



ANNO VICESIMO QUARTO

GEORGII V REGIS.

A.D. 1933.

No. 2112.

An Act to amend the Mortgages Relief Act, 1931.

[Assented to, August 31st, 1933.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Mortgages Relief (Extension) Act, 1933". Short titles and incorporation.

(2) The Mortgages Relief Act, 1931 (which is hereinafter referred to as the "principal Act") and this Act may be cited together as the "Mortgages Relief Acts, 1931 and 1933". No. 2046 of 1931.

(3) This Act is incorporated with the principal Act, and that Act and this Act shall be read as one Act.

2. (1) Applications under the principal Act for the postponement of the date for repayment of principal moneys under mortgages may be made at any date after the passing of this Act not later than the first day of September, nineteen hundred and thirty-four, and orders may be made pursuant to the principal Act for the postponement to any days not later than the said day of the dates for repayment of principal moneys under mortgages. Extension of Mortgages Relief Act, 1931.

(2) For the purpose of giving effect to this section the principal Act is amended in manner following:—

I. Section 5 of the principal Act is amended—

(a) by striking out the words "January, nineteen hundred and thirty-three" in the fourth and fifth lines thereof and by inserting in lieu thereof the words "September, nineteen hundred and thirty-four";

(b) by

Mortgagors Relief (Extension) Act.—1933.

(b) by striking out the word “thirty-three” in the seventh and the fourteenth lines thereof and by inserting in lieu thereof in each case the word “thirty-four”; and

II. Section 8 of the principal Act is amended by striking out the word “thirty-three” in the seventh line thereof and by inserting in lieu thereof the word “thirty-four”:

III. Section 9 of the principal Act is amended by striking out the words “June, nineteen hundred and thirty-three” in the second and third lines thereof and by inserting in lieu thereof the words “September, nineteen hundred and thirty-four”:

IV. Section 12 of the principal Act is amended by striking out the word “thirty-three” in the fifth line thereof and by inserting in lieu thereof the word “thirty-four”.

Amendment of
principal Act, s. 5—
Extension of period
of existing orders.

3. Section 5 of the principal Act is amended by adding at the end thereof the following subsection:—

(5) Every order made pursuant to any application made on or before the first day of January, nineteen hundred and thirty-three, whereby the date for the repayment of any principal moneys payable under any mortgage is postponed to any date fixed in such order, shall be deemed to be an order postponing the date of the said repayment until one year after the day fixed in the order and shall, subject to this Act, continue in force until the expiration of such extended period. All the provisions of this Act shall apply to such order as if the date fixed pursuant to this subsection were the date fixed by the order at the time of the making thereof.

Amendment of
principal Act--

4. The principal Act is amended by inserting after section 5 thereof the following section:—

Applications for
relief where
proceedings have
been instituted
by mortgagee.

5A. (1) An application may be made under section 5 by any mortgagor and an order under section 5 may be made on such application notwithstanding that before the passing of the *Mortgagors Relief (Extension) Act, 1933*, the mortgagee has commenced any proceedings, judicial or extra-judicial, to put into operation any of the powers which under the mortgage or by law he is entitled to use on default made by the mortgagor in repayment of principal, but no such order shall be made, if prior to the making of the application, the mortgagee has, in pursuance of the said powers, sold or let the whole of the land comprised in the mortgage.

(2) If prior to the making of the application part of the said land has been sold or let as aforesaid the Court may make an order extending the time for payment of any balance of principal owing, but no such order shall affect the right of the mortgagee to recover any rent from any land let as aforesaid, and no such rent or any part thereof shall be deemed to be in payment of interest in respect of any such balance of principal. (3) The

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(3) The Court may, as a condition of making any order pursuant to this section, require the mortgagor to pay to the mortgagee any costs incurred by the mortgagee before the making of the application with respect to any such proceedings as aforesaid.

(4) For the purposes of any application pursuant to this section the mortgagor shall be deemed to have complied with all the terms and conditions of the mortgage other than those relating to repayment of principal, if he complied with all of such terms and conditions up to the time proceedings as aforesaid were taken by the mortgagee.

(5) If any application as aforesaid is made the mortgagee shall not continue the said proceedings until the court finally disposes of the application, and if any order is made as aforesaid, the order shall be deemed to be and shall have effect as a stay of any such proceedings as aforesaid, and all proceedings, judicial or extra-judicial, continued after the making of the order and in contravention of the order or any provision of this Act shall be void.

5. Section 9 of the principal Act is amended by adding at the end of subsection (1) thereof the words "or from commencing or continuing any proceedings for repayment of principal during such time as any such breach as aforesaid continues".

Amendment of
principal Act, s. 9—
Duty of mortgagee.

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

A. HORE-RUTHVEN, Governor.