

Section 21. **Not to affect pending claims.**—The rights of any member who has prior to the passage of this act filed proof of disability with the retirement board shall not be affected hereby.

Approved April 22, 1935.

CHAPTER 239—H. F. No. 1506

An act to amend Section 86, Revised Statutes of Minnesota for 1913, as amended by Chapter 52, General Laws of 1921, authorizing the State Treasurer to temporarily borrow from other public funds to supply deficiencies in the revenue fund.

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

Section 1. **State Treasurer may borrow from other funds to make up deficiency in revenue funds.**—That Section 86, Revised Statutes of Minnesota for 1913, as amended by Chapter 52, General Laws of 1921, be and the same is hereby amended so as to read as follows:

“Section 86. For the purpose of supplying deficiencies in the revenue fund, the treasurer may temporarily borrow from other public funds sums not exceeding in the aggregate six million dollars in any year; provided that no fund shall be so impaired thereby that all proper demands thereon cannot be met.”

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 23, 1935.

CHAPTER 240—S. F. No. 1556

An act to amend Laws 1935, Chapter 68, Sections 2 and 4, relating to the suspension and cancellation of real estate contracts, and relating to the jurisdiction of district courts in connection therewith.

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

Section 1. **Law amended.**—Laws 1935, Chapter 68, Section 2, is hereby amended so as to read as follows:

“Section 2. **Notice to terminate real estate contract.**—No notice to terminate any contract for the conveyance of real estate or any interest therein for a breach of condition con-

tained in such contract shall be effectual to divest title and/or possession to the vendee or those claiming under him, or to reinvest title and/or possession in the vendee of those claiming under him, during the emergency herein declared except as hereinafter provided.

When default is made in the conditions of any contract for the conveyance of real estate, or any interest therein, whereby the vendor has a right to terminate the same, he may do so by serving upon the purchaser, his personal representatives or assigns, either within or without the state, a notice specifying the conditions in which default has been made, and stating that at a time specified, not less than 40 days after the service of said notice, he will apply to said court for an order adjudging said contract terminated, unless prior thereto the purchaser, his personal representatives or assigns, shall comply with and perform the conditions then in default and pay the costs of service. Such notice must be given notwithstanding any provisions in the contract to the contrary and shall be served within the state in the same manner as a summons in the district court, and if served without the state, in the manner provided in Mason's Minnesota Statutes of 1927, Section 9234.

Provided, however, that if service is made under Section 9234, and the premises described in the contract are actually occupied, then in addition thereto, and within 10 days after service on the vendee, a copy of such notice shall be served upon the person in possession of said premises; and provided further, that in case of such service by publication as herein provided, the said notice shall specify the conditions in which default has been made and stating that at a specified time, not less than 90 days after the first publication of said notice, he will apply to said court for an order adjudging said contract terminated, unless prior thereto the purchaser, his personal representatives or assigns, shall comply with and perform the conditions then in default and pay the costs of service.

If within the time mentioned in said notice within which the vendee, his personal representatives or assigns must perform the conditions in default, the vendee complies with such conditions and pays the costs of service, the contract shall remain in full force and effect; but if the vendee fails or neglects to perform the conditions in default within the time mentioned in said notice for such performance and to pay the costs of service, and fails to serve written objections to the termination of such contract upon the vendor, within 15 days after service of notice on the vendee, the court shall, upon motion of the vendor, and proof of service of said notice, and

in the absence of any appearance upon behalf of the vendee, make its order adjudging such contract terminated and said contract shall, thereupon forthwith, be and become finally terminated.

The vendee may, within *15* days after the service of said notice, serve upon the vendor, or his attorney, written objections to the making of any order adjudging the contract terminated and any legal or equitable defenses claimed by him; and if it shall be made to appear to the court upon the application and hearing for an order adjudging the termination of said contract, that the vendee has, in addition to the payment of taxes, insurance and interest, if any, made and paid for valuable improvements upon the premises, or paid upon the contract price of the premises whether to the vendor or to the owner of any incumbrance subject to which the contract was made, or which the contract provides that the vendee, his successors or assigns shall pay, or to both, a sum or sums equal to a substantial part of the original contract price and that the vendor's interest is reasonably secure, the court may, on taking into consideration the reasonable value of the income of such property, or, if the property have no income, then the reasonable rental value thereof, the efforts and ability of the vendee to pay, and all the facts and circumstances of the case, by order and upon such terms and conditions as to it appear just and equitable, extend the time in which the vendee may perform the conditions of the contract in default, not beyond March 1st, 1937.

In case the vendee, in addition to taxes, insurance and interest, has paid upon the total contract price and/or for improvements upon the real estate an amount equal to or exceeding 30 per cent of the value of the real estate, or has made substantial improvements thereon, in cost or value at the time of hearing equal to or exceeding 30 per cent of the value of the real estate, a showing of such facts shall be prima facie evidence that substantial improvements have been made or substantial payments made.

If the vendee shall fail to perform the conditions in default, or any of them, as required and directed by the court to be performed, said contract shall forthwith be and become terminated and the vendor may thereupon apply to the court for an order adjudging said contract terminated, on giving at least *10* days' written notice of such application to the vendee, served in the manner herein provided for service of the notice of application for an order terminating the contract. If it shall be made to appear to the court, upon a hearing on said application, that the vendee has defaulted in performing

such conditions, the court shall make an order declaring said contract terminated and said contract shall thereupon forthwith be and become finally terminated."

Sec. 2. Law amended.—Laws 1935, Chapter 68, Section 4, is hereby amended so as to read as follows:

"Section 4. Not to apply to leaseholds.—The provisions of this act shall not apply to leaseholds. This act shall apply only to contracts for deed made prior to April 21, 1933. *This act shall not apply in any way that would allow a stay, postponement or extension to such time that any right might be adversely affected by a statute of limitation.* The provisions of this act shall all apply to proceedings for cancellation of contracts for deed wherein the district court has previously granted one or more extensions of time for the performance of the conditions in default, pursuant to Laws 1933, Chapter 422; provided, that the extended period has not expired at the time of the application for extension; and shall also apply to actions and proceedings now pending or hereafter commenced under said act.

Upon the application of either party prior to the expiration of the extended period, as provided in this act, and upon the presentation of evidence that the terms fixed by the court are no longer just and reasonable, the court may revise and alter said terms in such manner as the changed circumstances and conditions may require.

Approved April 23, 1935.

CHAPTER 241—H. F. No. 30

An act to amend Laws 1931, Chapter 213, relating to garnishee summons and providing when effective in certain cases.

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

Section 1. Law amended.—Laws 1931, Chapter 213, Section 1, is hereby amended to read as follows:

"Section 1. Garnishee summons.—No garnishee summons served subsequent to the passage of this act upon the garnishee in any action whereby a sum of less than \$100.00 is impounded shall be effective for any purpose after two years from the date of service thereof upon the garnishee unless the plaintiff, or his attorney, shall prior to the expiration of such time serve upon the garnishee an affidavit to the effect that