

any general or special term, or in chamber, or during the vacation of the court.

Sec. 6. Time limit of act.—The emergency herein declared to exist shall be deemed to be terminated whenever the governor of this state shall by proclamation declare that the emergency is at an end or whenever in fact the emergency shall have terminated and this Act shall remain in effect no longer than March 1st, 1941.

Sec. 7. Definitions.—The terms “vendor” and “vendee” shall be construed to include the plural and the survivor or survivors, the heirs, executors, administrators, assigns, or successors thereof.

Approved February 25, 1939.

CHAPTER 34—S. F. No. 690

An act for the suspension of the termination or cancellation of certain leases of real property except in the manner provided by this act, conferring jurisdiction upon the District Court to order the termination of such leases upon default or to extend the time within which the lessee may perform the conditions in default, prescribing the procedure upon petition to the court for an order terminating such leases and providing for notice thereof.

WHEREAS, There exists in the State of Minnesota a public economic emergency of such force and effect as to seriously interfere with the ordinary performance of lease contracts; and

WHEREAS, It is believed, and the Legislature of Minnesota hereby declares its belief, that the conditions existing as hereinbefore set forth have created an emergency of such nature that justifies and validates legislation allowing the extension of the time of performance by lessees of real property for terms of 20 years or more in cases in which substantial and material payments or improvements have been made by the lessee; and

WHEREAS, the welfare of the people demands that the state pursuant to its police power, interfere for a limited time with a literal enforcement of the law regarding certain leases;

NOW, THEREFORE—

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

Section 1. Termination of long time leases suspended.—Termination by the lessor, without the written assent of the lessee, of leases of real estate for the term of 20 years or more and the right to re-enter and to recover possession of such real estate for failure of the tenant to pay rent or to make other payments provided by the lease, whether such termination and/or action to recover possession be attempted pursuant to Mason's Minnesota Statutes of 1927, Sections 8187, as amended, or 9149 to 9163 inclusive and acts amendatory thereof and supplemental thereto, or otherwise, is hereby suspended and prohibited during the period of the emergency except upon order of the district court pursuant to notice and proceedings as herein provided.

Sec. 2. Method of termination.—During such emergency no notice that a lease of real estate for the term of 20 years or more will be cancelled and terminated because of default of the lessee shall be sufficient to terminate the same or shall be sufficient to comply with Mason's Minnesota Statutes of 1927, section 8187, as amended, as to such notice, unless such notice shall be served upon the persons designated by this act, and also upon the persons designated by said section 8187, as amended, at least 40 days before the date of the hearing in district court provided for by this act and except in accordance with the order of said court pursuant to proceedings as herein provided.

When default is made in the conditions of any lease for 20 years or more, or any interest therein, whereby the lessor has a right to terminate the same, the lessor may serve upon the lessee, 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 lease terminated, unless prior thereto the lessee, his personal representatives or assigns, shall comply with and perform the conditions then in default. Such notice must be given notwithstanding any provisions in the lease 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 that in case of such service by publication the said notice shall specify the conditions in which default has

been made and state that at a specified time, not less than 90 days after the first publication of said notice the lessor will apply to said court for an order adjudging said lease terminated, unless prior thereto the lessee, his personal representatives or assigns, shall comply with and perform the conditions then in default; provided further that if the lease shall contain a provision for personal service or mailing any notice of termination more than 40 days before such termination, then the notice of application to the court under this act shall be served at least the number of days before the hearing which is provided for in the lease; provided further that if any such lease contains a provision for the service of such notice of termination or cancellation by mail addressed to any definite or definitely ascertainable person and address, such service may be made by mailing such notice as so provided at least 40 days before the hearing provided for herein.

If within the time mentioned in said notice within which the lessee, his personal representatives or assigns must perform the conditions in default, the lessee complies with such conditions, the lease shall remain in full force and effect; but if the lessee fails or neglects to perform the conditions in default within the time mentioned in said notice for such performance, and fails to serve written objections to the termination of such lease upon the lessor within 15 days after service of notice on the lessee, the court shall, upon motion of the lessor, and proof of service of said notice, and in the absence of any appearance upon behalf of the lessee, make its order adjudging such lease terminated and said lease shall thereupon forthwith be and become finally terminated.

The lessee may within 15 days after service of said notice, serve upon the lessor, or his attorney, written objections to the making of any order adjudging the lease terminated and any legal or equitable defenses claimed by him; and when it shall be made to appear to the court upon the hearing of the application for an order adjudging the termination of said lease that the lessee has in addition to the payment of an amount equal at least to taxes, insurance, and interest, if any, made and paid for valuable improvements upon the premises, or paid upon the leasehold price or rental of the premises whether to the lessor or to the owner of any incumbrance subject to which the lease was made, or which the lease provides that the lessee, his successors or assigns shall pay, or to both, a sum or sums equal to a substantial part of the original leasehold price or rental, and that the lessor'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 has no income, then the reasonable rental value thereof, the efforts and ability of the lessee to pay, and all the facts and circumstances of the case, by order and upon such terms and conditions as to make it appear just and equitable, extend the time in which the lessee may perform the conditions of the lease in default, not to exceed one year from the date of the service of notice of termination on the lessee, and in no event beyond March 1, 1941.

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

Every law and all the provisions thereof inconsistent with the provisions of this Act are hereby suspended until March 1st, 1941; provided, however, that proceedings heretofore begun and now pending for the cancellation and termination of any lease of real estate for a term of 20 years or more and all notices of cancellation of such leases served on the lessee more than 30 days prior to the 1st day of March, 1939, where the lessee shall have served upon the lessor as provided in Section 2, Chapter 46, Laws of 1937, and within the time therein limited, written objections to the making of any order adjudging the lease terminated and any legal or equitable defenses claimed by him, shall be governed by the provisions of this Act, otherwise such proceedings and such notices shall be governed by and become effective under the provisions of Sections 8187, as amended, and 9149 to 9163 of Mason's Minnesota Statutes 1927.

Sec. 3. Court order may be recorded.—A copy of any order of the court made pursuant to this act may be recorded with the register of deeds of the county wherein the real estate is situated.

Sec. 4. Application of act.—The provisions of this act shall apply only to leases for terms of 20 years or more made prior to the passage and approval of this act, but shall not apply to

leases made prior to the passage of this act which are hereafter renewed or extended for a period ending more than one year after the passage of this act; neither shall this act apply in any way which would allow an extension to such time that any right might be adversely affected by a statute of limitation. 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.

Sec. 5. Trial of action.—The trial of any action, hearing or proceeding mentioned in this act shall be held within 30 days after the filing by either party of notice of hearing or trial, as the case may be, and such hearing or trial may be held at any general or special term, or in chambers, or during the vacation of the court.

Sec. 6. Time limit of act.—The emergency herein declared to exist shall be deemed to be terminated whenever the governor of this state shall by proclamation declare that the emergency is at an end or whenever in fact the emergency shall have terminated, and this act shall remain in effect no longer than March 1, 1941.

Sec. 7. Limitations.—Nothing herein shall be construed to modify or give the court power to modify the provisions of Mason's Minnesota Statutes of 1927, section 8187, as amended, with regard to the right of the lessee or his successor in interest or any creditor having a lien upon the leased premises or any parts thereof, at any time before the expiration of six months after possession is obtained by the plaintiff on recovery in any action, to be restored to the possession and to hold the property according to the terms of the original lease on the conditions set forth in said section.

Sec. 8. Definitions.—The terms "lessor" and "lessee" shall be construed to include the plural and the survivor or survivors, the heirs, executors, administrators, assigns or successors thereof.

Sec. 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 February 25, 1939.