

Chap. 57

AN ACT CONCERNING THE JUDICIAL DETERMINATION OF RIGHTS TO FORECLOSE MORTGAGES IN WHICH SOLDIERS AND SAILORS MAY BE INTERESTED BY ENTRY AND POSSESSION, BY EXERCISE OF POWERS OF SALE, OR OTHERWISE AS PROVIDED BY LAW, OR TO MAKE ANY SEIZURE OF PROPERTY THEREUNDER.

Whereas, An act of congress, known as the soldiers' and sailors' civil relief act of nineteen hundred and forty, was amended in nineteen hundred and forty-two and affects the rights and relations existing between mortgagees and mortgagors and others interested in property subject to mortgage who are in the military service of the United States and its allies; and

Whereas, This act is enacted to adjust to the aforesaid act of congress, as amended in nineteen hundred and forty-two, the procedure provided by chapter twenty-five of the acts of nineteen hundred and forty-one to meet the requirements of the soldiers' and sailors' civil relief act of nineteen hundred and forty, as amended, for the protection of persons in the military service; and

Whereas, The adjusted procedure aforesaid should immediately be available for such mortgagees, mortgagors and others so that all future foreclosures of mortgages in which they are interested may be conducted in accordance with the soldiers' and sailors' civil relief acts above referred to, therefore this act is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. In any proceeding in equity for authority to foreclose a mortgage, which for the purposes of this act shall be construed to include a trust deed, or other security in the nature of a mortgage, covering real or personal property, or both, by entry and possession, by exercise of a power of sale contained therein, or otherwise as provided by law, or to make any seizure of property thereunder, brought because of an Act of Congress known as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, or any amendments thereto hereafter enacted, notice may be issued in substantially the following form by the court in which such proceeding is pending, returnable on any convenient date, irrespective of the return days otherwise prescribed by law or rule, and requiring all appearances and answers to be filed on or before the return day: —

COMMONWEALTH OF MASSACHUSETTS

....., ss. In Equity Court

To (insert the names of all defendants named in the bill) and to all whom it may concern:

claiming to be the holder of a mortgage — trust deed — security in the nature of a mortgage (strike out the descriptive words which are inapplicable) covering property (insert nature of property, whether real or personal) situated in (insert location of property, including name of city or town and, if stated in the mortgage or in the bill, the street and number) given by (insert names of parties, date and reference to record), has filed with said court a bill in equity for authority to foreclose said mortgage — trust deed — security in the nature of a mortgage — in the manner following: (insert contemplated method of foreclosure, whether by entry and possession, exercise of a power of sale, or otherwise) — to seize certain real — personal — property (strike out descriptive word which is inapplicable) covered by said mortgage — trust deed — security in the nature of a mortgage.

If you are entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended, and you object to such foreclosure or seizure, you or your attorney should file a written appearance and answer in said court at..... on or before..... (Return Day), or you may be forever barred from claiming that such foreclosure or seizure is invalid under said act.

Witness:..... Esquire, Judge of said Court, this..... day of..... 19.....

The publication of a copy of said notice once not less than twenty-one days before the return day in a newspaper designated by the court, and the mailing of a copy thereof by registered mail not less than fourteen days before the return day to each defendant named in the bill, shall be sufficient service of said notice, unless the court otherwise orders, provided however that prior to the return day fixed in said notice a copy thereof shall be recorded in each registry of deeds and city or town clerk's office in which such mortgage is recorded.

SECTION 2. An entry and possession taken for the purpose of foreclosure, or a foreclosure effected by exercise of a power of sale or by any other method, or a seizure of property, done pursuant to authority granted in such proceedings, may be approved by the court but not until after the expiration of the period for appeal from the order authorizing the same. There shall be no appeal from or review of such approval. The period of thirty days within which a copy of the notice

of sale and an affidavit are required to be recorded by section fifteen of chapter two hundred and forty-four of the General Laws, and the period of thirty days within which the memorandum or certificate of entry is required to be recorded by section two of said chapter two hundred and forty-four shall, in case such a proceeding has been had, be computed from the time the court approves the sale, or entry, rather than from the time of the sale, or entry, as provided in said sections.

A copy of the order authorizing foreclosure by entry, or by sale, or otherwise as provided by law, or a copy of the order authorizing the seizure of property, and the approval thereof, may be recorded in the registry of deeds and city or town clerk's office in which such mortgage is recorded, and if so recorded shall be conclusive evidence of compliance with the provisions of said Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto, in so far as the court has power to determine the same, as against all persons, except that such copy shall not be conclusive evidence of such compliance against persons whose interests appeared of record prior to the recording of the notice of said proceeding unless they were named as defendants or had notice of said proceeding.

SECTION 3. In proceedings under section one hereof where a mortgage includes land, the land court shall have jurisdiction as to said mortgage even though it may include personal property and shall have jurisdiction as to any additional or supplementary mortgage securing the same obligation although such mortgages include personal property.

SECTION 4. Chapter twenty-five of the acts of nineteen hundred and forty-one is hereby repealed, but the repeal thereof shall not be construed to affect any proceedings which shall have been brought heretofore under said chapter twenty-five.

*Approved March 4, 1943*

*Chap. 58* AN ACT AUTHORIZING COUNTIES, CITIES, TOWNS AND DISTRICTS TO CO-OPERATE WITH THE FEDERAL GOVERNMENT IN RELATION TO DEFENSE PUBLIC WORKS.

*Whereas*, In the existing state of war between the United States and certain foreign countries it is imperative that the political subdivisions of the Commonwealth be authorized immediately to co-operate with the federal government in the national defense and the deferred operation of this act would in part tend to defeat its purpose, which is to grant such authority to such political subdivisions, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

*Be it enacted, etc., as follows:*

Section nine of chapter four hundred and four of the acts of nineteen hundred and thirty-five, added by chapter four hundred and fourteen of the acts of nineteen hundred and

thirty-six, and as most recently amended by section one of chapter six hundred and thirty-nine of the acts of nineteen hundred and forty-one, is hereby further amended by striking out all after the word "forty-one" in the eleventh line and inserting in place thereof the following: —, nineteen hundred and forty-two, nineteen hundred and forty-three, nineteen hundred and forty-four, and nineteen hundred and forty-five, authorizing grants or loans of federal money for public works projects or defense public works, — so as to read as follows: — *Section 9.* Wherever, in Part I of chapter three hundred and sixty-six of the acts of nineteen hundred and thirty-three, and acts in amendment thereof and in addition thereto, reference is made to the National Industrial Recovery Act or any title or part thereof, or to the Emergency Relief Appropriation Act of 1935, such reference shall be deemed and held to refer also to all acts and joint resolutions of Congress enacted during nineteen hundred and thirty-six, nineteen hundred and thirty-seven, nineteen hundred and thirty-eight, nineteen hundred and thirty-nine, nineteen hundred and forty, nineteen hundred and forty-one, nineteen hundred and forty-two, nineteen hundred and forty-three, nineteen hundred and forty-four, and nineteen hundred and forty-five, authorizing grants or loans of federal money for public works projects or defense public works.

*Approved March 4, 1943.*

AN ACT AUTHORIZING THE CITY OF HAVERHILL TO INVEST CERTAIN FUNDS IN BONDS ISSUED BY THE FEDERAL GOVERNMENT.

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*Be it enacted, etc., as follows:*

The city of Haverhill is hereby authorized to invest in bonds of the United States government the sum of fourteen thousand dollars, being the unexpended balance in its treasury of a loan obtained by said city under authority of clause five of section eight of chapter forty-four of the General Laws; provided, that as soon as it shall be possible for the city to obtain the necessary materials to carry on the purposes for which the loan was obtained, following the termination of the existing state of war with any foreign country, said city shall dispose of such bonds and use the proceeds thereof, together with any income received from the bonds, for the purposes specified by the vote authorizing the loan. Bonds purchased under this act shall be in the custody of the city treasurer, and in case any bond so purchased matures or is called, the proceeds may be reinvested by the treasurer, with the approval of the mayor, in other bonds the purchase of which is authorized by this act.

*Approved March 4, 1943.*