

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 79

An Act to amend the Act to encourage the establishment of certain Societies commonly called Building Societies, in that part of the Province of Canada formerly constituting Upper Canada. 10th August, 1850.

Whereas in the tenth section of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to encourage the establishment of certain Societies commonly called Building Societies, in that part of the Province of Canada formerly constituting Upper Canada*, it is among other things provided, that it shall and may be lawful for every such Society to take and hold any real estate or securities thereon, *bonâ fide* mortgaged or assigned to the said Society, either to secure the payment of the shares subscribed for by its members, or to secure the payment of any loans or advances made by or debts due to such Society, and that they may also proceed on such mortgages, assignments or other securities for the recovery of the moneys thereby secured, either at law or in equity or otherwise; and it is expedient that no doubt should exist with respect to the power and legality of carrying into force the stipulations of the Shareholders among themselves, or as to the power of the Society to loan money upon property actually belonging to any member thereof, before and at the time at which any moneys maybe advanced, as well as for the actual purchase of such property and erection of buildings thereon: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, whenever any such Society shall have received from any Shareholder an assignment, mortgage or transfer of any real estate belonging to him or her, to secure the payment of any advances, and containing an authority to such Society to sell such real estate in case of non-payment of any stipulated number of instalments or sum of money, and containing also authority and power to such Society to apply the proceeds of such sale to the payment of the advances, interest and all other charges due to such Society, such stipulations and agreement shall be valid and effectual, and binding to all intents and purposes whatsoever, and it shall be lawful for such Society to cause the same to be enforced, either by foreclosure or by an action or proceeding in Her Majesty's Court of Queen's Bench or Common Pleas in Upper Canada, which action shall be brought in the Court of Queen's Bench or Common Pleas, within the County or United Counties in which the lands so given in security lie, and may be brought in the names of the President and Treasurer of such Society, describing them to be such President and Treasurer, or in the Corporate name of the Society.

II. And be it enacted, That any such Society may pursue the same course, exercise the same powers and take and use the same remedies to enforce the payment of any debt or demand due

to such Society, as any person or persons, body corporate or politic may now by law take or use for such purpose.

III. And be it enacted, That every such Society shall have power either to forfeit and declare forfeited to the Society, the share or shares of any member who may be in arrear or neglect to pay such number of instalments or monthly subscriptions as may be or are fixed by any stipulation or By-law, and to expel such member from the Society; and the Secretary shall make a minute of such forfeiture and expulsion in the books of the Society, or otherwise recover the same by an action of debt, which action (if the amount in arrear do not exceed the sum of ten pounds) may be brought in the Division Court of the Division wherein the office of the Society is kept.

IV. And whereas doubts have arisen as to the construction of the first and tenth sections of the Act hereby amended, with respect to the right of such Societies to loan and advance moneys on property and estate actually belonging to and acquired by the borrower at or before the time of such borrowing and advance, and it is expedient to remove such doubts: Be it therefore declared and enacted to have been and to be the intention of the said Act, that such Societies should have the power to advance, and such Societies are hereby authorized to advance in the manner usual with any such Society, moneys on any real estate whatsoever of any member of such Society, as well for the actual purchase of real estate and for the erection of buildings thereon, as generally for any purpose whatsoever, upon the security of any real estate belonging to any such member at the time of his borrowing such moneys, and to take and receive an assignment, mortgage or transfer of all or any such real estate in security for such advance, on the same conditions and with the same privileges in all respects as any other real estate by the said Act and by this Act authorized and required to be assigned, mortgaged or transferred; and further, that all securities heretofore taken for moneys advanced in the manner above mentioned, shall be valid and binding on the parties to all intents and purposes whatsoever, and in the same manner as if taken under this Act, and that all or any person or persons whomsoever, whether capitalists or otherwise, shall be at liberty to become members of any such Society; and that. Copartners and Corporate Bodies may hold shares therein, in the same manner as single individuals.

V. And be it enacted, That this Act shall be a Public Act, and as such be judicially taken notice of by all Judges and Justices, and other persons whomsoever, without being specially pleaded.