

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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SEVENTY-EIGHTH LEGISLATURE

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HOUSE

NO. 655

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*House of Representatives, March 22, 1917.*

*Printed under joint rules.*

*W. R. ROIX, Clerk.*

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STATE OF MAINE

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

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AN ACT to amend Sections four, five and seven of Chapter  
Ninety-five of the Revised Statutes of Maine, in relation to  
mortgages of real estate.

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

Section 1. Section four of chapter ninety-five of the Re-  
vised Statutes is hereby amended by adding thereto the  
following words: 'Provided that an affidavit signed and  
sworn to by the mortgagee or by the holder of record of  
the mortgage, or their legal representatives, is, within three  
months after the expiration of one year from the taking  
of such possession, recorded in the registry of deeds where

8 the certificate of foreclosure is recorded; such affidavit  
9 shall state the names of the parties to the mortgage, its  
10 date, the date of the foreclosure and the place of the record  
11 of the certificate of foreclosure, and shall state in general  
12 terms that the holder of such mortgage has been in con-  
13 tinuous possession for the period of one year after the tak-  
14 ing of such possession, and that no payment has been made  
15 by the mortgagor, mortgagors, assigns, heirs or legal rep-  
16 resentatives, on the principal sum or interest of the said  
17 mortgage, since the taking of such possession, and that the  
18 party or parties holding said mortgage during the said one  
19 year, have not knowingly or intentionally done any act to  
20 waive the rights under said foreclosure proceedings. The  
21 register of deeds shall record such affidavit and note on  
22 the margin of the record of the original mortgage, the place  
23 of the record of such affidavit, and the fee for recording  
24 such affidavit shall be the same as the recording of a cer-  
25 tificate 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 cor-  
29 poration 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  
5 the 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  
9 shall state the names of the parties to the mortgage, its  
10 date, the date of the foreclosure and the place of record  
11 of the certificate of foreclosure, and shall state in general  
12 terms that the holder of such mortgage has been in con-  
13 tinuous possession for the period of one year the taking  
14 of such possession, and that no payment has been made  
15 by the mortgagor, mortgagors, assigns, heirs or legal rep-  
16 resentatives, on the principal sum or interest of the said  
17 mortgage, since the taking of such possession, and that the  
18 party or parties holding said mortgage during the said one  
19 year have not knowingly or intentionally done any act to  
20 waive the rights under said foreclosure proceedings. The  
21 register of deeds shall record such affidavit and note on  
22 the margin of the record of the original mortgage, the  
23 place of the record of such affidavit, and the fee for re-  
24 cording such affidavit shall be the same as the recording  
25 of a certificate of foreclosure; but the fact that the regis-  
26 ter does not note the record of such affidavit on the mar-  
27 gin of the record of the original mortgage, shall not inval-  
28 idate the foreclosure proceedings. Any person, persons,

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

Sect. 2. Division two of said section five is hereby amend-  
2 ed by striking out the words "or his assignee" in the sec-  
3 ond line of said Division two and inserting in lieu thereof  
4 the following words: 'Or mortgagors or in case of any  
5 recorded transfer or transfers of the mortgaged property  
6 since the giving of the mortgage, on the record holder or  
7 holders of the title of the mortgaged property at the time  
8 of the service of said notice,' so that said Division two of  
9 said section five when amended shall read as follows:

'II. 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 holder of the title of the mortgaged property at the time  
6 of the service of said notice, if he lives in the state, by  
7 the sheriff of the same county or his deputy, by delivering  
8 it to him in hand or leaving it at his last and usual place of  
9 abode; and cause the original notice and the sheriff's return  
10 thereon to be recorded within thirty days after such service  
11 as aforesaid; and in all cases the certificate of the regis-  
12 ter of deeds is prima facie evidence of the fact of such  
13 entry, notice, publication of foreclosure, and of the sheriff's  
14 return.'

Sect. 3. Section seven of said chapter ninety-five is hereby amended by adding thereto the following: 'Provided that an affidavit signed and sworn to by the mortgagee or by the holder of record of the mortgage, or their legal representatives, is within three months after the expiration of one year from the first publication, or the service of the notice mentioned in section five, recorded in the registry of deeds where the certificate of foreclosure mentioned in said section five is recorded; such affidavit shall state the names of the parties to the mortgage, its date, the date of the foreclosure and the place of the record of the certificate of foreclosure, and shall state in general terms that no payment has been made by the mortgagor, mortgagors, assigns, heirs or legal representatives, on the principal sum or interest of the said mortgage, since the commencement of said foreclosure proceedings, and that the party or parties holding said mortgage during the said one year, have done no act to waive the rights under said foreclosure proceedings. The register of deeds shall record such affidavit and note on the margin of the record of the original mortgage, the place of the record of such affidavit and the fee for recording such affidavit shall be the same as the recording of a certificate of foreclosure; but the fact that the register does not note the record of said affidavit on the margin of the original mortgage, shall not invalidate the foreclosure proceedings. Any person, persons, firm or corporation knowingly or wilfully making a false affidavit

28 or a false statement therein, shall be liable in damages in  
29 an action on the case to any party, or the assigns or legal  
30 representatives of any party, sustaining damages thereby,'  
31 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 aft-  
3 er the first publication, or the service of the notice men-  
4 tioned in section five, and if not so redeemed his right of  
5 redemption is forever foreclosed; provided that an affidavit  
6 signed and sworn to by the mortgagee or by the holder of  
7 record of the mortgage, or their legal representatives is,  
8 within three months after the expiration of one year from  
9 the first publication, or the service of the notice mention-  
10 ed in section five, recorded in the registry of deeds where  
11 the certificate of foreclosure mentioned in said section five  
12 is recorded; such affidavit shall state the names of the par-  
13 ties to the mortgage, its date and the date of the foreclosure  
14 and the place of the record of the certificate of foreclosure,  
15 and shall state in general terms that no payment has been  
16 made by the mortgagor, mortgagors, assigns, heirs or legal  
17 representatives, on the principal sum or interest of the said  
18 mortgage, since the commencement of said foreclosure pro-  
19 ceedings, and that the party or parties holding said mort-  
20 gage during the said one year, have done no act to waive  
21 the rights under said foreclosure proceedings. The regis-  
22 ter of deeds shall record such affidavit and note on the  
23 margin of the record of the original mortgage, the place of

24 record of such affidavit, and the fee for recording such affi-  
25 davit shall be the same as the recording of a certificate of  
26 foreclosure; 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 there, shall be liable in damages in an action on the  
32 case to any party, or the assigns or legal representatives  
33 of any party sustaining damages thereby.'

This act shall not apply to any mortgage on which fore-  
2 closure proceedings have been commenced at the time this  
3 act goes into effect.