

MAINE STATE LEGISLATURE

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Acts and Resolves

As Passed by the

Seventy-Eighth Legislature

OF THE

STATE OF MAINE

1917

Including Acts and Resolves of the Special Session of the
Seventy-Seventh Legislature held in 1916.

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Seventy-Eighth Legislature

1917

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teenth line thereof and inserting in lieu thereof the word 'fourteen', so that said section as amended shall read as follows:

'Sec. 19. Service to be made fourteen days before return day, instead of thirty. In suits against a county, the summons shall be served by leaving an attested copy thereof with one of the county commissioners or their clerk; against a town, parish, religious society or school district, with the clerk, or one of the selectmen or assessors, if there is any such officer; if not, with a member of such corporation; and against any other corporation, however created, with its president, clerk, cashier, treasurer, general agent or director; if there is no such officer or agent found within the county where such corporation is established, or where its records or papers are by law required to be kept, with any member thereof; and in all suits and proceedings at law or in equity against any foreign or alien company or corporation established by the laws of any other state or country, and having a place of business within this state or doing business herein, service of the writ, bill, petition or other process is sufficient, if made by leaving an attested copy thereof with the president, clerk, cashier, treasurer, agent, director or attorney of such company or corporation, or by leaving such copy at the office or place of business of such company or corporation within this state; and in each case, it shall be so served fourteen days before the return day thereof.'

Approved April 6, 1917.

Chapter 192.

An Act to Amend Sections Four, Five and Seven of Chapter Ninety-five of the Revised Statutes, in Relation to Mortgages of Real Estate.

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

Sec. 1. R. S., c. 95, § 4, relating to real estate foreclosure after possession, amended. Section four of chapter ninety-five of the revised statutes is hereby amended by adding thereto the following words: 'provided that an affidavit signed and sworn to by the mortgagee or by the holder of record of the mortgage, or their legal representatives, is, within three months after the expiration of one year from the taking of such possession, recorded in the registry of deeds where the certificate of foreclosure is recorded; such affidavit shall state the names of the parties to the mortgage, its date, the date of the foreclosure and the place of the record of the certificate of foreclosure, and shall state in general terms that the holder of such mortgage has been in continuous possession for the period of one year after the taking of such possession, and that no payment has been made by the mortgagor, mortgagors, assigns, heirs or legal representatives, on the principal sum or interest of the said mortgage, since the taking of such possession, and that the party or parties holding said mortgage during the said one year, have not knowingly or intentionally done any act to waive the rights under said foreclosure proceedings. The register of deeds shall record such affidavit and note on the margin of the record of the original mortgage, the place of the record of such affidavit, and the fee for recording such affidavit shall be the

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same as the recording of a certificate of foreclosure; but the fact that the register does not note the record of said affidavit on the margin of record of the original mortgage shall not invalidate the foreclosure proceedings. Any person, persons, firm or corporation knowingly or wilfully making a false affidavit or a false statement therein, shall be liable in damages in an action on the case to any party, or the assigns or legal representatives of any party, sustaining damages thereby,' so that said section as amended shall read as follows:

'Sec. 4. Affidavit must be filed with register of deeds; penalty for false statement. Possession obtained in either of these three modes, and continued for one year, forever forecloses the right of redemption, provided that an affidavit signed and sworn to by the mortgagee or by the holder of record of the mortgage, or their legal representatives, is, within three months after the expiration of one year from the taking of such possession, recorded in the registry of deeds where the certificate of foreclosure is recorded; such affidavit shall state the names of the parties to the mortgage, its date, the date of the foreclosure and the place of record of the certificate of foreclosure, and shall state in general terms that the holder of such mortgage has been in continuous possession for the period of one year after taking of such possession, and that no payment has been made by the mortgagor, mortgagors, assigns, heirs or legal representatives, on the principal sum or interest of the said mortgage, since the taking of such possession, and that the party or parties holding said mortgage during the said one year have not knowingly or intentionally done any act to waive the rights under said foreclosure proceedings. The register of deeds shall record such affidavit and note on the margin of the record of the original mortgage, the place of the record of such affidavit, and the fee for recording such affidavit shall be the same as the recording of a certificate of foreclosure; but the fact that the register does not note the record of such affidavit on the margin of the record of the original mortgage shall not invalidate the foreclosure proceedings. Any person, persons, firm or corporation knowingly or wilfully making a false affidavit or a false statement therein, shall be liable in damages in an action on the case to any party, or the assigns or legal representatives of any party, sustaining damages thereby.'

Sec. 2. R. S., c. 95, § 5, relating to foreclosure without possession, amended. Division two of said section five of said chapter is hereby amended by striking out the words "or his assignee" in the second line of said division two and inserting in lieu thereof the following words: 'or mortgagors or in case of any recorded transfer or transfers of the mortgaged property since the giving of the mortgage, on the record holder or holders of the title of the mortgaged property at the time of the service of said notice,' so that said division two of said section five when amended shall read as follows:

'II. Service to be made on record holder, in case of recorded transfer. He may cause an attested copy of such notice to be served on the mortgagor, or mortgagors or in case of any recorded transfer or transfers of the mortgaged property since the giving of the mortgage, on the record holder or holders of the title of the mortgaged property at the time of the service of

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said notice, if he lives in the state, by the sheriff of the same county or his deputy, by delivering it to him in hand or leaving it at his last and usual place of abode; and cause the original notice and the sheriff's return thereon to be recorded within thirty days after such service as aforesaid; and in all cases the certificate of the register of deeds is prima facie evidence of the fact of such entry, notice, publication of foreclosure, and of the sheriff's return.'

Sec. 3. R. S., c. 95, § 7, relating to right of mortgagor to redeem, amended. Section seven of said chapter ninety-five is hereby amended by adding thereto the following: 'provided that an affidavit signed and sworn to by the mortgagee or by the holder of record of the mortgage, or their legal representatives is within three months after the expiration of one year from the first publication, or the service of the notice mentioned in section five, recorded in the registry of deeds where the certificate of foreclosure mentioned in said section five is recorded; such affidavit shall state the names of the parties to the mortgage, its date and the date of the foreclosure and the place of the record of the certificate of foreclosure, and shall state in general terms that no payment has been made by the mortgagor, mortgagors, assigns, heirs or legal representatives, on the principal sum or interest of the said mortgage, since the commencement of said foreclosure proceedings, and that the party or parties holding said mortgage during the said one year, have done no act to waive the rights under said foreclosure proceedings. The register of deeds shall record such affidavit and note on the margin of the record of the original mortgage, the place of the record of such affidavit, and the fee for recording such affidavit shall be the same as the recording of a certificate of foreclosure; but the fact that the register does not note the record of said affidavit on the margin of the original mortgage, shall not invalidate the foreclosure proceedings. Any person, persons, firm or corporation knowingly or wilfully making a false affidavit or a false statement therein, shall be liable in damages in an action on the case to any party, or the assigns or legal representatives of any party, sustaining damages thereby,' so that said section when amended shall read as follows:

Sec. 7. Mortgagee, etc., to file affidavit; penalty for false statement. The mortgagor, or person claiming under him, may redeem the mortgaged premises within one year after the first publication, or the service of the notice mentioned in section five, and if not so redeemed his right of redemption is forever foreclosed; provided that an affidavit signed and sworn to by the mortgagee or by the holder of record of the mortgage, or their legal representatives is, within three months after the expiration of one year from the first publication, or the service of the notice mentioned in section five, recorded in the registry of deeds where the certificate of foreclosure mentioned in said section five is recorded; such affidavit shall state the names of the parties to the mortgage, its date and the date of the foreclosure and the place of the record of the certificate of foreclosure, and shall state in general terms that no payment has been made by the mortgagor, mortgagors, assigns, heirs or legal representatives, on the principal sum or interest of the said mortgage, since the commencement of said foreclosure proceedings, and that the party or parties holding said mortgage during the said one year, have done no act to waive the rights under said foreclosure proceedings. The register

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of deeds shall record such affidavit and note on the margin of the record of the original mortgage, the place of the record of such affidavit, and the fee for recording such affidavit shall be the same as the recording of a certificate of foreclosure; but the fact that the register does not note the record of said affidavit on the margin of the record of the original mortgage, shall not invalidate the foreclosure proceedings. Any person, persons, firm or corporation knowingly or wilfully making a false affidavit or a false statement therein, shall be liable in damages in an action on the case to any party, or the assigns or legal representatives of any party sustaining damages thereby.'

Sec. 4. Provisions not retroactive. This act shall not apply to any mortgage on which foreclosure proceedings have been commenced at the time this act goes into effect.

Approved April 6, 1917.

Chapter 193.

An Act to Amend Chapter Seventy-six of the Revised Statutes, Relating to Sales of Real Estate by License of Court.

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

R. S., c. 76, § 1, par. IV., relating to sale of real estate of incapacitated wife, by license of court. Paragraph four of section one of chapter seventy-six of the revised statutes is hereby amended by adding the following sentence: 'For the purposes of this section an insane husband or wife who has been committed to an asylum for insane persons, within the State of Maine, shall be deemed to remain a resident of the county in which he or she had a residence at the time he or she was committed, so long as he or she shall remain in such an asylum by virtue of such commitment,' so that said paragraph as amended shall read as follows:

'IV. Residence of insane husband or wife not relinquished by commitment for purposes of this section. Of a husband or guardian of an incapacitated wife resident in the county, to sell, on such terms and conditions as the judge thinks proper, for a sufficient consideration, any real estate held by him in right of his wife, or any of her right and interest by descent in any real estate owned by him; and of the guardian of an incapacitated husband, resident in the county, to sell in like manner, the right and interest by descent, of such ward, in any real estate owned by his wife. For the purposes of this section an insane husband or wife who has been committed to an asylum for insane persons, within the State of Maine, shall be deemed to remain a resident of the county in which he or she had a residence at the time he or she was committed, so long as he or she shall remain in such an asylum by virtue of such commitment.'

Approved April 6, 1917.