

1970

c 54 The Mortgages Amendment Act, 1970

Ontario

© Queen's Printer for Ontario, 1970

Follow this and additional works at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes

Bibliographic Citation

The Mortgages Amendment Act, 1970, SO 1970, c 54

Repository Citation

Ontario (1970) "c 54 The Mortgages Amendment Act, 1970," *Ontario: Annual Statutes*: Vol. 1970, Article 56.

Available at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes/vol1970/iss1/56

CHAPTER 54

An Act to amend The Mortgages Act

*Assented to June 26th, 1970**Session Prorogued November 13th, 1970*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 20 of *The Mortgages Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 245, s. 20,
re-enacted

20.—(1) Notwithstanding any agreement to the contrary, where default has occurred in making any payment of principal or interest due under a mortgage or in the observance of any covenant in a mortgage and under the terms of the mortgage, by reason of such default, the whole principal and interest secured thereby has become due and payable,

- (a) at any time before sale under the mortgage; or
- (b) before the commencement of an action for the enforcement of the rights of the mortgagee or of any person claiming through or under him,

the mortgagor may perform such covenant or pay the amount due under the mortgage, exclusive of the money not payable by reason merely of lapse of time, and pay any expenses necessarily incurred by the mortgagee, and thereupon he is relieved from the consequences of such default.

- (2) The mortgagor may, by a notice in writing, require the mortgagee to furnish him with a statement in writing, Statement
of arrears,
expenses,
etc.
- (a) of the amount of the principal or interest with respect to which the mortgagor is in default; or
 - (b) of the nature of the default or the non-observance of the covenant,

and

and of the amount of any expenses necessarily incurred by the mortgagee.

Idem

- (3) The mortgagee shall answer a notice given under subsection 2 within fifteen days after he receives it, and, if without reasonable excuse he fails so to do or his answer is incomplete or incorrect, any rights that he may have to enforce the mortgage shall be suspended until he has complied with subsection 2.

Relief
after
action
commenced

- 20a.—(1) Notwithstanding any agreement to the contrary, where default has occurred in making any payment of principal or interest due under a mortgage or in the observance of any covenant in a mortgage and under the terms of the mortgage, by reason of such default, the whole principal and interest secured thereby has become due and payable, in an action for enforcement of the rights of the mortgagee or of any person claiming through or under him, the mortgagor, upon payment into court of the sum of \$100 to the credit of the action as security for costs, may apply to the court and, conditional upon performance of such covenant or upon payment of the money due under the mortgage, exclusive of the money not payable by reason merely of lapse of time, and upon payment of the costs of the action, the court,

- (a) shall dismiss the action if judgment has not been recovered; or
- (b) may stay proceedings in the action, if judgment has been recovered and if no sale or recovery of possession of the land or final foreclosure of the equity of redemption has taken place.

Idem

- (2) Notwithstanding clause *b* of subsection 1, where judgment has been recovered and recovery of possession of the land has taken place, the court may stay proceedings in the action upon the application of a person added as a party in the master's office, made under subsection 1 within ten days after service of notice of the judgment has been made upon him.

Subsequent
default

- (3) Where proceedings have been stayed under clause *b* of subsection 1 or under subsection 2 and default again occurs under the mortgage, the court upon application may remove the stay.

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

3. This Act may be cited as *The Mortgages Amendment Act, 1970*. ^{Short title}

