

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 390

H. P. 1184

House of Representatives, February 6, 1935.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Findlen of Fort Fairfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

**AN ACT Providing for Mortgages on Personal Property to Secure Loans
from Government Agencies and Others.**

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

Sec. 1. R. S., c. 105, additional. Chapter 105 of the revised statutes is hereby amended by inserting after section 6 thereof the following new sections to be numbered and to read as follows:

'Sec. 6-A. Mortgage lien on grown or growing crops. Any person, association, partnership or corporation engaged in the business of farming, tillage of the soil, crop production or the raising, breeding, fattening or marketing of livestock may enter into an agreement with and borrow funds from a production credit association organized under the Farm Credit Act of 1933, as it exists or may be amended, a regional agricultural credit corporation, a federal intermediate credit bank, (or any institution which has made arrangements to re-discount therewith, or to procure funds therefrom on the security of the obligations of the borrower) the Reconstruction Finance Corporation, a Federal Land Bank or the government of the United States, or any department, agency or officer thereof, now or hereafter existing, and may secure the same, or any indebtedness to such bank, corporation, institution, department, agency or officer by mortgage upon

personal property of any kind, including crops, whether annual or perennial, fruits, berries, emblements, nursery stock and industrial growing crops, whether any of such crops are grown or growing, or are to be planted within 1 year from the execution of such mortgage.'

'Sec. 6-B. Validity of mortgage lien. No such mortgage shall be invalid, nor shall the extent of the lien thereof be affected because of any provision that the mortgagor may use and consume mortgaged food stuffs in preserving and preparing for market the livestock covered thereby. Provisions contained in the mortgage that property of the same class as is covered by the mortgage shall be included in the mortgage lien if acquired by the mortgagor subsequent to the execution of the mortgage and prior to its extinguishment, and provisions that such mortgage shall secure in addition to the amount advanced any future and additional amounts as may be advanced by the mortgagee at its option, to the mortgagor within a period of one year from the date of the execution of the mortgage, not to exceed in the aggregate an amount stated in the mortgage, shall be valid and binding, and all such included property and future advances shall be covered and secured by such mortgage equally and to the same extent as the property originally covered and the amount originally advanced under the mortgage.'

'Sec. 6-C. Mortgaged property may be sold or exchanged under certain conditions. Any such mortgage may provide that the mortgagor shall have the right to sell or exchange any of the mortgaged property under the conditions stated in the mortgage if the proceeds of such sale or exchange are applied upon the mortgage debt or are used for the purchase of property to be included in the mortgage lien, or are permitted to be used for the purpose of paying the expense of cultivating, harvesting, preparing for market, processing, marketing, or otherwise preserving or rendering marketable or salable the remaining property covered by the mortgage, and such provision shall not in any way render invalid the lien of the mortgage or its preference or priority.'

'Sec. 6-D. Lien not to be extinguished or impaired by removal of property. The lien of the mortgage shall not be extinguished or impaired by the removal of the mortgaged property from the town or city in which the mortgage is filed. The mortgagee or any assignee of the mortgage may expressly consent to the extinguishment or the lien as to all or any part of the mortgaged property and may condition such consent in any manner, which conditions shall be binding upon any purchaser from the mortgagor.'

‘Sec. 6-E. Filing of mortgage. Mortgages given under the 4 preceding sections or an instrument intended to operate as such, or a copy thereof, shall be filed within 20 days from the date written in said mortgage in the office of the clerk of the city, town or plantation organized for any purpose, in which the mortgagor resides when the mortgage is given or registry of deeds as hereinafter provided. When all mortgagors reside without the state, the mortgage shall be so filed in the office of the register of deeds in the registry district where the property is when the mortgage is made; but if a part of the mortgagors reside in the state then in the cities, towns or plantations so organized in which such mortgagors reside when the mortgage is given. If any mortgagor resides in an unorganized place, the mortgage shall be so filed in the office of the register of deeds for the registry district in which such unorganized place is located. A mortgage made by a corporation shall be so filed in the city, town or plantation where it has its established place of business and if said corporation has no established place of business in the state, or said place of business is in an unorganized place in the state, then in the office of the register of deeds for the registry district in which such property is when the mortgage is made. The mortgage shall not be valid against a person other than the parties thereto until filed, but thereupon it shall be valid against all creditors and all subsequent purchasers, mortgagees, lienors and encumbrances of the mortgagor and any person claiming under or through said mortgagor. If possession is taken, or said mortgage filed subsequent to said period of 20 days, it shall be valid against mortgages, assignments and bills of sale executed and delivered subsequent to such filing and also against attachments made subsequent thereto based upon causes of action arising subsequent thereto and also against trustees in bankruptcy and common law assignees, so far as relates to claims accruing subsequent thereto.’

‘Sec. 6-F. Assignment of rights to be recorded. If the mortgagor is a tenant for life, for years, at will, by sufferance or a sharecropper, an assignment of, or any agreement affecting, any rights or interest of the land, lord, or owner of the premises occupied by such tenant or sharecropper may be recorded in the registry of deeds for the district in which the premises are situated.’

‘Sec. 6-G. Filing of instruments on personal property liens. Agreements for the subordination of prior liens upon personal property and any instrument intended to operate as such may be filed in the office of the clerk where the instrument subordinated is or may be filed or recorded.’

‘Sec. 6-H. Filing of instruments on real property liens. Agreements for the subordination of prior liens or encumbrances on real property and any instrument intended to operate as such or a copy thereof may be recorded in the office where the instrument subordinated is or may be filed or recorded.’

‘Sec. 6-I. Validity of instruments. Any instrument provided for in the 3 preceding sections shall be valid and enforceable against the party executing the same from the time of the execution and delivery thereof and against all creditors and all subsequent grantees, purchasers, transferees, mortgagees, lienors or encumbrances of such party and those claiming under or through him from the time of the filing or recording thereof.’

‘Sec. 6-J. Assignment or discharge of mortgage to be filed. An assignment or a discharge of a mortgage given hereunder may be filed in the office of the clerk where the mortgage is filed.’

‘Sec. 6-K. Foreclosure. Other provisions of law of this state relating to the foreclosure and redemption of chattel mortgages shall apply to mortgages given hereunder. When such mortgage contains a power to the mortgagee or any other person to sell the mortgaged property, it may be foreclosed in accordance therewith. The proceeds of such sale shall be applied to the expenses of the sale, the expense of re-taking, keeping, harvesting, processing, if required, preservation and maintenance of the mortgaged property, and to payment of the debt, interest and all costs, charges and expenses incurred in connection with any of the foregoing. Any sum remaining after the satisfaction of such claims shall be paid to the mortgagor on demand. If the proceeds of the sale are not sufficient to pay such claims, the mortgagee may recover the deficiency from the mortgagor, or from anyone who has assumed the obligation of the mortgagor with respect to the mortgage. Neither the bringing of an action to recover the whole or any part of such claims, nor the recovery of a judgment thereon, nor the collection of a portion of such claims shall be inconsistent with the foreclosure of the mortgage as herein provided.’

‘Sec. 6-L. Acceptability. In order to be acceptable for filing no instrument given under the preceding sections need be acknowledged, witnessed or sealed.’

‘Sec. 6-M. Clerks to search for records. Town and city clerks and registers of deeds shall upon payment of their fees search the records of their office for mortgages of personal property and other liens, whether recorded or filed, and certify to such search.’

'Sec. 6-N. Fees. Town and city clerks and registers of deeds are entitled to receive for services under the preceding section the following fees:

For filing and entering or indexing each instrument or copy, 25c; for issuing a receipt for the same, 10c; for searching for personal property mortgages and other liens, and certifying to such search, a sum not to exceed 50c for each name searched against; for certified copy of each instrument, 25c, if the copy to be certified is prepared by the person requesting certification, in other cases 25c, and in addition 10c for each 100 words copied; for filing a discharge of mortgage, 10c.'

Sec. 2. Interpretation clause. If any clause, sentence, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered. This act shall be liberally construed to effectuate the purposes thereof.