of a railroad and its franchise, upon
16 a foreclosure thereof, under the provisions of chapter
17 fifty-one of the revised statutes, shall be liable at any
18 time to be amended, altered or repealed, at the pleas-
19 ure of the legislature.

SECT. 7. When the foreclosure of a railroad mort-
2 gage shall have been completed and a new corporation
3 formed, the president and treasurer of the new corpo-
4 ration shall issue certificates of stock therein to each
5 holder of bonds or coupons, or other claims secured by
6 the mortgage foreclosed, to the extent of one share for
7 every hundred dollars so secured, so held at the time
8 of foreclosure; and the treasurer shall issue certificates
9 for the fractions, payable to the bearer in stock of the
10 new corporation, when presented in sums sufficient to
11 make one or more shares; and when such certificates
12 shall be presented in sufficient sums to entitle the
13 holder to one or more shares, the president and treas-
14 urer shall issue certificates of stock for the same
15 accordingly.

SECT. 8. The holders of the bonds or other claims

2 under any such mortgage as is described in the first
3 section of this act, put on foreclosure, in any meeting
4 called for that purpose, may by vote instruct the trus-
5 tees to extend the time for the redemption of such
6 mortgage ; and thereupon the trustees of such mort-
7 gage shall be authorized and required by writing under
8 their hands, given to the party entitled to redeem, to
9 extend the time of the redemption, and the same shall
10 be extended accordingly.

SECT. 9. This act shall take effect and be in force
2 from and after its approval by the governor.



STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 21, 1864. }

On motion of Mr. WILLIAMS of Augusta, laid on the table and
350 copies ordered to be printed for the use of the Legislature.

HORACE STILSON, *Clerk.*