

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 115**

H. P. 328

House of Representatives, January 25, 1945.

Referred to Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Payson of Portland.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-FIVE

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**AN ACT Relating to the Foreclosure of Tax Mortgages in Equity.**

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

**R. S. c. 81, §§ 98-A to 98-J, additional.** Chapter 81 of the revised statutes is hereby amended by adding thereto 10 new sections to be numbered 98-A to 98-J, to read as follows:

**'Sec. 98-A. Waiver of foreclosure of tax mortgages.** The town treasurer, when so authorized by the inhabitants of the town, or in the case of a city by the legislative body thereof, may waive the foreclosure of a tax lien or mortgage under the provisions of sections 97 and 98 by recording a waiver of foreclosure thereof in the registry of deeds in which the mortgage is recorded before the right of redemption thereof shall have expired. The waiver of foreclosure shall be substantially in the following form:

The foreclosure of the tax lien or mortgage on real estate for a tax assessed against ..... to ..... dated .....  
(name) (name of town)  
and recorded in ..... registry of deeds in Book ....., Page .....  
is hereby waived.

Dated this ..... day of ..... 19 .....

Treasurer of .....

State of Maine

..... ss. .... 19 .....

Then personally appeared the above named ....., Treasurer and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

.....  
Justice of the Peace  
Notary Public

The mortgage, after the recording of such waiver, shall then continue to be in full force and effect and may be foreclosed by an action in equity as hereinafter provided in sections 98-B to 98-J, inclusive. There shall be included in the amount secured by the mortgage a charge to the town of 50c for the waiver of foreclosure and the charges of the registry of deeds for the recording thereof not in excess of 50c.'

'Sec. 98-B. Foreclosure in equity. If said mortgage together with interest and costs shall not be paid within 6 months after the date of recording the waiver of foreclosure thereof, the mortgage may be foreclosed in an action in equity.'

'Sec. 98-C. Presumption of validity. In an action in equity to foreclose a mortgage under the provisions of sections 98-A to 98-J, inclusive, the proceedings from and including the assessment of the tax upon which such mortgage is based to and including the time of filing the bill of complaint in such action need not be set forth in the bill, pleaded or proved and shall be presumed to be valid. A defendant alleging any invalidity or defect in such proceedings must specify in his answer such invalidity or defect and must establish such defense.'

'Sec. 98-D. Right of redemption. In such action the court shall provide a period for the exercise of the right of redemption from the mortgage which shall expire in not less than 90 days from the decree of the court and in no event before the expiration of 18 months from the date of filing of the tax lien certificate in the registry of deeds as provided in section 97.'

'Sec. 98-E. Foreclosure in rem in equity. In addition to and as an alternative to the proceedings for foreclosure of a mortgage under the provisions of section 98-B, a town may foreclose such mortgage or mortgages held by the town for a period of at least 4 years from the date of

filing of said certificate in the registry of deeds by an action in rem in equity.'

'Sec. 98-F. Procedure in rem in equity. Such actions in rem in equity may be commenced on or before the 1st day of April in each year and each such action shall relate only to mortgages arising from taxes assessed in a given year. The action in rem in equity shall be entitled substantially as follows: (name of town) against all persons having, or claiming to have, an interest in sundry parcels of real estate in (name of town) for the foreclosure of mortgages arising from taxes assessed in the year ..... The defendants in said action shall be described as aforesaid in lieu of naming them.'

'Sec. 98-G. Procedure in rem in equity continued. The town shall set forth in substance in the bill of complaint the following:

- I. That the town holds the mortgages referred to in the bill;
- II. That the mortgages arose from taxes assessed in a given year;
- III. That the real estate described in the mortgages is located in (name of town), and the mortgages are recorded in a named registry of deeds.

The town shall further set forth in the bill of complaint with respect to each mortgage in substance the following: name of person against whom the tax was assessed; tax lien certificate or mortgage filed in said registry of deeds on ..... and recorded in Book ....., Page .....; Tax \$....., Costs \$....., Interest at ..... per cent per annum from ..... (date); description of property ..... bounded and described as follows: (description in mortgage).'

'Sec. 98-H. Notice in action in rem. The court shall order notice of the pendency of the bill of complaint be given to the defendants:

I. By publication of a true copy of the bill and the order of notice thereon, attested by the clerk of courts, in a newspaper published or printed in whole or in part in the county where the town is situated, if any, or if not, in the state paper, once a week for 3 successive weeks with the last publication not less than 30 days before the time set for appearance of the defendants; and

II. By posting a true copy of the bill and the order of notice thereon, attested by the clerk of courts, in at least 3 public places within the town not less than 30 days before the time set for appearance of the defendants.'

'Sec. 98-I. Judgment in actions in rem; severance. In an action in rem in equity, no personal judgment against a defendant shall be entered.

Each person answering the bill of complaint shall have the right to the severance of the action as to the parcel of real estate in which he is interested.'

'Sec. 98-J. Applicability of other sections. The provisions of sections 98-A to 98-J, inclusive, so far as applicable, shall apply to an action in rem in equity except as may otherwise be provided in said sections.'