

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1861.



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1861.

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# FORTIETH LEGISLATURE.

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HOUSE.

No. 1.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND  
SIXTY-ONE.

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AN ACT to amend chapter ninety-one of the Revised  
Statutes, relating to mortgages of personal property.

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

SECTION 1. When the condition of a mortgage of  
2 personal property to secure the payment of more than  
3 thirty dollars is broken, the mortgagor, or any person  
4 lawfully claiming under him, may redeem the same at  
5 any time before the property is sold by virtue of a  
6 contract between the parties, or on execution against  
7 the mortgagor, or the right of redemption is foreclosed  
8 as hereinafter provided.

SECT. 2. The person entitled to redeem shall pay 2 or tender to the mortgagee, or person holding under 3 him, by an assignment of the mortgage recorded where 4 the mortgage is recorded, the sum due on the mort- 5 gage, or perform or offer performance of the thing to 6 be done, with all reasonable charges incurred, and if 7 the property is not immediately restored, it may be 8 replevied, or damages for withholding it may be re- 9 covered in an action of the case. If the mortgagee, or 10 person so holding under him, is not a resident within 11 the State, the amount due on the mortgage may be 12 paid to the treasurer of the town or city where the 13 mortgage is recorded, and he shall hold the same for 14 the use of the party entitled thereto.

SECT. 3. The mortgagee or his assignee, after con- 2 dition broken, may give to the mortgagor, or if the 3 right of redemption of the mortgage has been as- 4 signed, and the assignment recorded, to such as- 5 signee, written notice of his intention to foreclose 6 the mortgage for breach of the condition thereof, 7 which notice shall be served by leaving a copy with 8 the mortgagor or his assignee of record, or by pub- 9 lishing it once a week, for three successive weeks, 10 in one of the principal newspapers published in the 11 town or city where the mortgage is recorded; if the

12 mortgagor or assignee is not a resident within the  
13 State, and there is no newspaper published in the  
14 town or city where the mortgage is recorded, such no-  
15 tice may be published in any newspaper printed in the  
16 county where the mortgage is recorded.

SECT. 4. The notice, with an affidavit of service,  
2 or if published, a copy thereof, and the name and date  
3 of the paper in which it was last published, shall be  
4 recorded where the mortgage is recorded, and when so  
5 recorded, the copy of the record shall be admitted as  
6 evidence of the giving of such notice.

SECT. 5. If the money to be paid, or other thing  
2 to be done, is not paid or performed, or tender thereof  
3 made, within sixty days after such notice is recorded,  
4 the right to redeem shall be forfeited.

SECT. 6. Nothing in the preceding sections, or in  
2 chapter ninety-one of the Revised Statutes, shall  
3 defeat a contract of bottomry, respondentia, transfer,  
4 assignment, or hypothecation of a vessel or goods at  
5 sea or abroad, if possession is taken as soon as may be  
6 after their arrival within the State.

SECT. 7. Sections three, four and five, of chapter  
2 ninety-one, of the revised statutes, are hereby re-  
3 pealed—the repeal thereof shall not affect any rights,  
4 remedies or proceedings now existing by virtue there-

5 of, or any mortgages executed before this act shall  
6 take effect.

SECT. 8. This act shall take effect, thirty days after  
2 its approval by the governor,—its provisions shall be  
3 applicable only to mortgages subsequently executed.

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## STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }  
January 12, 1861. }

Reported by Mr. FOX, from the Committee on the Judiciary, and  
on motion of Mr. BROWN of Hampden, laid on the table and  
350 copies ordered to be printed for the use of the Legislature.

CHARLES A. MILLER *Clerk.*