

# MAINE STATE LEGISLATURE

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# FIFTY-SECOND LEGISLATURE.

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SENATE.

No. 18.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY-THREE.

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AN ACT additional to chapter forty-nine of the revised statutes, respecting insurance and insurance companies.

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

SECTION 1. Sections thirty-two and thirty-three of 2 chapter forty-nine of the revised statutes are amended 3 so as to read as follows :

4 *Sect. 32.* The mortgagee of any property shall have 5 a lien upon any policy of insurance thereon procured 6 by the mortgagor, and notice in writing given by the 7 mortgagee to the company or its agent shall protect 8 said lien from the time of receiving such notice, the 9 lien to be subject to any defence then existing against 10 the mortgagor. This provision to apply to foreign as 11 well as domestic companies, and to all policies issued 12 by them respectively.

13 *Sect. 33.* If the mortgagor does not consent to the  
14 payment of the insurance money to the mortgagee, and  
15 the company refuse to pay the same to him, the mort-  
16 gagee may enforce his lien by suit on the mortgage  
17 debt, whether then due and payable or not, against  
18 the mortgagor and the company as his trustee, in  
19 which suit, the obligation of the company, and the  
20 right of the plaintiff in the suit to receive the money,  
21 may be fully tried and judgment rendered for what-  
22 ever may be found due from the company not exceed-  
23 ing the mortgage debt, the judgment, however, not to  
24 be enforced against the principal defendant in any  
25 other way, unless the debt was due at the time suit  
26 was commenced : but this act shall not affect pending  
27 suits.

SECT. 2. Section sixty-two of said chapter is  
2 amended so as to read as follows :

3 *Sect. 62.* No foreign insurance company shall be  
4 admitted to do business in this state unless it have a  
5 bona fide, paid up, unimpaired capital, if a stock com-  
6 pany, of at least one hundred thousand dollars, well  
7 invested in or secured by real estate, bonds, stock, or  
8 securities other than names alone, or if a mutual com-  
9 pany, cash assets to the amount aforesaid. And no  
10 stipulations or conditions shall deprive the courts of  
11 this state of jurisdiction of actions against such com-

12 panies nor limit the time of commencing them to a  
13 period of less than two years from the time the cause  
14 of action accrues.

SECT. 3.. Section sixty-three is amended so as to  
2 read as follows :

3 *Sect. 63.* Any person having a claim against any  
4 foreign insurance company, may bring a suit therefor  
5 in the courts of this state, including trustee suits, and  
6 service, made on any authorized agent of said com-  
7 pany, shall be valid and binding on the company,  
8 and hold it to answer to such suit ; and if there be no  
9 such agent an attested copy of the writ may be left  
10 by the officer with the insurance commissioner, which  
11 service in either case shall be equally valid and bind-  
12 ing as aforesaid. When service is made by copy left  
13 with the comissioner he shall at once inform the  
14 company thereof by mail, postage prepaid. And the  
15 judgment rendered in such suit shall bind the com-  
16 pany in every respect as a valid judgment, whether  
17 the defendents appear or not. Unless any such judg-  
18 ment is paid within thirty days after demand made  
19 upon such agent of the company, by the officer holding  
20 the execution, the commissioner may on notice and  
21 hearing of the parties suspend the power of the com-  
22 pany to do business in this state until it is paid, and

23 if the company or any agent thereof, after receiving  
24 due notice from the commissioner, issues any policy  
25 in this state during such suspension said company and  
26 agent shall each forfeit not exceeding one hundred  
27 dollars. But any policy so issued shall be binding on  
28 the company in favor of the holder.

SECT. 4. Section seven is amended so as to read as  
2 follows :

3 *Sect. 7.* The capital and all reserve re-insurance  
4 funds of insurance companies incorporated in this state,  
5 except such as may be needed for immediate uses, shall  
6 be invested in the funded debt or bonds of the United  
7 States, or any of the New England States, or in the  
8 bonds or securities of county, city or other municipi-  
9 pal corporations of said New England States or in the  
10 purchase of real estate in fee, or loans on mortgage of  
11 real estate or deposit in savings banks in said states  
12 or in the bonds or stocks of incorporated companies of  
13 said states of an undoubted character for credit, insur-  
14 ance company stock or bonds excepted, and in no case  
15 shall any such funds be loaned on the security of  
16 names alone.

SECT. 5. The assignee of any policy, the assignment  
2 of which has been assented to by the company or its  
3 agent, or any person to whom the policy is made pay-

4 able in case of loss, may sue the company on the  
5 policy in his own name, and all sums due on such  
6 policy may be recovered in such suit, subject to any  
7 defence existing against the original party, the as-  
8 signee so suing to hold the judgment or its proceeds  
9 subject to the claims and equities of any other parties  
10 who may be interested therein.

SECT. 6. Whenever after setting aside a sum equal  
2 to the full amount of premiums on outstanding marine  
3 risks, together with one-half of all premiums on exist-  
4 ing fire and inland risks, the cash assets of any insur-  
5 ance company with a specific capital do not amount  
6 to more than three-fourths of its capital stock, the  
7 company shall by assessing the stock for the difference  
8 repair its capital to the legal amount. Shares on  
9 which such assessment is not paid within sixty days  
10 after demand upon the owner thereof shall be forfeited  
11 and subject to be sold at public auction by a vote of  
12 the directors, and in case of such sale seven days'  
13 notice thereof shall be given to the owner, if a resident  
14 of this state, the sale to be made subject to such  
15 assessment and the proceeds of sale after deducting  
16 expenses, to be paid to such owner as soon as the  
17 purchaser shall pay the assessment, and in case pay-  
18 ment of the assessment be not made at once a re-sale  
19 may be made in the same manner.

SECT. 7. Any insurance company with a specific  
2 capital which does not within three months after re-  
3 ceiving notice from the insurance commissioner, that its  
4 capital is legally subject to repair as aforesaid, satisfy  
5 him that it has been fully restored to its legal amount  
6 with a reserve of premiums sufficient to re-insure all  
7 outstanding risks, according to the rule aforesaid,  
8 shall be proceeded against according to the provisions  
9 of the forty-eighth section of the act to which this is  
10 additional.

SECT. 8. Whenever after setting aside a sum equal  
2 to that required by the previous sections, the cash  
3 assets of any foreign insurance company having a  
4 specific capital, doing business in this state, do not  
5 amount to more than three-fourths of its legal capital,  
6 the company shall by assessing its stock for the differ-  
7 ence, or in some other way repair its capital to its  
8 legal amount, and unless it do so within three months  
9 after notice from the insurance commissioner shall no  
10 longer be permitted to do business in this state, and  
11 the commissioner shall thereupon proceed as provided  
12 in sections fifty-two and fifty-three of said chapter of  
13 the revised statutes, if in his opinion such proceeding  
14 is necessary.

SECT. 9. Whenever there have been or shall be  
2 appointed receivers for any insurance company of this

3 state, as provided in said chapter forty-nine, they  
4 shall have the same powers and rights of action or  
5 otherwise, and the course of proceedings, so far as  
6 applicable, shall be the same as prescribed for receivers  
7 of banks in the forty-seventh chapter of the revised  
8 statutes.

SECT. 10. This act shall take effect when approved.



## STATE OF MAINE.

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IN SENATE, January 29, 1873.

Reported from the Committee on Mercantile Affairs and Insurance, by Mr. HUMPHREY of Cumberland, and laid over to be printed under the Joint Rule.

SAMUEL W. LANE, *Secretary.*