

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 292

In Senate, Feb. 12, 1913.

Came from the House referred to the Committee on Judiciary, and on motion by Senator Murphy of Cumberland laid on the table for printing pending reference in concurrence.

W. E. LAWRY, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTEEN.

AN ACT relating to the compulsory assignment of real estate
mortgages under certain circumstances.

Be it enacted by the People of the State of Maine, as follows:

Section 1. When proceedings for the foreclosure of any
2 prior mortgage of real estate have been commenced and
3 instituted by any method provided by law, and at any time
4 before the expiration of the time within which redemption
5 may be made and had, the owner of any subsequent mort-
6 gage of the same real estate or of any part of the same real
7 estate, may in writing request the owner of such prior and
8 foreclosed mortgage to assign such prior and foreclosed
9 mortgage and the debt thereby secured, to him upon his

10 paying to the owner of such prior and foreclosed mortgage,
11 the full amount, including all interest, costs of foreclosure
12 and such other sums as the mortgager or person redeeming
13 would be required to pay in order to redeem, and if the
14 owner of such prior and foreclosed mortgage neglects or
15 refuses to make such assignment within a reasonable time
16 after such written request, the owner of such subsequent
17 mortgage may bring a bill in equity in the supreme judicial
18 court for the purpose of compelling the owner of such prior
19 and foreclosed mortgage to assign such prior and foreclosed
20 mortgage, and the debt thereby secured, to him the owner
21 of such subsequent mortgage upon making payment as
22 aforesaid. And if the said court, upon hearing, shall be of
23 the opinion that the owner of such prior and foreclosed
24 mortgage will not be injured or damaged in his property
25 matters and rights by such assignment, and that such assign-
26 ment will better protect the rights and interests of the owner
27 of such subsequent mortgage, and that the rights and inter-
28 ests of any other person in and to the same real estate or
29 any part thereof will not be prejudiced or endangered there-
30 by, then the said court, in its discretion, may order and de-
31 cree that such prior and foreclosed mortgage, and the debt
32 thereby secured, shall be assigned by the owner thereof to
33 the owner of such subsequent mortgage upon his making
34 payment as aforesaid. And the time within which and the
35 place where to make such payment shall be fixed by the
36 court, and if the parties are unable to agree upon the amount

37 of such payment then the court shall fix and determine the
38 amount. And the said court shall have full power and au-
39 thority to issue all necessary and needful process or pro-
40 cesses to enforce any order or decree made under the pro-
41 visions of this act. The owner of any prior and foreclosed
42 mortgage assigned under the provisions of this act, shall
43 not be holden on or liable for the debt secured by such mort-
44 gage unless he specially agrees in writing by him signed to
45 be so holden or liable. An appeal from any final decree
46 may be taken as provided by Revised Statutes, chapter sev-
47 enty-five, section twenty-two.