

this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not to exceed \$100.00 or imprisonment not to exceed thirty (30) days. Every distinct violation shall be a separate offense. It shall be the duty of any County Attorney within his jurisdiction to prosecute any person alleged to have committed such an offense. The inspectors of the Commission for the purpose of enforcing this act shall have all the powers conferred by law upon police officers, to serve warrants and other processes in this state, and it shall be the duty of the State Commissioner of Highways upon written request of the Commission to require the State Highway Patrol to assist in the enforcement of this act.

**Section 9. Provisions severable.**—If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid, such section shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause, sentence and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

**Section 10. Inconsistent acts repealed.**—All acts and parts of acts inconsistent hereto are hereby repealed.

**Section 11.** This act shall take effect and be in force from and after its passage.

Approved April 26, 1937.

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#### CHAPTER 432—S. F. No. 714

*An act to legalize foreclosure sales heretofore made and the records of mortgage foreclosure proceedings and limiting the time within which actions may be brought or defenses interposed questioning the validity of foreclosure proceedings.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Mortgage foreclosure sales legalized.**—Every mortgage foreclosure sale by advertisement heretofore made in this state, under power of sale in the usual form contained in any mortgage duly executed and recorded in the office of the register of deeds or registered with the registrar of titles of the proper county of this state, together with the record of such foreclosure sale, is hereby legalized and made valid and effective to all intents and purposes, as against any or all of the following objections, viz:

1. That the power of attorney, recorded or filed in the proper office prior to the passage of this act, to foreclose the mortgage, provided for by Mason's Minnesota Statutes of 1927, Section 9606:

a. Did not definitely describe and identify the mortgage,

b. Was not sufficiently witnessed or acknowledged, or was witnessed, and/or the acknowledgment of the execution of the same was taken, by the person to whom such power was granted, or if executed by a corporation that the corporate seal was not affixed thereto,

c. Had not been executed and recorded or filed prior to sale, or had been executed prior to, but not recorded or filed until after, such sale,

d. Was executed before there was default, or was executed subsequent to the date of the printed notice of sale or subsequent to the date of the first publication of such notice.

2. That the notice of sale:

a. Was published only five times, or that it was published six times but not for six weeks prior to the date of sale,

b. Properly described the property to be sold in one or more of the publications thereof but failed to do so in the other publications thereof, the correct description having been contained in the copy of said notice served on the occupant of the premises,

c. Was published for six full weeks and the mortgage sale was postponed and the original notice, together with notice of postponement, was regularly published in at least one issue of the same newspaper intervening between the last publication of the original notice, and the date to which the sale was postponed,

d. Correctly stated the date of the month and hour and place of sale but named a day of the week which did not fall on the date given for such sale, and/or failed to state or state correctly the year of such sale,

e. Correctly described the real estate but omitted the county and state in which said real estate is located,

f. Did not state the amount due or failed to state the correct amount due or claimed to be due,

g. Described the place where the sale was to take place as a city instead of a village; or village instead of city.

h. In one or more of the publications thereof, designated either a place or a time of sale other than that stated in the certificate of sale,

i. Failed to state the names of one or more of the assignees of the mortgage and described the subscriber thereof as mortgagee instead of assignee,

j. Failed to state or incorrectly stated the name of the mortgagor, the mortgagee or assignee of mortgage,

k. Was not served upon persons whose possession of the mortgaged premises was otherwise than by their personal presence thereon, if a return or affidavit was recorded or filed as a part of the foreclosure record that at a date at least four weeks prior to the sale the mortgaged premises were vacant and unoccupied,

l. Was not served upon all of the parties in possession of the mortgaged premises provided it was served upon one or more of such parties,

m. Was not served upon the persons in possession of the mortgaged premises, if, at least two weeks before the sale was actually made, a copy of the notice was served upon the owner in the manner provided by law for service upon the occupants, or the owner received actual notice of the proposed sale.

n. Gave the correct description at length, and an incorrect description by abbreviation or figures set off by parentheses, or vice versa.

o. Where the notice of mortgage foreclosure sale of the premises described in the notice was served personally upon the occupants of the premises as such, but said service was less than four weeks prior to the appointed time of sale.

3. That distinct and separate parcels of land were sold together as one parcel and to one bidder for one bid for the whole as one parcel.

4. That no authenticated copy of the order appointing, or letters issued to, a foreign representative of the estate of the mortgagee or assignee, was properly filed or recorded, provided such order or letters have been filed or recorded in the proper office prior to the passage of this act.

5. That said mortgage was assigned by a decree of a probate court in which decree the mortgage was not specifically or sufficiently described.

6. That the sheriff's certificate of sale and/or any of the accompanying affidavits and return of service were not executed, filed or recorded within 20 days after the date of sale but have been executed and filed or recorded prior to the passage of this act.

7. That the sheriff's certificate of sale described the sale as being held in the city of Hennepin whereas the sale was actually conducted in a city of the county of Hennepin.

8. That the hour of sale was omitted from the notice of sale; or from the sheriff's certificate of sale.

9. That prior to the foreclosure no registration tax was paid on the mortgage, provided such tax has been paid prior to the passage of this act.

10. That an insufficient registration tax had been paid on the mortgage.

11. That the date of the mortgage or any assignment thereof or the date, the month, the day, hour, book and page, or document number of the record or filing of the mortgage or any assignment thereof, in the office of the register of deeds or registrar of titles is omitted or incorrectly or insufficiently stated in the notice of sale or in any of the foreclosure papers, affidavits or instruments.

12. That the mortgage foreclosure sale was held upon a legal holiday.

13. That no notice of the pendency of the proceedings to enforce or foreclose the mortgage as provided in Mason's Minnesota Statutes of 1927, Section 8303, was filed with the registrar of titles and a memorial thereof entered on the register at the time of or prior to the commencement of such proceeding.

14. That the power of attorney to foreclose or the notice of sale was signed by the person who was the representative of an estate, but failed to state or correctly state his representative capacity.

15. That the mortgage deed contained the word 'Minn.' immediately following the true and correct name of the corporate mortgagee, and the power of attorney to foreclose such mortgage, and the notice of mortgage foreclosure sale were executed by the corporate mortgagee in its true and correct name, omitting therefrom the word 'Minn.' as recited and contained in the mortgage immediately following the name of the corporate mortgagee.

16. That the complete description of the property foreclosed was not set forth in the sheriff's certificate of sale, if said certificate correctly refers to the mortgage by book and page numbers and date of filing and the premises are accurately described in the printed notice of sale annexed to said foreclosure sale record containing said sheriff's certificate of sale.

17. That the seal of the notary was omitted from the affidavit of costs and disbursements attached to the mortgage foreclosure

record, the said affidavit of costs and disbursements being otherwise properly executed.

18. That the year of recording of the mortgage was improperly stated in the sheriff's certificate of mortgage foreclosure sale, the mortgage being otherwise properly described in said sheriff's certificate of mortgage foreclosure sale and said certificate of mortgage foreclosure sale further referring to the printed notice of mortgage foreclosure sale attached to said sheriff's certificate of mortgage foreclosure sale, in which printed, notice the mortgage and its recording was properly described.

19. That prior to the first publication of the notice of sale in foreclosure of a mortgage by advertisement, an action or proceeding had been instituted for the foreclosure of said mortgage or the recovery of the debt secured thereby and such action or proceeding had not been discontinued.

20. Every mortgage foreclosure sale by advertisement heretofore made in this state under power of sale in the usual form contained in any mortgage duly executed and recorded in the office of the register of deeds or registered with the registrar of titles of the proper county, together with the record of such foreclosure sale, is hereby legalized and made valid and effective to all intents and purposes as against the objection that at the time and place of sale the sheriff considered and accepted a bid submitted to him prior to the date of sale by the owner of the mortgage and sold the mortgaged premises for the amount of such bid, no other bid having been submitted and no one representing the owner of the mortgage being present at the time and place of sale.

21. Every mortgage foreclosure sale by advertisement, together with the record thereof, is hereby legalized and made valid and effective to all intents and purposes, as against the objection that such sale was postponed by the sheriff to a date subsequent to the one specified in the notice of sale but there was no publication or posting of a notice of such postponement.

22. That in all mortgage foreclosure sales by advertisement by a representative appointed by a court of competent jurisdiction in another state or county and an authenticated copy of his letters or other record of his authority has been filed for record in the office of the register of deeds of the proper county such foreclosure sale and the record thereof are hereby legalized and confirmed as against any objection that there was not recorded with such letters or other record of authority the further certificate that said letters or other record of authority were still in force and effect.

23. That the Sheriff's Affidavit of Sale correctly stated in words the sum for which said premises were bid in and purchased by mort-

gagee, but incorrectly stated the same in figures immediately following the correct amount in words.

**Section 2. Same.—1** In all mortgage foreclosure sale by action wherein heretofore the report of sale has been confirmed by order filed in the action and a certificate of sale was thereafter executed in proper form but not recorded or filed within 20 days thereafter such certificate and the later record thereof are hereby legalized with the same effect as if such certificate had been executed, acknowledged and recorded or filed within such 20 days.

**Section 2. Same.—2** In all mortgage foreclosure sales by action wherein heretofore the report of sale was made and presented to the court and the sale confirmed by an order filed in the action, but the report was not filed with the clerk until after the filing therein of the order of confirmation, and in which the certificate of sale was executed in proper form but recorded more than 20 days after such confirmation, but within one year from the date of sale, such certificate and the record thereof and the subsequently filed report of sale are hereby legalized with the same effect as if such certificate had been executed, acknowledged, and recorded within such 20 days and as if such report of sale had been filed in the action at the time of filing the order of confirmation.

**Section 3. Same.—**In any mortgage foreclosure sale of real estate subsequent to the enactment of Laws 1933, Chapter 339, where before the expiration of the period of redemption, the purchaser at foreclosure sale without court order, entered into an agreement with the mortgagor, extending the period of redemption, such foreclosure proceedings, sale, and sheriff's certificate, issued therein, are hereby validated to the same extent as they would have been if such extension had been granted by court order, as against the objection or claim that such agreement waived or annulled the sale.

**Section 4. Same.—**All acknowledgments of the execution of any power of attorney, and the witnessing of the execution thereof, in which power of attorney the attorney authorized to foreclose said mortgage, acted as one of the witnesses on said power of attorney and as a notary public, under which power of attorney, said attorney so acting as a witness and notary public also acted as the attorney in charge of said foreclosure proceedings, are hereby legalized and declared in all respects valid as against the claim that said attorney had no legal right to act as a witness on the execution of said power of attorney, or to act as a notary public in taking the acknowledgment of the execution of said power of attorney.

**Section 5. Same.—**That every mortgage foreclosure sale by advertisement by a representative appointed by a court of competent jurisdiction in another state or county in which before sale an

authenticated copy of his letters or other record of his authority has been filed for record in the office of the register of deeds of the proper county but no certificate was filed and recorded therewith showing that said letters or other record of his authority were still in force, is hereby legalized and made valid and effective to all intents and purposes notwithstanding such omission.

Section 6. **Same.**—That every mortgage foreclosure sale by advertisement heretofore made in this state under power of sale in the usual form contained in any mortgage duly executed and recorded in the office of the register of deeds or registered with the registrar of titles of the proper county, together with the record of such foreclosure sale, is hereby legalized, made valid, and effective to all intents or purposes as against the objection that the notice of mortgage foreclosure sale correctly described the land by government subdivision, township, and range, but described it as being in a county other than that in which said mortgage foreclosure proceedings were pending, and other than that in which said government subdivision was actually located.

Section 7. **Same.**—Every mortgage foreclosure sale by advertisement heretofore made in this state, under power of sale in the usual form contained in any mortgage duly executed and recorded in the office of the register of deeds or registered with the registrar of titles of the proper county, together with the record of such foreclosure sale, is hereby legalized and made valid and effective to all intents and purposes, as against objections that the date of the recording or filing of the mortgage in the office of the register of deeds or registrar of titles is incorrectly noted on the mortgage by the officer recording or filing the same and is likewise incorrectly stated in the notice of sale or in the certificate of sale or both, or in any of the foreclosure papers, affidavits or instruments pertaining thereto.

Section 8. **Limitations of act.**—The provisions of this act shall not affect any action or proceeding now pending, or which shall be commenced within six months after the passage thereof, in any of the courts of this state involving the validity of such foreclosure, nor shall the validity of any provision of this act be questioned in any action or proceeding hereafter brought unless such action or proceeding be commenced within six months after the passage of this act.

Section 9. **Provisions severable.**—The provisions of this act are hereby declared to be severable. If one provision hereof shall be found by the decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of this act.

Approved April 26, 1937.