

CHAPTER XLV.

An Act to protect purchasers of real estate at executive, administrators' or guardian's sales.

SECTION 1. Purchaser to have lien on estate, when sale so made is void and irregular—purchaser may apply for a re-sale of said estate—liability of Sheriff—disposition of money arising from such sale.

1. No proceeding shall be had to set aside or vacate such sale, after expiration of two years.
2. When set to take effect.

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

SECTION 1. That whenever the sale of any real estate which has heretofore been, or shall hereafter be made by any executor, administrator or guardian of the estate of any deceased person, minor or ward, shall, for any cause whatever be void or irregular, and the purchaser at such sale shall be a purchaser in good faith, and, for a valuable consideration, such purchaser, his assigns, legal representatives or grantees, shall have a lien on the real estate so sold by such executor, administrator or guardian, for the amount of the purchase money, and the taxes on said real estate, paid by said purchaser, with interest from date of payment; and such purchaser, his assigns, representatives or grantees, may apply to the probate court having jurisdiction of the estate of such deceased person, minor or ward, for a re-sale of said real estate; and for that purpose may file his petition with such probate court, setting forth the facts of the case, duly verified, and thereupon the said probate court shall make an order fixing the time and place for hearing said petition, and give notice of such hearing to all persons interested in such estate, by causing such order and notice to be served upon all persons interested in said estate, or to be published for three weeks, or both, and in such manner as such probate court shall direct, and if, upon

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Purchaser may apply for a re-sale of said estate

the hearing of said petition, and upon the inspection and examination of all the records and proceedings in such case, the probate court shall adjudge and decide that such sale is valid, legal and regular, he shall so order; and either party feeling aggrieved by such order, may appeal therefrom to the district court, in the manner now provided by law for appeals, from said probate court, and have the matter adjudicated by such appellate court; but in case no such appeal is taken, the decision and order of the probate court therein shall be final and conclusive evidence of the legality and validity of such sale, and of the title thereunder acquired; or if, on the other hand, said probate court, upon such hearing, and the examination of the records and proceedings of the case, shall adjudge and decide that such sale is irregular, illegal or void, he shall order a re-sale of the real estate so improperly sold, and for that purpose shall order and direct the sheriff of the county in which such real estate is situated, to re-sell the same, complying with the statutes regulating the sale of the real estate of deceased persons, minor or ward, by executors, administrators or guardians, so far as applicable in all respects; and said sheriff and his sureties shall be liable, on his official bond, for the faithful performance of such duty, and upon such re-sale, the said real estate shall be sold to the highest bidder for cash, and the sheriff shall, out of the money arising from such sale, retain for the use of the parties entitled thereto, the expenses of such proceeding and sale, and, from the balance remaining, shall, in the first instance, pay over to the original purchaser, his assigns, representatives or grantees, an amount (if so much he has,) equal to the original purchase money, and taxes paid on said real estate, with interest thereon from the date of the payment of the same; and the residue, if any, shall be paid unto the probate court granting the order of re-sale, for the use of the estate of such deceased person, minor or ward, taking the receipts of all persons to whom such money is paid; and for the proper disposition and payment of the money paid, said judge of probate and his sureties shall be liable on his official bond. The sheriff shall

Liability of sheriff

Disposition of money arising from such sale

make a full report of his proceeding upon the sale, and if said sale has been in all respects fairly and honestly conducted, and the same shall be confirmed by the order of the probate court, and if such order shall not be appealed from to the district court, as provided by law, the sale shall be held final and conclusive, and the deed of the sheriff, made in pursuance thereof, shall pass and convey to the purchaser, a full, complete and perfect title to the real estate so sold.

SEC. 2. That in all cases, when a probate court shall hereafter make an order ratifying and confirming a sale of the real estate of any deceased person, minor or ward, made by any executor, administrator or guardian, no proceedings shall be had to set aside or vacate such sale after the expiration of two years from the date and entry of such order of confirmation of said sale, and if said order of confirmation has been heretofore made, no proceedings shall be had to set aside and vacate said sale after the expiration of two years from the passage of this act; and the conveyances of the executor, administrator or guardian, made in pursuance of any such sale, shall not, after the expiration of said two years, be voided by any court, for any irregularity or omission in the proceedings before the sale, unless it shall appear that there was fraud in the acts of the judge of probate, executor, administrator guardian or purchaser, either or all, whereby injury results to the estate of such deceased person, minor or ward.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 3, 1864.

No proceedings shall be had to set aside or vacate such sale, after expiration of two years