



Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

PART III

MORTGAGES, RENTCHARGES, AND POWERS OF ATTORNEY

Mortgages

86 Mode of mortgaging leaseholds.

- (1) A mortgage of a term of years absolute shall only be capable of being effected at law either by a subdemise for a term of years absolute, less by one day at least than the term vested in the mortgagor, and subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage; and where a licence to subdemise by way of mortgage is required, such licence shall not be unreasonably refused:

Provided that a first mortgagee shall have the same right to the possession of documents as if his security had been effected by assignment.

- (2) Any purported assignment of a term of years absolute by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a subdemise of the leasehold land to the mortgagee for a term of years absolute, but subject to cesser on redemption, in manner following, namely:—
- (a) The term to be taken by a first or only mortgagee shall be ten days less than the term expressed to be assigned:
 - (b) The term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee, if the length of the last mentioned term permits, and in any case for a term less by one day at least than the term expressed to be assigned:

and, in this subsection, any such purported assignment as aforesaid includes an absolute assignment with a deed of defeasance and any other assurance which, but for this subsection, would operate in effect to vest the term of the mortgagor in a mortgagee subject to redemption.

Changes to legislation: Law of Property Act 1925, Section 86 is up to date with all changes known to be in force on or before 02 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) [^{F1}Subsection (2) does not apply to registered land, but, subject to that, this section applies whether or not the land is registered land and whether or not] the mortgage is made by way of sub-mortgage of a term of years absolute, or is expressed to be by way of trust for sale or otherwise.
- (4) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage for or to lend money on mortgage of a term of years absolute by way of assignment shall be construed as a power to mortgage the term by subdemise for a term of years absolute or by a charge by way of legal mortgage, or to lend on such security.

Textual Amendments

- F1** Words in s. 86(3) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), ss. 133, 136(2), **Sch. 11 para. 2(7)** (with s. 129); S.I. 2003/1725, **art. 2**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2023 asc 3 s. 146\(5\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 52(2)(dc)(dd) inserted by [2016 c. 22 Sch. 7 para. 1\(2\)](#)