

MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

Legislative Document

No. 309

H. P. 823

House of Representatives, Feb. 4, 1931.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Carleton of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTY-ONE

AN ACT to Authorize Foreclosure by Sale of the Mortgaged
Premises.

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

Section 1. Section 5 of Chapter 104 of the Revised Statutes is hereby amended by adding thereto the following paragraph:

'III. He may, by virtue of a power of sale contained in the mortgage or in a separate instrument duly acknowledged and recorded in the registry of deeds for the county or district in which the premises are situated, sell the mortgaged premises or any portion thereof, either in whole or in parcels at such time or times as he deems advisable, together with all improvements that may have been made thereon and execute proper deed or deeds of such premises so sold, to the purchaser or purchasers absolutely and in fee simple, or subject to any prior encumbrances, and such sale shall forever bar the mortgagor or any persons claiming under him from all right or interest in the mortgaged premises, whether at law or in equity. Any surplus arising from such sale, after payment of the mortgage indebtedness, interest, costs of sale and recording fees shall be paid to the mortgagor or such other person as may be legally entitled to the same.'

Sect. 2. Section 7 of Chapter 104 of the Revised Statutes is

hereby amended by striking out all of said section and substituting in place thereof the following:

'Sect. 7. Mortgagor may redeem within one year; exceptions; waiver. Except when the mortgaged premises are sold by virtue of sub-division III of section five of this chapter, the mortgagor or a person claiming under him may redeem the mortgaged premises within one year after the first publication or the service of the notices mentioned in section five and, if not so redeemed, his right of redemption is forever foreclosed.

The acceptance before the expiration of the right of redemption and after the commencement of foreclosure proceedings of any mortgage of real property of anything of value to be applied on or to the mortgage indebtedness by the mortgagee or any person holding under him shall constitute a waiver of such foreclosure unless an agreement to the contrary in writing be signed by the person from whom the same is accepted. Except, however, the receipt of income from the mortgaged premises by the mortgagee or his assigns while in possession thereof shall not constitute a waiver of the foreclosure proceedings of the mortgage on such premises.'