

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 434

House of Representatives, Feb. 28, 1917.

Referred to Committee on Legal Affairs and five hundred copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Anderson of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVENTEEN

AN ACT to amend Sections Four, Five and Seven of Chapter 95 of the Revised Statutes of Maine, in relation to Mortgages of Real Estate.

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

Section 1. Section Four of Chapter 95 of the Revised Statutes is hereby amended by adding thereto the following words:

4 'provided that an affidavit signed and sworn to by the
5 mortgagee or by the holder of record of the mortgage, or
6 their legal representatives, is, within three months after the

7 expiration of one year from the taking of such possession,
8 recorded in the Registry of Deeds where the certificate of
9 foreclosure is recorded; such affidavit shall state the names
10 of the parties to the mortgage, its date, the date of the fore-
11 closure and the place of the record of the certificate of fore-
12 closure, and shall state in general terms that the holder of
13 such mortgage has been in continuous possession for the
14 period of one year after the taking of such possession, and
15 that no payment has been made by the mortgagor, mort-
16 gagors, assigns, heirs or legal representatives, on the prin-
17 cipal sum or interest of the said mortgage, since the taking
18 of such possession, and that the party or parties holding
19 said mortgage during the said one year, have done no act
20 to waive the rights under said foreclosure proceedings.
21 The Register of Deeds shall record such affidavit and note
22 on the margin of the record of the original mortgage, the
23 place of the record of such affidavit, and the fee for record-
24 ing such affidavit shall be the same as the recording of a
25 certificate of foreclosure; but the fact that the Register does
26 not note the record of said affidavit on the margin of the
27 record of the original mortgage, shall not invalidate the
28 foreclosure proceedings. Any person, persons, firm or
29 corporation knowingly or wilfully making a false affidavit or
30 a false statement therein, shall be liable in damages in an
31 action on the case to any party, or the assigns or legal rep-
32 resentatives of any party, sustaining damages thereby,' so
33 that said section when amended shall read as follows:

Sect. 4. Possession obtained in either of these three
2 modes, and continued for one year, forever forecloses the
3 right of redemption, provided that an affidavit signed and
4 sworn to by the mortgagee or by the holder of record of the
5 mortgage, or their legal representatives, is, within three
6 months after the expiration of one year from the taking of
7 such possession, recorded in the Registry of Deeds where
8 the certificate of foreclosure is recorded; such affidavit shall
9 state the names of the parties to the mortgage, its date, the
10 date of the foreclosure and the place of the record of the
11 certificate of foreclosure, and shall state in general terms
12 that the holder of such mortgage has been in continuous
13 possession for the period of one year after the taking of
14 such possession, and that no payment has been made by the
15 mortgagor, mortgagors, assigns, heirs or legal representa-
16 tives, on the principal sum or interest of the said mortgage,
17 since the taking of such possession, and that the party or
18 parties holding said mortgage during the said one year, have
19 done no act to waive the rights under said foreclosure pro-
20 ceedings. The Register of Deeds shall record such affidavit
21 and note on the margin of the record of the original mort-
22 gage, the place of the record of such affidavit, and the fee
23 for recording such affidavit shall be the same as the record-
24 ing of a certificate of foreclosure; but the fact that the
25 Register does not note the record of said affidavit on the
26 margin of the record of the original mortgage, shall not in-
27 validate the foreclosure proceedings. Any person, persons,

28 firm or corporation knowingly or wilfully making a false
29 affidavit or a false statement therein, shall be liable in dam-
30 ages in an action on the case to any party, or the assigns or
31 legal representatives of any party, sustaining damages
32 thereby.'

Sect. 2. Division 11 of said Section Five is hereby
2 amended by striking out the words "or his assignee" in the
3 second line of said Division 11, and inserting in lieu thereof
4 the following words:

5 'or mortgagors or in case of any recorded transfer or trans-
6 fers of the mortgaged property since the giving of the mort-
7 gage, on the record holder or holders of the title of the mort-
8 gaged property at the time of the service of said notice'
9 so that said Division 11 of said Section Five when amended
10 shall read as follows:

'11. He may cause an attested copy of such notice to be
2 served on the mortgagor, or mortgagors or in case of any
3 recorded transfer or transfers of the mortgaged property
4 since the giving of the mortgage, on the record holder or
5 holders of the title of the mortgaged property at the time
6 of the service of said notice, if he lives in the state, by the
7 sheriff of the same county or his deputy, by delivering it to
8 him in hand or leaving it at his place of last and usual abode;
9 and cause the original notice and the sheriff's return thereon
10 to be recorded within thirty days after such service as afore-
11 said; and in all cases the certificate of the register of deeds
12 is prime facie evidence of the fact of such entry, notice,
13 publication of foreclosure, and of the sheriff's return.'

Sect. 3. Section Seven of said Chapter 95 is hereby
2 amended by adding thereto the following:
3 provided that an affidavit signed and sworn to by the mort-
4 gagee or by the holder of record of the mortgage, or their
5 legal representatives, is, within three months after the ex-
6 piration of one year from the first publication, or the ser-
7 vice of the notice mentioned in Section Five, recorded in the
8 Registry of Deeds where the certificate of foreclosure men-
9 tioned in said Section Five is recorded; such affidavit shall
10 state the names of the parties to the mortgage, its date, the
11 date of the foreclosure and the place of the record of the
12 certificate of foreclosure, and shall state in general terms
13 that no payment has been made by the mortgagor, mort-
14 gagors, assigns, heirs or legal representatives, on the princi-
15 pal sum or interest of the said mortgage, since the com-
16 mencement of said foreclosure proceedings, and that the
17 party or parties holding said mortgage during the said one
18 year, have done no act to waive the rights under said fore-
19 closure proceedings. The Register of Deeds shall record
20 such affidavit and note on the margin of the record of the
21 original mortgage, the place of the record of such affidavit
22 and the fee for recording such affidavit shall be the same
23 as the recording of a certificate of foreclosure; but the fact
24 that the Register does not note the record of said affidavit
25 on the margin of the original mortgage, shall not invali-
26 date the foreclosure proceedings. Any person, persons,
27 firm or corporation knowingly or wilfully making a

28 false affidavit or a false statement therein, shall be liable
29 in damages in an action on the case to any party, or the
30 assigns or legal representatives of any party, sustaining
31 damages thereby.'

32 so that said section when amended shall read as follows :

'Sect. 7. 'The mortgagor, or person claiming under him,
2 may redeem the mortgaged premises within one year after
3 the first publication, or the service of the notice mentioned
4 in section five, and if not so redeemed his right of redemp-
5 tion is forever foreclosed; provided that an affidavit signed
6 and sworn to by the mortgagee or by the holder of record
7 of the mortgage, or their legal representatives, is, within
8 three months after the expiration of one year from the first
9 publication, or the service of the notice mentioned in Sec-
10 tion Five, recorded in the Registry of Deeds where the cer-
11 tificate of foreclosure mentioned in said Section Five is re-
12 corded; such affidavit shall state the names of the parties
13 to the mortgage, its date, the date of the foreclosure and
14 the place of the record of the certificate of foreclosure, and
15 shall state in general terms that no payment has been made
16 by the mortgagor, mortgagors, assigns, heirs or legal repre-
17 sentatives, on the principal sum or interest of the said mort-
18 gage, since the commencement of said foreclosure proceed-
19 ings, and that the party or parties holding said mortgage
20 during the said one year, have done no act to waive the
21 rights under said foreclosure proceedings. 'The Register of
22 Deeds shall record such affidavit and note on the margin of

23 the record of the original mortgage, the place of the record
24 of such affidavit, and the fee for recording such affidavit
25 shall be the same as the recording of a certificate of fore-
26 closure; but the fact that the Register does not note the
27 record of said affidavit on the margin of the record of the
28 original mortgage, shall not invalidate the foreclosure pro-
29 ceedings. Any person, persons, firm or corporation know-
30 ingly or wilfully making a false affidavit or a false state-
31 ment therein, shall be liable in damages in an action on the
32 case to any party, or the assigns or legal representatives of
33 any party, sustaining damages thereby.'