

MAINE STATE LEGISLATURE

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NINETY - SECOND LEGISLATURE

Legislative Document

No. 1104

S. P. 422

In Senate, April 2, 1945.

Reported by Senator Dunbar of Washington from the Committee on Judiciary and laid on table to be printed under Joint Rules.

CHESTER T. WINSLOW, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

**AN ACT Relating to Relief During the Emergency for Businesses in
Financial Distress Because of Wartime Conditions.**

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

Sec. 1. Business to which applicable. This act shall be applicable to seasonal resort properties which are subject to mortgage and which have lost their earning power by reason of the war effort and its resultant restrictions and abnormal conditions, and only with respect to such said properties as consist of real estate, including improvements and furnishings. The provisions of this act shall also be applicable to the collection of taxes assessed on said properties found in need of the relief herein provided.

Sec. 2. Method of obtaining relief; courts granted equity jurisdiction; hearing and decree; stay of foreclosure and forced sales. The owner of any mortgaged property coming within the provisions of section 1 of this act may bring a bill in equity, filed in the clerk's office of the county where the property is located, in either the supreme judicial court or the superior court, therein alleging the facts pertinent to bring him within said provisions, and which are causing him, and within reasonable probability will continue to cause him, in his said business financial distress beyond his

control to relieve, attributable to war and its resultant restrictions and abnormal conditions, and praying for relief as hereinafter provided. The supreme judicial court and the superior court shall have and exercise concurrent original jurisdiction in all cases and proceedings hereunder; and any cause herein provided originating in either court, or any proceedings therein, may be heard and determined by a justice of the supreme judicial court or the superior court as though the cause originated in the court of which such justice is a member, sitting in term time or vacation, and in the same manner and with as full power as is given by statute according to the usage and practice in courts of equity. If the petitioner, after hearing, establishes the fact that said business is, and within reasonable probability will continue to be, in financial distress, beyond the control of the petitioner to relieve, attributable to war and its resultant restrictions and abnormal conditions, and that the emergency provisions of this act are pertinent to his case to entitle him to relief, the court may decide the cause and enter an appropriate decree, and thereupon shall forthwith be stayed and continued with respect to the party or parties defendant and to the property involved any foreclosure proceedings or forced sale or power of sale agreement of said property or payment on the principal indebtedness or interest thereon, except as the court shall otherwise decree; also as to any municipality defendant in said cause, the court may order and decree a stay and suspension of the collection of any tax assessed by such municipality on the person or property in relief. In its determination of any cause hereunder, the court may ascertain the reasonable value of the income of the property involved, or if it has no income, its reasonable rental value, and may require by appropriate order or decree the payment of all or a reasonable part of such income or rental value in or toward the payment of taxes, insurance, principal or interest indebtedness, at such times, and in such manner and proportion as the court deems equitable. No decree shall extend beyond the duration of the present national emergency as declared by the president. One or more mortgagees and municipalities may be joined in the same cause of action. This act shall apply only to property which was under mortgage on the effective date of this act.

Sec. 3. Relief may be denied for negligence; municipalities not liable for failure to collect tax on persons or property in relief. Relief may be denied with respect to any property which has suffered substantial damage or deterioration as the result of negligence on the part of the owner, and a review may be ordered and any decree may be modified or vacated whenever waste, failure to maintain adequate insurance against loss, or other conditions are shown to endanger the value of the security involved. During the period covered by any restraining order or decree, a municipality

shall not be doomed or held liable for failure to collect and transmit any state or county tax committed to it and assessed on the person or property in relief, except in so far as the municipality has received payment of the same. When the provisions of this act are invoked, the statute of limitations, and other legal bars or remedies, applicable, shall be tolled for the period covered by the restraining decree. The words "mortgagor", "owner", and "person" shall include individuals, partnerships, corporations, and fiduciaries.

Sec. 4. Severability. If any of the provisions of this act or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect any other provisions or application of this act which can be given effect without the invalid provisions or application; and to this end the provisions of this act are declared to be severable.

Sec. 5. Duration of act. This act shall remain in force and effect only until ~~July 1, 1945~~ **September 1, 1947** when it shall become null and void.