

MAINE STATE LEGISLATURE

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Sixty-Seventh Legislature.

SENATE.

No. 94.

STATE OF MAINE.

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

AN ACT to amend chapter six of the Revised Statutes,
relating to Sales of Land 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
5 three of said chapter, a lien is created to secure the pay-
6 ment of said tax, which said lien shall take precedence of
7 all other claims on said real estate, and shall continue in
8 force until said tax shall be paid. If any such tax remains
9 unpaid on the first Monday in December in the year suc-
10 ceeding the year in which said tax was assessed, the col-

11 lector shall sell at public auction so much of such real
12 estate or interest as is necessary for the payment of said
13 tax, interest and all the charges, at 9 o'clock A. M., of
14 said first Monday in December, at the office of collector
15 of taxes, in cities, and at the place where the last pre-
16 ceding annual town meeting was held, in towns. In the
17 case of the real estate of resident owners, the collector
18 may give notice thereof, and of his intention to sell so
19 much of said real estate or interest as is necessary for the
20 payment of said tax and all charges, by posting notices
21 thereof in the same manner and at the same places that
22 warrants for town meetings are therein required to be
23 posted, six weeks before such first Monday in December,
24 designating the name of the owner if known, the right,
25 lot and range, the number of acres as nearly as may be,
26 the amount of tax due, and such other short description
27 as is necessary to render its identification certain and plain.
28 And in the case of taxes assessed on the real estate of
29 non-resident owners, he shall cause said notices to be
30 published in some newspaper, if any, published in the
31 county, where said real estate lies, three weeks succes-
32 sively ; such publication to begin at least six weeks before
33 said first Monday in December ; if no newspaper is pub-
34 lished in said county, said notices shall be published in
35 like manner, in the state paper ; he shall, in the advertise-
36 ments so published, state the name of the town, and if
37 within three years it has been changed for the whole or a
38 part of the territory, both the present and former name
39 shall be stated, and that, if the taxes, interest and charges
40 are not paid on or before such first Monday in December,
41 so much of the estate as is sufficient to pay the amount

42 due therefor, with interest and charges, will be sold with-
43 out further notice, at public auction, on said first Monday
44 in December, at nine o'clock in the forenoon, at the office
45 of the collector of taxes, in cities, and at the place where
46 the last preceding annual town meeting was held, in
47 towns. The date of the commitment shall be stated in
48 the advertisement. In all cases, said collector shall lodge
49 with the town clerk a copy of each such notice, with his
50 certificate thereon that he has given notice of the intended
51 sale as required by law. Such copy and certificate shall
52 be recorded by said clerk and the record so made shall be
53 open to the inspection of all persons interested. The
54 clerk shall furnish to any person desiring it an attested
55 copy of such record, on receiving payment or tender of
56 payment of a reasonable sum therefor; but notices of sales
57 of real estate within any village corporation for unpaid
58 taxes of said corporation may be given by notices thereof,
59 posted in the same manner, and at the same places as
60 warrants for corporation meetings, and by publication, as
61 aforesaid. No irregularity, informality or omission in
62 giving the notices required by this act, or in lodging copy
63 of any of the same with the town clerk, as herein
64 required, shall render such sale invalid, but such sale
65 shall be deemed to be legal and valid, if made at the time
66 and place herein provided, and in other respects accord-
67 ing to law, except as to the matter of notice. For any
68 irregularity, informality or omission in giving notice as
69 required by this act, and in lodging copy of the same with
70 the town clerk, the collector shall be liable to any person
71 injured 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
 6 of the town was formerly _____, (to be stated in
 7 case of change of name, as mentioned in section 1.) ‘The
 8 following list of taxes on real estate of resident and non-
 9 resident owners in the town of _____, for the year
 10 _____, committed to me for collection for said town, on
 11 the _____ day of _____, remain unpaid; and notice
 12 is hereby given that if said taxes, interest and charges are
 13 not previously paid, so much of the real estate taxed as is
 14 sufficient to pay the amount due therefor, including inter-
 15 est and charges, will be sold at public auction at _____,
 16 in said town, on the first Monday of December, 18 _____, at
 17 nine o’clock A. M.’ (N. B. Here follows the list, a
 18 short description of each parcel taken from the inventory
 19 to be inserted in an additional column.) C. D. Collec-
 20 tor of taxes, of the town of _____.”

SECT. 3. Section 194 of said chapter is hereby amended,
 2 so as to read as follows:

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

SECT. 4. Section 195 of said chapter is hereby amended
2 so as to read as follows :

‘Section 195. When no person appears to discharge the
4 taxes duly assessed on any such real estate of resident or
5 non-resident owners, with costs of advertising, on or before
6 the time of sale, the collector shall proceed to sell at public
7 auction to the highest bidder so much of such real estate or
8 interest as is necessary to pay the tax due, with three dol-
9 lars for advertising and selling it, the sum paid to the
10 printer, and twenty-five cents more for each copy required
11 to be lodged with the town clerk, and sixty-seven cents
12 for the deed thereof, and certificate of acknowledgment.
13 If the bidding is for less than the whole, it shall be for a
14 fractional part of the estate, and the bidder who will pay
15 the sum due for the least fractional part shall be the pur-
16 chaser. If more than one right, lot or parcel of land is so
17 advertised and sold, said charge of three dollars and the
18 sum paid to the printer shall be divided equally among
19 the several rights, lots or parcels advertised and sold
20 at any one time ; and the collector shall receive in addi-
21 tion, fifty cents on each parcel of real estate so adver-
22 tised and sold, when more than one parcel is advertised
23 and sold. The collector may, if necessary to complete the
24 sales, adjourn the auction from day to day.’

SECT. 5. Section 196 of said chapter is hereby amended,
2 so as to read as follows :

‘Section 196. When real estate is so sold for taxes, the
4 collector shall, within four days after the day of sale, lodge
5 with the treasurer of his town a certificate under oath
6 designating the quantity of land sold, the names of the
7 owners of each parcel, and the names of the purchasers ;
8 what part of the amount of each was tax, and what was

9 cost and charges; also a deed of each parcel sold, running
10 to the purchasers.

‘The treasurer shall not deliver the deeds to the grantees,
12 but put them on file in his office, to be delivered at the
13 expiration of two years from the day of sale, in the case
14 of lands of resident owners, and one year from the day of
15 sale in the case of lands of non-resident owners, if the
16 owner does not within such time redeem his estate from
17 the sale, by payment of the taxes, and all charges, and
18 interest on the whole at the rate of twenty per cent from
19 the day of sale to the time of redemption, and costs as
20 above provided, with sixty-seven cents for the deed and
21 certificate of acknowledgment. If the deed of land of a
22 non-resident owner is recorded within thirteen months
23 after the day of sale, no intervening attachment or con-
24 veyance shall affect the title. If so redeemed, the treas-
25 urer shall give the owner a certificate thereof, cancel the
26 deed, and pay to the grantee, on demand, the amount so
27 received for him. If not so paid, he shall deliver to the
28 grantee his deed, on payment of the fees, as aforesaid, for
29 the deed and acknowledgment, and thirty cents more for
30 receiving and paying out the proceeds of the sale. For
31 the fidelity of the treasurer in discharging the duties herein
32 required, the town is responsible, and has a remedy on
33 his bond in case of default.’

SECT. 6. 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 of land of a non-resident owner is so delivered, the
 10 owner has six months within which to redeem his estate,
 11 by paying to the purchaser the sum by him so paid, with
 12 interest at the rate of twenty per cent a year.

SECT. 7. Section 197 of said chapter is hereby amended,
 2 so as to read as follows :

‘Section 197. The collector making any sale of real
 4 estate for non-payment of taxes, shall, within thirty days
 5 after such sale make a return, with a particular statement
 6 of his doings in making such sale, to the clerk of his
 7 town; who shall record it in the town records; and said
 8 return, if lost or destroyed, an attested copy of the record
 9 thereof, shall be evidence of the facts therein set forth in
 10 all cases where such collector is not personally interested.

‘The collector’s return to the town clerk shall be in sub-
 12 stance as follows :

Pursuant to law, I caused the taxes assessed on the real
 14 estate described herein, situated in the town of
 15 for the year , to be advertised according to law by
 16 posting notices as required by law and by advertising in
 17 the three weeks successively, the first
 18 publication being on the day of and at
 19 least six weeks before the day of sale; I, also, at least ten
 20 days before the day of sale, notified the owners or occu-
 21 pants of said lands, and addressed to the non-resident
 22 owners of unoccupied lands whose addresses were known
 23 to me, notice of the time and place of said sale in the
 24 manner provided by law as follows, to wit; and after-
 25 wards on the first Monday of December, 18 , at ,

26 in said _____, at nine o'clock, A. M., being the time
 27 and place of sale, I proceeded to sell according to the
 28 tenor of the advertisement, the estates upon which the
 29 taxes so assessed remained unpaid; and in the schedule
 30 following is set forth each parcel of the estate so offered
 31 for sale, the amount of taxes, and the name of the pur-
 32 chaser; and I have made and executed deeds of the sev-
 33 eral parcels to the several persons entitled thereto, and
 34 placed them on file in the town treasurer's office, to be
 35 disposed of as the law requires.

SCHEDULE No. 1.

Name of Owner.	Description of Property.	Amount of tax, interest and charges.	Quantity sold.	Name of Purchaser.

In witness of all which I have hereunto subscribed my
 37 name, this _____ day of _____, 18 _____,
 38 _____ C. D., Collector of Taxes of the
 39 town of _____.

SECT. 8. Section 198 of said chapter is hereby amended
 2 so as to read as follows :

'Section 198. Any person, to whom the right by law
 4 belongs, may, at any time within two years from the day
 5 of sale, redeem any real estate or interest of resident pro-
 6 prietors sold for taxes, on paying into the town treasury
 7 for the purchaser, the full amount so certified to be due,
 8 both taxes and costs, including the sum allowed for the
 9 deeds, with interest on the whole at the rate of twenty
 10 per cent a year from the date of the sale, which shall be

11 received and held by said treasurer as the property of the
12 purchaser aforesaid; and the treasurer shall pay to said
13 purchaser, his heirs, or assigns, on demand; and if not
14 paid when demanded, the purchaser may recover it in any
15 court of competent jurisdiction, with costs and interest at
16 the rate of twenty per cent, after such demand. The
17 sureties of the treasurer shall pay the same on failure of
18 said treasurer. And in default of payment by either, the
19 town or plantation shall pay the same with costs and
20 interest as aforesaid.'

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

SECT. 10. Section 200 of said chapter is hereby
2 amended, so as to read as follows :

'Section 200. No sale of real estate for non-payment
4 of taxes under said chapter shall be made by any officer to
5 whom a warrant for their collection has been committed
6 after two years from date of the original commitment of
7 such taxes, provided that this section shall not be con-
8 strued to apply to sales on executions, on attachments to
9 enforce tax liens.'

SECT. 11. Section 205 of said chapter is hereby
2 amended so as to read as follows :

‘Section 205. In the trial of any action at law or in
4 equity, involving the validity of any sale of real estate for
5 non-payment of taxes affected since March three, eighteen
6 hundred and seventy-four, it shall be sufficient for the
7 party claiming under it, in the first instance, to produce
8 in evidence the collector’s or treasurer’s deed, duly exe-
9 cuted and recorded, and then he shall be entitled to judg-
10 ment in his favor unless the party contesting such sale, or
11 the person under whom he claims, shall have deposited
12 with the clerk of the court in which such action is pend-
13 ing, before the beginning of his said action or defence,
14 the amount of all such taxes, interest and costs accruing
15 under such sale, and of all taxes paid after such sale, and
16 interest thereon, to be paid out by order of court to the
17 party legally and equitably entitled thereto, and then he
18 may be admitted to prosecute, or defend; but if the
19 other party then produces in addition to the deed as afore-
20 said the assessments signed by the assessors and their
21 warrant to the collector, and proves that such collector or
22 treasurer complied with the requirements of law in adver-
23 tising and selling such real estate, he shall have judgment
24 in his favor; and in all such actions involving the validity
25 of sales made after this act takes effect, the collector’s
26 return to the town clerk, the town clerk’s record, or if
27 lost or destroyed, said clerk’s attested copy of such record
28 as provided in section one hundred ninety-five of said
29 chapter, as herein amended shall be *prima facie* evidence
30 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
4 action at law or in equity involving the validity of any
5 sale of real estate for non-payment of taxes under section
6 two hundred five of said chapter six of the Revised
7 Statutes, if it shall appear that the tax in question was
8 lawfully assessed, the court shall have power at its discre-
9 tion to permit the collector to amend his record, return
10 or deed in accordance with the fact, when circumstantial
11 errors or defects appear therein; provided that the rights
12 of third parties are not injuriously affected thereby. And
13 if a deed be so amended, and the amended deed be there-
14 upon recorded, it shall have the same effect as if it had
15 been originally made in its amended 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 14, 1895.

Reported by Mr. SAVAGE, from Committee on the Judiciary, and laid
on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.