

CHAPTER 561—S. F. No. 1119

[Not Coded]

An act to legalize foreclosure sales heretofore made and the records of mortgage foreclosure proceedings; 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. Mortgages; validating. Every mortgage foreclosure sale by advertisement in this state before May 1, 1966, 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:

(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 Minnesota Statutes, Section 580.05:

(a) Did not definitely describe and identify the mortgage.

(b) Did not definitely describe and identify the mortgage, but instead described another mortgage between the same parties.

(c) Did not have the corporate seal affixed thereto, if executed by a corporation.

(d) 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.

(e) 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 no power of attorney to foreclose such mortgage as provided in Minnesota Statutes, Section 580.05, was ever given, or recorded, or registered, when sale was made in this state prior to January 1, 1953.

(3) That the notice of sale:

(a) Was published only three, four or 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

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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) 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, or failed to state or state correctly the year of such sale.

(d) Correctly described the real estate but omitted the county and state in which said real estate is located.

(e) 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.

(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, or in the notice served on the occupant or occupants 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 mortgagee.

(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.

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

(o) 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.

(4) 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.

(5) 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.

(6) 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.

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

(b) That the mortgage foreclosed had been assigned by the final decree of the probate court to the heirs, devisees, or legatees of the deceased mortgagee, or his assigns, and subsequent thereto and before the representative of the estate had been discharged by order of the probate court, the representative had assigned the mortgage to one of the heirs, devisees, or legatees named in such final decree, and such assignment placed on record and the foreclosure proceedings conducted in the name of such assignee and without any assignment of the mortgage from the heirs, devisees, or legatees named in such final decree, and the mortgaged premises bid in at the sale by such assignee, and the sheriff's certificate of sale, with accompanying affidavits, recorded in the office of the register of deeds of the proper county.

(c) That a mortgage owned by joint tenants or tenants in common was foreclosed by only one tenant.

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(8) (a) That the sheriff's certificate of sale or the accompanying affidavits and return of service were not executed, filed or recorded with 20 days after the date of sale, but have been executed and filed or recorded prior to the passage of this act.

(b) 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.

(9) That the hour of sale was omitted from the notice of sale, or from the sheriff's certificate of sale.

(10) (a) That prior to the foreclosure no registration tax was paid on the mortgage, provided such tax had been paid prior to the passage of this act.

(b) That an insufficient registration tax has 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 Minnesota Statutes, Section 508.57, 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; or failed to state in notice of foreclosure the fact of registration.

(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 "Minnesota" 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 "Minnesota" as recited and contained in the mortgage immediately following the name of the corporate mortgagee.

(16) That the complete description of the property foreclosed

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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 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.

(18) 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.

(19) That at the time and place of sale the sheriff considered and accepted a bid submitted to him prior to the date of the 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.

(20) 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.

(21) 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.

(22) That the sheriff's affidavit of sale correctly stated in words the sum for which said premises were bid in and purchased by

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

Sec. 2. Mortgage foreclosure sales by action legalized. In all mortgage foreclosure sales by action wherein, heretofore, the report of sale:

(1) 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.

(2) 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.

Sec. 3. Application. 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 hereof, in any of the courts of the state involving the validity of such foreclosure.

Approved May 18, 1967.

CHAPTER 562—S. F. No. 1387

An act relating to tax levies by cities, villages, and towns for advertising purposes; amending Minnesota Statutes 1965, Sections 465.56 and 465.57.

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

Section 1. Minnesota Statutes 1965, Section 465.56, is amended to read:

465.56 Municipalities; advertising; tax levy. The governing body of any village, borough, or city of the fourth class may, when authorized by the electors thereof, as hereinafter provided, annually

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