

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE

1895.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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1895.

PUBLIC LAWS
OF THE
STATE OF MAINE.

1895.

signed by the mortgagee, or by his executor, administrator, CHAP. 70
 or assignee, and such entry shall have the same effect as a
 deed of release duly acknowledged and recorded. If a mort-
 gagee; or his executor, administrator, or assignee, after full
 performance of the condition of his mortgage whether before
 or after breach of such condition, refuses or neglects for
 seven days after being thereto requested, and after a tender
 of his reasonable charges to make such discharge or to execute
 and acknowledge a deed of release of the mortgage, he shall
 be liable for all damages occasioned by such neglect or refusal,
 to be recovered in an action of the case.'

Approved March 6, 1895.

Chapter 70.

An Act to amend chapter six of the Revised Statutes, relating to Sales of Land for
 Non-payment of Taxes.

*Be it enacted by the Senate and House of Representatives
 in Legislature assembled, as follows :*

SECT. 1. Section one hundred and ninety-three of chap- Sec. 193, ch. 6,
 R. S.,
 amended.
 ter six of the revised statutes is hereby amended, so as to
 read as follows :

'SECT. 193. For all taxes legally assessed on real estate Lien for taxes.
 and on equitable interests assessed under section three of said
 chapter, a lien is created to secure the payment of said tax,
 which said lien shall take precedence of all other claims on
 said real estate, and shall continue in force until said tax shall
 be paid. If any such tax remains unpaid on the first Monday
 in December in the year succeeding the year in which said —sale of real
 estate for
 taxes.
 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 nine
 o'clock in the forenoon of said first Monday in December, at
 the office of collector of taxes, in cities, and at the place where
 the last preceding annual town meeting was held, in towns.
 In the case of the real estate of resident owners, the collector —notice,
 how given.
 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

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meetings are therein required to be posted, six weeks before such first Monday in December, 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, three weeks successively; such publication to begin at least six weeks before said first Monday in December; 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 three 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 first Monday in December, 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 first Monday in December, at nine 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 act, 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

Copy of notice
to be
recorded.

—clerk to fur-
nish attested
copy of
record.

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 act, and in lodging copy of the same with the town clerk, the collector shall be liable to any person injured thereby.'

SECT. 2. The notice and advertisement of the collector shall be in substance as follows :

Collector
liable for
irregularity.

'Unpaid taxes on lands of resident and non-resident owners situated in the town of _____, in the county of _____, for the year _____. (N. B.) The name of the town was formerly _____, (to be stated in the case of change of name, as mentioned in section one.) The following list of taxes on real estate of resident and non-resident owners in the town of _____, for the year _____, committed to me for collection for said town, on the _____ day of _____, remain unpaid; and notice is hereby given that if said taxes, interest and charges are not previously paid, so much of the real estate taxed as is sufficient to pay the amount due therefor, including interest and charges, will be sold at public auction at _____, in said town, on the first Monday of December, 18 _____, at nine o'clock A. M.' (N. B. Here follows the list, a short description of each parcel taken from the inventory to be inserted in an additional column.)

—town of,
notice.

C. D. Collector of taxes of the town of _____.'

SECT. 3. Section one hundred and ninety-four of said chapter is hereby amended, so as to read as follows :

Sec. 194,
amended.

'SECT. 194. After the land is so advertised, and at least ten days before the day of sale, the collector shall notify the owner, if resident, or the occupant thereof, if any, of the time and place of sale by delivering to him in person, or leaving at his last and usual place of abode, a written notice signed by him, stating the time and place of sale, and the amount of taxes due. In case of non-resident owners of real estate, notice shall be sent by mail to the last and usual address, if known to the collector, at least ten days before the day of sale. If such tax is paid before the time of sale, the amount to be paid for such advertisement and notice shall not exceed one dollar.'

Owner or
occupant to
have written
notice of time
and place of
sale.

SECT. 4. Section one hundred ninety-five of said chapter is hereby amended, so as to read as follows :

Sec. 195,
amended.

'SECT. 195. When no person appears to discharge the taxes duly assessed on any such real estate of resident or non-

Real estate to
be sold at
auction, for

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unpaid taxes
and costs.

resident owners, with costs of advertising, on or before the time of sale, the collector shall proceed to sell at public auction to the highest bidder so much of such real estate or interest as is necessary to pay the tax due, with three dollars for advertising and selling it, the sum paid to the printer, and twenty-five cents more for each copy required to be lodged with the town clerk, and sixty-seven cents for the deed thereof, and certificate of acknowledgment. If the bidding is for less than the whole, it shall be for a fractional part of the estate, and the bidder who will pay the sum due for the least fractional part shall be the purchaser. If more than one right, lot or parcel of land is so advertised and sold, said charge of three dollars and the sum paid to the printer shall be divided equally among the several rights, lots or parcels advertised and sold at any one time; and the collector shall receive in addition, fifty cents on each parcel of real estate so advertised and sold, when more than one parcel is advertised and sold. The collector may, if necessary to complete the sales, adjourn the auction from day to day.'

Sec. 196,
amended.

SECT. 5. Section one hundred and ninety-six of said chapter is hereby amended, so as to read as follows:

Collector to
lodge with
treasurer, cer-
tificate of sale
and deed.

'SECT. 196. When real estate is so sold for taxes, the collector shall, within four days after the day of sale, lodge with the treasurer of his town a certificate under oath designating the quantity of land sold, the names of the owners of each parcel, and the names of the purchasers; what part of the amount of each was tax, and what was cost and charges; also a deed of each parcel sold, running to the purchasers. The treasurer shall not deliver the deeds to the grantees, but put them on file in his office, to be delivered at the expiration of two years from the day of sale, in the case of lands of resident owners, and one year from the day of sale in the case of lands of non-resident owners, if the owner does not within such time redeem his estate from the sale, by payment of the taxes, and all charges, and interest on the whole at the rate of twenty per cent from the day of sale to the time of redemption, and costs as above provided, with sixty-seven cents for the deed and certificate of acknowledgment. If the deed of land of a non-resident owner is recorded within thirteen months after the day of sale, no intervening attachment or conveyance shall affect the title. If so redeemed, the

—deeds shall
not be deliv-
ered for the
space of two
years.

—real estate
may be
redeemed.

treasurer shall give the owner a certificate thereof, cancel the deed, and pay to the grantee, on demand, the amount so received for him. If not so paid, he shall deliver to the grantee his deed, on payment of the fees, as aforesaid, for the deed and acknowledgment, and thirty cents more for receiving and paying out the proceeds of the sale. For the fidelity of the treasurer in discharging the duties herein required, the town is responsible, and has a remedy on his bond in case of default.'

—when grantee shall receive deed.

SECT. 6. The person interested in the estate, by purchase at the sale, may pay any tax assessed thereon, before or after that so advertised, and for which the estate remains liable, and on filing with the treasurer the receipt of the officer to whom it was paid, the amount so paid shall be added to that for which the estate was liable, and shall be paid by the owner redeeming the estate, with interest at the same rate as on the other sums. After the deed of land of a non-resident owner is so delivered, the owner has six months within which to redeem his estate, by paying to the purchaser the sum by him so paid, with interest at the rate of twenty per cent a year.

All taxes paid by person purchasing estate at the sale, shall be paid back by owner redeeming same.

—when non-resident may redeem land.

SECT. 7. Section one hundred and ninety-seven is hereby amended, so as to read as follows :

Sec. 197, amended.

‘SECT. 197. The collector making any sale of real estate for non-payment of taxes, shall, within thirty days after such sale make a return, with a particular statement of his doings in making such sale, to the clerk of his town ; who shall record it in the town records ; and said return, or if lost or destroyed, an attested copy of the record thereof, shall be evidence of the facts therein set forth in all cases where such collector is not personally interested.’

Collector to make return of sale to town clerk, who is to record it.

‘The collector’s return to the town clerk shall be in substance as follows :

—form of collector’s return.

Pursuant to law, I caused the taxes assessed on the real estate described herein, situated in the town of _____ for the year _____, to be advertised according to law by posting notices as required by law and by advertising in the _____ three weeks successively, the first publication being on the _____ day of _____ and at least six weeks before the day of sale ; I, also, at least ten days before the day of sale, notified the owners or occupants of said lands, and addressed to the non-resident

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owners of unoccupied lands whose addresses were known to me, notice of the time and place of said sale in the manner provided by law as follows ; and afterwards on the first Monday of December, 18 , at , in said , at nine o'clock, A. M., being the time and place of sale, I proceeded to sell according to the tenor of the advertisement, the estates upon which the taxes so assessed remained unpaid ; and in the schedule following is set forth each parcel of the estate so offered for sale, the amount of taxes, and the name of the purchaser ; and I have made and executed deeds of the several parcels to the several persons entitled thereto, and placed them on file in the town treasurer's office, to be disposed of as the law requires.

Schedule No. 1.

Name of owner.	Description of property.	Amount of tax, interest and charges.	Quantity sold.	Name of purchaser.
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In witness of all which I have hereunto subscribed my name, this day of , 18 .

C. D., Collector of taxes of the town of .'

Sec. 198, amended.

SECT. 8. Section one hundred and ninety-eight of said chapter is hereby amended, so as to read as follows :

Resident proprietors may redeem within two years.

'SECT. 198. Any person to whom the right by law belongs, may, at any time within two years from the day of sale, redeem any real estate or interest of resident proprietors sold for taxes, on paying into the town treasury for the purchaser, the full amount so certified to be due, both taxes and costs, including the sum allowed for the deeds, with interest on the whole at the rate of twenty per cent a year from the date of the sale, which shall be received and held by said treasurer as the property of the purchaser aforesaid ; and the treasurer shall pay to said purchaser, his heirs or assigns, on demand ; and if not paid when demanded, the purchaser may recover it in any court of competent jurisdiction, with costs and interest at the rate of twenty per cent, after such demand. The sureties of the treasurer shall pay the same on failure of said treasurer. And in default of payment by either, the town or plantation shall pay the same with costs and interest as aforesaid.'

—money to be received by treasurer, as property of purchaser.

—town liable therefor.

When non-resident may commence suit.

SECT. 9. Any non-resident owner of real estate sold under section four of this act, having paid the taxes, costs, charges

and interest as aforesaid, may, at any time within one year after making such payment, commence a suit against the town to recover the amount paid, and if on trial it appears that the money raised was for an unlawful purpose, he shall have judgment for the amount so paid. If not commenced within the year, the claim shall be forever barred. The suit may be in the supreme judicial or superior court, and the plaintiff recovering judgment therein shall have full costs, although the amount of damages is less than twenty dollars.

—when claim shall be barred.

SECT. 10. Section two hundred of said chapter is hereby amended, so as to read as follows :

Sec. 200, amended.

‘SECT. 200. No sale of real estate for non-payment of taxes under said chapter shall be made by any officer to whom a warrant for their collection has been committed after two years from the date of the original commitment of such taxes, provided, that this section shall not be construed to apply to sales on executions, on attachments to enforce tax liens.’

No sale after two years.

—proviso.

SECT. 11. Section two hundred and five of said chapter is hereby amended, so as to read as follows :

Sec. 205, amended.

‘SECT. 205. In the trial of any action at law or in equity, involving the validity of any sale of real estate for non-payment of taxes affected since March three, eighteen hundred and seventy-four, it shall be sufficient for the party claiming under it, in the first instance, to produce in evidence the collector’s or treasurer’s deed, duly executed and recorded, and then he shall be entitled to judgment in his favor unless the party contesting such sale, or the person under whom he claims, shall have deposited with the clerk of the court in which such action is pending, before the beginning of his said action or defence, the amount of all such taxes, interest and costs accruing under such sale, and of all taxes paid after such sale, and interest thereon, to be paid out by order of court to the party legally and equitably entitled thereto, and then he may be admitted to prosecute, or defend; but if the other party then produces in addition to the deed as aforesaid, the assessment, signed by the assessors and their warrant to the collector, and proves that such collector or treasurer complied with the requirements of law in advertising and selling such real estate, he shall have judgment in his favor; and in all such actions involving the validity of sales made after this act takes effect, the collec-

Validity of sale of real estate for taxes.

—collector’s or treasurer’s deed, evidence.

—contestant’s suit, not maintainable until taxes and charges are paid into court.

—when other party may have judgment.

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—what shall be taken as evidence of facts alleged.

tor's return to the town clerk, the town clerk's record, or if lost or destroyed, said clerk's attested copy of such record as provided in section one hundred ninety-seven of said chapter, as herein amended shall be prima facie evidence of all facts therein alleged.'

Court may permit collector to amend record and deed, when errors or defects appear therein.

SECT. 12. At the trial of any action for the collection of taxes under chapter three hundred fourteen of the public laws of eighteen hundred ninety-three, or of any action at law or in equity involving the validity of any sale of real estate for non-payment of taxes under section two hundred five of said chapter six of the revised statutes, if it shall appear that the tax in question was lawfully assessed, the court shall have power at its discretion to permit the collector to amend his record, return or deed in accordance with the fact, when circumstantial errors or defects appear therein; provided, that the rights of third parties are not injuriously affected thereby. And if a deed be so amended, and the amended deed be thereupon recorded, it shall have the same effect as if it had been originally made in its amended form.

Secs. 188, 189, 190, 191 and 192, and all inconsistent acts, repealed.

SECT. 13. Sections one hundred eighty-eight, one hundred eighty-nine, one hundred ninety, one hundred ninety-one and one hundred ninety-two are hereby repealed. And all other acts and portions of acts inconsistent herewith, are also hereby repealed.

Inconsistent acts, to remain in force, for preservation of existing rights.

SECT. 14. The acts and sections declared to be repealed remain in force for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and their remedies existing by virtue of them, and so far as they apply to the collection of any tax heretofore assessed, or to any judicial proceeding, right, contract, limitation or event already affected by them.

Approved March 6, 1895,