

MORTGAGES, ASSIGNMENT AND COSTS

Act of Apr. 28, 1903, P.L. 327, No. 258

Cl. 68

AN ACT

Giving to the mortgagor who has parted with title to mortgaged premises, leaving his bond or other obligation and mortgage outstanding, the right, under certain conditions, to pay or tender payment to the holder of such bond or other obligation and mortgage the moneys due thereon, including costs; and to require the holder of the said obligation and security to assign the same to the said mortgagor or his nominee, interest on the debt and costs to cease to run from the date of such tender of payment, if payment be not accepted; and giving to the courts of common pleas power, upon petition, to order and direct the holder of such bond or other obligation and mortgage to assign and transfer the same to the mortgagor or his nominee, upon payment, and to enforce compliance therewith. And also power, in case of refusal, to make necessary order and decree to limit and restrict the lien, effect and operation of any judgment entered on such bond, and of process thereon, to the said mortgaged premises, and discharge the mortgagor from further personal liability; and directing the prothonotary of the court to note such order on the judgment index, and also certify the same to the recorder of deeds of the proper county, who shall record such certificate and note the same on the margin of the mortgage.

Section 1. Be it enacted, &c., That any owner of real estate who shall have given his bond or other obligation, secured by mortgage upon his real estate or any part thereof, and who shall afterwards have granted and conveyed the mortgaged premises to another, subject to the said mortgage, whether mentioned in the said conveyance or not, or leaving the said bond or other obligation and mortgage outstanding, shall have the right at any time after the maturity of the said bond or other obligation and mortgage, according to the terms and conditions thereof, to tender to the mortgagee or other owner or holder, at that time, of the said bond or other obligation and mortgage, and make payment of the mortgage debt and interest to date of tender, including cost if any; and, if entitled in equity to be subrogated to the rights of the holder of the bond and mortgage against the vendees or their heirs or assigns, owners of the lands, thereupon to demand and require the said mortgagee, or other owner or holder thereof, to assign and transfer the said bond or other obligation and mortgage to him, the mortgagor, or his nominee, at the proper cost and expense of the said mortgagor; and if the said mortgagee, or other owner or holder of the said bond or other obligation and mortgage, shall fail or neglect to so assign and transfer the said bond or other obligation and mortgage, upon such tender of payment to him or them, together with any judgment or judgments entered thereon, the interest on the mortgage debt shall cease to run on the said indebtedness, as against the mortgagor, from the date of such

tender, and he shall not be liable for any costs, charges, commissions or expense accruing after the date of such tender; and if the mortgagee, or other owner or holder at that time of such bond or other obligation and mortgage, shall refuse to accept payment when so tendered, and assign, as aforesaid, the mortgagor shall have the right to apply by petition to the court of common pleas of the county in which the mortgaged premises are situate, setting forth the fact, and praying for an order, which the said court is hereby authorized to make, upon notice to the parties interested, after hearing, upon the mortgagee, or other owner or holder of the said bond or other obligation and mortgage, and judgments entered thereon, if any, to the mortgagor or his nominee, on the payment of the debt, interest and costs to the date of such tender, if any: Provided, however, and be it further enacted, if the said mortgagee, or other owner or holder of the said bond or other obligation and mortgage, shall neglect or refuse to comply with and obey the order of court, so made, the mortgagor shall, upon proof of such refusal, thereupon by further order of court be released and forever discharged from any further personal liability upon the bond, or other obligation accompanying the said mortgage, to the mortgagee or other owner or holder thereof, their heirs, executors, administrators or assigns; and that any judgment then or thereafter entered upon the said bond or other obligation, or upon the said mortgage, shall, by virtue of such order, be confined and restricted in its lien, effect and operation solely and exclusively to the mortgaged premises; and in order to give further notice and effect to such orders or decrees, the mortgagor shall also have the right, at any time after the entry of such orders or decrees, by leave first had and obtained of the court in which such judgment shall have been entered, obtained or recovered, to enter and file of record a certified copy of such orders or decrees in such suit or judgment; and the said court, in which the said judgment shall have been entered, shall thereupon make an order or decree in the said proceeding confirming the said orders or decrees, so made as aforesaid, limiting and confining the lien, effect and operation of such judgment to the mortgaged premises alone, and declaring the defendant to be released and forever discharged of and from any and all further personal liability to the mortgagee, or other owner or holder thereof, their heirs, executors, administrators or assigns, for the payment of the said indebtedness; and all process of whatsoever kind or nature, upon the said judgment, shall, after the entry of such order or decree, be limited and confined in the lien, effect and operation to the mortgaged premises. The prothonotary of the court of common pleas in which the said judgment shall have been or shall be entered, shall make a note of the entry of such order or decree on the margin of the judgment index, opposite the name of the defendant, and shall also, at the request of any party of interest, certify the said order or decree to the recorder of deeds of the proper county, who shall record the same in his office and note the same on the margin of the said mortgage.