

# MAINE STATE LEGISLATURE

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Legislative Document

No. 589

H. P. 1126

House of Representatives, Feb. 8, 1933.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Walker of Rockland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

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AN ACT Relating to Tax Liens.

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

**Sec. 1. R. S. c. 14, § 28, amended.** Section 28 of c. 14 of the revised statutes is hereby amended to read as follows:

**'Sec. 28. Lien for taxes enforced by action of debt; judgment and costs; redemption.** The lien on real estate created by section 3 of chapter 13 may be enforced in the following manner, provided, however, that in the inventory and valuation upon which the assessment is made, there shall be a description of the real estate taxed, sufficiently accurate to identify it. ~~Any officer to whom a tax has been committed for collection, except a collector elected or appointed under section ninety, may, after the expiration of eight months from the date of commitment to him of said tax, give to the person against whom said tax is assessed, or leave at his last and usual place of abode, if then a resident of the town where said real estate lies, a notice in writing signed by said officer, stating the amount of such tax, describing the real estate on which the tax is assessed, and demanding the payment of such tax within ten days after service of such notice. After the expiration of said ten days, in case of a resident, and~~ In all cases within ~~one~~ 6 years after the date of commitment to him of said tax, such officer may bring an action of debt for the collection of said tax, in his own name, in the county where the land

lies, against the person against whom said tax is assessed. Such action shall be begun by writ of attachment commanding the officer serving it to specially attach the real estate upon which the lien is claimed, which shall be served as other writs of attachment to enforce liens on real estate. The declaration in such action shall contain a statement of such tax, a description of the real estate contained in said notice, and an allegation that a lien is claimed on said real estate to secure the payment of the tax. If no service is made upon the defendant, or if it shall appear that other persons are interested in such real estate, the court shall order such further notice of said action as appears proper, and shall allow such other persons to become parties thereto. If it shall appear upon trial of said action that such tax was legally assessed on said real estate, and is unpaid, and that there is an existing lien on said real estate for the payment of such tax, judgment shall be rendered for such tax, interest, and costs of suit against the defendants and against the real estate attached, and execution issued thereon to be enforced by sale of such real estate in the manner provided for a sale on execution of real estate attached on original writs. Provided, however, that when the officer sells the real estate on such execution he shall sell the least undivided fractional part thereof that any person bidding will take, and pay the amount due on the execution with all necessary charges of sale; and he shall convey by his deed to the purchaser such part so sold to him, subject to redemption according to law, and the deed shall be construed to convey the right of entry and seizin in such part in common and undivided of such property assessed. In all actions brought in the superior court under the provisions of this section or of sections 93 or 95, full costs shall be recovered notwithstanding the amount of the judgment be \$20 or less. Any person interested in said real estate may redeem the same at any time within 1 year after the sale of the same by the officer on such execution, by paying the amount of such judgment and all costs on such execution with interest at the rate of 10 per cent a year. This section shall not affect any other provision of law for the enforcement and collection of taxes upon real estate.'

**Sec. 2. R. S. c. 14, § 72, amended.** Section 72 of c. 14 of the revised statutes is hereby amended to read as follows:

**'Sec. 72. Sale of real estate for taxes; notices, how given; copy of notice to be lodged with clerk and recorded; certain irregularities will not vitiate sale; collector liable for certain irregularities; in case of absence or disability of collector, constable may conduct sale.** If any tax assessed on real estate, or on equitable interests assessed under section 3 of chapter 13, remains unpaid on the first Monday in February next after said

~~tax was assessed~~, the collector shall sell at public auction so much of such real estate or interest as is necessary for the payment of said tax, interest and all the charges, at 9 o'clock in the forenoon of ~~said the~~ 1st Monday in February, at the office of collector of taxes, in cities, and at the place where the last preceding annual town meeting was held, in towns. And in case of the absence or disability of the collector, the sale shall be made by some constable of the town who shall have the same powers as the collector in carrying out the provisions of this chapter. In the case of the real estate of resident owners, the collector may give notice thereof and of his intention to sell so much of said real estate or interest as is necessary for the payment of said tax and all charges, by posting notices thereof in the same manner and at the same places that warrants for town meetings are therein required to be posted, at least 6 weeks and not more than 7 weeks, before ~~such the~~ 1st Monday in February, designating the name of the owner if known, the right, lot and range, the number of acres as nearly as may be, the amount of tax due, and such other short description as is necessary to render its identification certain and plain. And in the case of taxes assessed on the real estate of non-resident owners, he shall cause said notices to be published in some newspaper, if any, published in the county where said real estate lies, 3 weeks successively; such publication to begin at least 6 weeks before ~~said the~~ 1st Monday in February; if no newspaper is published in said county, said notices shall be published in like manner, in the state paper; he shall, in the advertisements so published, state the name of the town, and if within 3 years it has been changed for the whole or a part of the territory, both the present and former name shall be stated; and that, if the taxes, interest and charges are not paid on or before ~~such the~~ 1st Monday in February, so much of the estate as is sufficient to pay the amount due therefor with interest and charges will be sold without further notice, at public auction, on ~~said the~~ 1st Monday in February, at 9 o'clock in the forenoon, at the office of the collector of taxes, in cities, and at the place where the last preceding annual town meeting was held, in towns. The date of the commitment shall be stated in the advertisement. In all cases, said collector shall lodge with the town clerk a copy of each such notice, with his certificate thereon that he has given notice of the intended sale as required by law. Such copy and certificate shall be recorded by said clerk and the record so made shall be open to the inspection of all persons interested. The clerk shall furnish to any person desiring it an attested copy of such record, on receiving payment or tender of payment of a reasonable sum therefor; but notices of sales of real estate within any village corporation for unpaid taxes of said corporation may be given by notices thereof,

posted in the same manner, and at the same places as warrants for corporation meetings, and by publication, as aforesaid. No irregularity, informality, or omission in giving the notices required by this section, or in lodging copy of any of the same with the town clerk, as herein required, shall render such sale invalid, but such sale shall be deemed to be legal and valid, if made at the time and place herein provided, and in other respects according to law, except as to the matter of notice. For any irregularity, informality, or omission in giving notice as required by this section, and in lodging copy of the same with the town clerk, the collector shall be liable to any person injured thereby.'

**Sec. 3. R. S. c. 14, additional.** Chapter 14 of the revised statutes is hereby amended by adding thereto the following:

**'All real estate subject to tax lien.** All real estate shall be subject to the tax lien created by this chapter notwithstanding the existence of any mortgage thereon at the time such mortgage was given or notwithstanding the making of a mortgage subsequent to the assessment of any such tax.'