

MAINE STATE LEGISLATURE

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Sixty-Seventh Legislature.

SENATE.

No. 52.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-FIVE.

AN ACT in relation to the sale of lands for non-payment of
Taxes.

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

SECTION 1. Section 193 of chapter 6 of the Revised
2 Statutes is hereby amended so as to read as follows :

3 Section 193. For all taxes legally assessed on real
4 estate and on equitable interests assessed under section 3
5 of said chapter, a lien is created to secure the payment of
6 said tax, which said lien shall take precedence of all other
7 claims on said real estate, and shall continue in force until
8 said tax shall be paid. If any such tax remains unpaid
9 on the first Monday in December in the year succeeding
10 the year in which said tax was assessed, the collector shall

11 sell at public auction so much of such real estate or inter-
12 est as is necessary for the payment of said tax, interest
13 and all the charges, at 9 o'clock A. M. of said first Mon-
14 day in December, at the office of collector of taxes in
15 cities, and at the place where the last preceding annual
16 town meeting was held, in towns. The collector may
17 give notice thereof, and of his intention to sell such real
18 estate or interest as aforesaid, by posting notices thereof
19 in the same manner and at the same places that warrants
20 for town meetings are therein required to be posted six
21 weeks before such first Monday in December, designating
22 the name of the owner if known, the right, lot and range,
23 the number of acres as nearly as may be, the amount of
24 tax due, and such other short description as is necessary
25 to render its identification certain and plain. And in the
26 case of taxes assessed on the real estate of non-resident
27 owners, he shall cause said notices to be published in
28 some newspaper, if any published in the county, where
29 said real estate lies, three weeks successively; such pub-
30 lication to begin at least six weeks before said first Mon-
31 day in December; if no newspaper is published in said
32 county, said notices shall be published in like manner, in the
33 state paper; he shall, in the notices and advertisements so
34 posted and published, state the name of the town, and if with-
35 in three years it has been changed for the whole or a part of
36 the territory, both the present and former name shall be
37 stated, and that if the taxes, interest and charges are not
38 paid on or before such first Monday in December, so
39 much of the estate as is sufficient to pay the amount due
40 therefor, with interest and charges, will be sold without
41 further notice, at public auction, on said first Monday in

42 December, at nine o'clock in the forenoon, at the office
43 of the collector of taxes, in cities, and at the place where
44 the last preceding annual town meeting was held, in
45 towns. The date of the assessment, and the name of the
46 collector shall be stated in the advertisement. Said col-
47 lector shall lodge with the town clerk a copy of such
48 notice, with his certificate thereon that he has given notice
49 of the intended sale as required by law. Such copy and
50 certificate shall be recorded by said clerk and the record
51 so made shall be open to the inspection of all persons
52 interested. The clerk shall furnish to any person desir-
53 ing it an attested copy of such record, on receiving pay-
54 ment or tender of payment of a reasonable sum therefor ;
55 but notices of sales of real estate within any village cor-
56 poration for unpaid taxes of said corporation may be given
57 by notices thereof, posted in the same manner and at the
58 same places as warrants for corporation meetings and by
59 publication as aforesaid. No irregularity, informality or
60 omission in giving the notice as aforesaid, or in lodging
61 copy of the same with the town clerk, as herein required,
62 shall render such sale invalid, but such sale shall be
63 deemed to be legal and valid if made at the time and place
64 herein provided, and in other respects according to law,
65 except as to the matter of notice. For any irregularity,
66 informality or omission in giving notice as required by
67 this act, and in lodging copies of the same with the town
68 clerk, the collector shall be liable to any person injured
69 thereby.'

SECT. 2. The notice and advertisement of the collector
2 shall be in substance as follows :

'Unpaid taxes on lands of resident and non-resident
4 owners situated in the town of _____, in the county

5 of _____, for the year _____.

(N. B.) The name of the town was formerly _____,
 7 (to be stated in case of change of name, as mentioned in
 8 section 1.) 'The following list of taxes on real estate of
 9 resident and non-resident owners in the town of _____,
 10 for the year _____, committed to me for collection for
 11 said town, on the _____ day of _____, remain unpaid :
 12 and notice is hereby given that if said taxes, interest and
 13 charges are not previously paid, so much of the real estate
 14 taxed as is sufficient to pay the amount due therefor,
 15 including interest and charges, will be sold at public auc-
 16 tion at _____, in said town, on the _____ day of
 17 _____, 18 _____, at _____ o'clock _____ M.' (N. B. Here fol-
 18 lows the list, a short description of each parcel taken from
 19 the inventory to be inserted in an additional column.)

C. D. _____ Collector of taxes, of the town of _____.'

SECT. 3. Section 194 of said chapter is hereby amended,
 2 so as to read as follows: After the land is so advertised,
 3 and at least ten days before the day of sale, the collector
 4 shall notify the owner if resident, or occupant thereof, if
 5 any, of the time and place of sale by delivering to him in
 6 person, or leaving at his last and usual place of abode, a
 7 copy of such notice so far as relates to such estate owned
 8 or occupied by him, signed by the collector, stating the
 9 time and place of sale, and the amount of taxes due. In
 10 case of non-resident owners of real estate, notice shall be
 11 sent by mail to the last and usual address, if known to
 12 the collector, at least ten days before the day of sale. If
 13 such tax is paid before the time of sale, the amount to be
 14 paid for such advertisement and notice shall not exceed
 15 one dollar.

SECT. 4. Section 195 of said chapter is hereby amended 2 so as to read as follows: 'When no person appears to dis- 3 charge the taxes duly assessed on any real estate so adver- 4 tised, with costs of advertising, on or before the time of 5 sale, the collector shall proceed to sell at public auction 6 to the highest bidder so much of such real estate or 7 interest as is necessary to pay the tax due, with three dol- 8 lars for advertising and selling it, and twenty-five cents 9 more for each copy required to be lodged with the town 10 clerk, and sixty-seven cents for the deed thereof, and cer- 11 tificate of acknowledgment. If the bidding is for less 12 than the whole, it shall be for a fractional part of the 13 estate, and the bidder who will pay the sum due for the 14 least fractional part shall be the purchaser. If more than 15 one right, lot or parcel of land is so advertised and sold, 16 said charge of three dollars shall be divided equally among 17 the several rights, lots or parcels advertised and sold at 18 any one time; and the collector shall receive in addition, 19 fifty cents on each parcel of real estate so advertised and 20 sold, when more than one parcel is advertised and sold.'

SECT. 5. When real estate is so sold for taxes, the col- 2 lector shall, within four days after the day of sale, lodge 3 with the treasurer of his town a certificate under oath 4 designating the quantity of land sold, the names of the 5 owners of each parcel, and the names of the purchasers; 6 what part of the amount of each was tax, and what was 7 cost and charges; also a deed of each parcel sold, running 8 to the purchasers.

The treasurer shall not deliver the deeds to the grantees 10 but put them on file in his office, to be delivered at the 11 expiration of one year from the day of sale, in case the

12 owner does not within that time redeem his estate from
 13 the sale, by payment of the taxes, interest at the rate
 14 aforesaid to the time of redemption, and costs as above
 15 provided, with sixty-seven cents for the deed and certifi-
 16 cate of acknowledgment. If the deed is recorded within
 17 thirteen months after the day of sale, no intervening
 18 attachment or conveyance shall affect the title.

SECT. 6. The collector's return to the town clerk, men-
 2 tioned in section 197 of said chapter, shall be in substance
 3 as follows :

“Pursuant to law I caused the taxes assessed on the real
 5 estate described herein, situated in the town of
 6 for the year , to be advertised according to law by
 7 posting notices as required by law and by advertising in
 8 the three weeks successively, the first publi-
 9 cation being on the day of and at least
 10 six weeks before the day of sale ; I also, at least ten days
 11 before the day of sale, notified the owners or occupants
 12 of said lands, and addressed to the non-resident owners of
 13 unoccupied lands whose addresses were known to me,
 14 notice of the time and place of said sale in the manner
 15 provided by law as follows, to wit ; and afterwards on the
 16 day of , 18 , at , in said
 17 , at o'clock, M, being the time and
 18 place of sale, I proceeded to sell according to the tenor of
 19 the advertisement, the estates upon which the taxes so
 20 assessed remained unpaid ; and in the schedule following
 21 is set forth each parcel of the estate so offered for sale,
 22 the amount of taxes, and the name of the purchaser ; and
 23 I have made and executed deeds of the several parcels to
 24 the several persons entitled thereto, and placed them on

17 after such demand. The sureties of the treasurer shall
18 pay the same on failure of said treasurer. And in default
19 of payment by either, the town or plantation shall pay the
20 same with costs and interest as aforesaid.'

SECT. 8. The person interested in the estate, by pur-
2 chase at the sale, may pay any tax assessed thereon,
3 before or after that so advertised, and for which the estate
4 remains liable, and on filing with the treasurer the receipt
5 of the officer to whom it was paid, the amount so paid
6 shall be added to that for which the estate was liable, and
7 shall be paid by the owner redeeming the estate, with
8 interest at the same rate as on the other sums. After the
9 deed is so delivered, the owner has six months within
10 which to redeem his estate, by paying to the purchaser
11 the sum by him so paid, with interest at the rate of twen-
12 ty-five per cent a year.

SECT. 9. Any owner of real estate sold under section
2 three, having paid the taxes, costs, charges, and interest
3 as aforesaid, may, at any time within one year after mak-
4 ing such payment, commence a suit against the town to
5 recover the amount paid, and if on trial it appears that
6 the money raised was for an unlawful purpose, he shall
7 have judgment for the amount so paid. If not commenced
8 within the year, the claim shall be forever barred. The
9 suit may be in the supreme judicial or superior court, and
10 the plaintiff recovering judgment therein shall have full
11 costs, although the amount of damages is less than twenty
12 dollars.

SECT. 10. Section 200 of said chapter is hereby amended
2 so as to read as follows: 'No sale of real estate for non-
3 payment of taxes under said chapter shall be made by any

4 officer to whom a warrant for their collection has been
5 committed after two years from the date of the original
6 commitment of such taxes, provided that this section shall
7 not be construed to apply to sales on executions, on attach-
8 ments to enforce tax liens.'

SECT. 11. Section 205 is hereby amended so as to read
2 as follows: 'In the trial of any action at law or in equity,
3 involving the validity of any sale of real estate for non-
4 payment of taxes effected since March three, eighteen
5 hundred and seventy-four, it shall be sufficient for the
6 party claiming under it, in the first instance, to produce
7 in evidence the collector's or treasurer's deed, duly exe-
8 cuted and recorded, and then he shall be entitled to judg-
9 ment in his favor unless the party contesting such sale, or
10 the person under whom he claims, shall have deposited
11 with the clerk of the court in which such action is pending,
12 before the beginning of his said action or defence the
13 amount of all such taxes, interest and costs accruing under
14 such sale, and of all taxes paid after such sale, and interest
15 thereon, to be paid out by order of court to the party
16 legally and equitably entitled thereto, and then he may be
17 admitted to prosecute or defend; but if the other party
18 then produces in addition to the deed as aforesaid the
19 assessments signed by the assessors and their warrant to the
20 collector, and proves that such collector or treasurer com-
21 plied with the requirements of law in advertising and sell-
22 ing such real estate, he shall have judgment in his favor;
23 and in all such actions involving the validity of sales made
24 after this act takes effect, the collector's return to the
25 town clerk, the town clerk's record, or if lost or
26 destroyed, said clerk's attested copy of such record as

27 provided in section one hundred ninety-five of said chap-
28 ter, as hereinafter amended shall be *prima facie* evidence
29 of all facts therein alleged.'

SECT. 12. At the trial of any action for the collection
2 of taxes under chapter three hundred fourteen of the Pub-
3 lic Laws of eighteen hundred ninety-three, or of any action
4 at law or in equity involving the validity of any sale of
5 real estate for non-payment of taxes under section two
6 hundred five of said chapter, if it shall appear that the
7 tax in question was lawfully assessed, the court shall have
8 power at its discretion to permit the collector to amend
9 his record, return or deed in accordance with the fact,
10 when circumstantial errors and defects appear therein;
11 provided that the rights of third parties are not injuriously
12 affected thereby. And if a deed be so amended, and the
13 amended deed be thereupon recorded, it shall have the
14 same effect as if it had been originally made in its amended
15 form.

SECT. 13. Sections one hundred eighty-eight, one hun-
2 dred eighty-nine, one hundred ninety, one hundred ninety-
3 one and one hundred ninety-two are hereby repealed. And
4 all other acts and portions of acts inconsistent herewith are
5 also hereby repealed.

SECT. 14. The acts and sections declared to be repealed
2 remain in force for the recovery of penalties and forfeitures
3 already incurred, and for the preservation of all rights and
4 their remedies existing by virtue of them, and so far as
5 they apply to the collection of any tax heretofore assessed,
6 or to any judicial proceeding, right, contract, limitation or
7 event already affected by them.

STATE OF MAINE.

IN SENATE, February 7, 1895.

Presented by Mr. SAVAGE of Androscoggin, and, on motion by same Senator, laid on table to be printed, pending reference to Committee on the Judiciary.

KENDALL M. DUNBAR, *Secretary.*