

in this state, as prima facia evidence of the facts in such affidavit set forth. Dec Ses 1825

6. *And be it enacted,* That the person making either of the said affidavits shall make the same before a judge of the county court of the county, or before two justices of the peace of the city or county in which the mortgaged premises shall be in whole or in part; but where such advertisements of sale is published in any newspaper in any other city or county than that in which the said mortgaged premises shall be in whole or in part, then the said affidavit of publication by the printer may be made before a judge of the county court of the county or before two justices of the peace of the city or county in which such newspaper is printed, and such judge or justices as the case may be, are hereby required to take said affidavit and to subscribe his or their name or names to a certificate underneath the said affidavit, purporting that the person making the affidavit had appeared before him or them and made oath to the same Affidavit to be taken

7. *And be it enacted,* That in case application shall be made to the clerk of any county, where the mortgaged premises shall lie, in whole or in part, to record either of the said affidavits, certified and subscribed as aforesaid, then, and in such case, the said clerk is hereby required to record in his register of the mortgages, the said affidavit at full length, together with the certificate of the judge or justices annexed to the same; for which service the said clerk is hereby allowed to demand and receive the like rate of compensation which is allowed him for recording a deed. Clerk directed to record —compensation.

8. *And be it enacted,* That no title to mortgaged premises, derived from any sale made in virtue of a special power for that purpose, in the mortgage contained, shall be questioned, impeached or defeated, either at law or in equity, by reason that the mortgaged premises were purchased in by the mortgagee, or his or her assignee, or by his, her, or their legal representatives, or for his, her or their benefit or account: *Provided always,* that the sale was in every respect regular, fair and with good faith. Mortgagee may purchase

9. *And be it enacted,* That whenever lands are sold and conveyed, and a mortgage is given by the purchaser at the same time, to secure the payment of the purchase money, such mortgage shall be preferred to any previous judgment which may have been obtained against such purchaser. Mortgage given at time of purchase; preference.

10. *And be it enacted,* That all mortgage sales after the first day of May next, shall be made in the county, where the mortgaged premises are situated: And provided that where the lands described in any mortgage, are or shall be situated in more than one county; in such case the sale thereof may be made in either of the counties within which such lands are situated. Where sale shall take place.

11. *And be it enacted,* That this act shall take effect from and after the last day of April next. To take effect