

CHAPTER 582

REAL ESTATE MORTGAGES; FORECLOSURE,
GENERAL PROVISIONS

582.03 Purchaser at foreclosure, execution, or judicial sale may pay taxes, assessments, insurance premiums, or interest.

582.04 Homestead included in mortgage; separate sale.

582.11 Powers and duties of trustees in certain cases.

582.03 PURCHASER AT FORECLOSURE, EXECUTION, OR JUDICIAL SALE MAY PAY TAXES, ASSESSMENTS, INSURANCE PREMIUMS, OR INTEREST.

The purchaser at any sale, upon foreclosure of mortgage or execution or at any judicial sale during the year of redemption, may pay any taxes or assessments on which any penalty would otherwise accrue, and may pay the premium upon any policy of insurance procured in renewal of any expiring policy upon mortgaged premises, and may, in case any interest or installment of principal upon any prior or superior mortgage is in default or shall become due during such year of redemption, pay the same, and, in all such cases, the sum so paid, with interest, shall be a part of the sum required to be paid to redeem from such sale. Such payments shall be proved by the affidavit of the purchaser, his agent or attorney, stating the items and describing the premises, which must be filed for record with the county recorder or registrar of titles, and a copy thereof shall be furnished to the sheriff at least ten days before the expiration of the year of redemption.

History: 1983 c 99 s 5

582.04 HOMESTEAD INCLUDED IN MORTGAGE; SEPARATE SALE.

In all proceedings to foreclose any mortgage upon real property in this state, if the whole or any part of the homestead of the mortgagor, or of any one claiming under him, as such homestead is defined by the laws of this state, shall be included in the real estate described in such mortgage, the person claiming such homestead may, at any time prior to the foreclosure sale, serve or cause to be served upon the sheriff making such sale a notice of such claim which shall designate and describe with reasonable certainty the real estate so claimed and selected as such homestead, which selection shall include the site of the dwelling and its appurtenances, shall be compact in form and shall be so made as not unreasonably to affect the value of the remaining part, which notice, together with the proof of service thereof, shall be filed for record and recorded in the office of the county recorder or registrar of titles. Upon the service and filing of such notice it shall be the duty of the sheriff, at the time of the sale, to first offer for sale and sell that part of the mortgaged real estate, or so much thereof as is necessary, which is not included in such selected homestead, and thereupon, if the proper purposes of the foreclosure require, he shall offer for sale and shall sell separately that part of the mortgaged real estate included in the selected homestead; provided, that if such homestead claimant shall have, prior to such foreclosure, made a property homestead selection from his real estate, he shall be bound thereby, and cannot change the same for the purposes of such foreclosure.

History: 1983 c 99 s 6

582.11 POWERS AND DUTIES OF TRUSTEES IN CERTAIN CASES.

When a mortgage made or assigned to a trustee or trust deed on any real property or any real and personal property located in this state has been heretofore or shall hereafter be foreclosed and bid in on the foreclosure by a trustee for the holders of the bonds or notes secured by the mortgage or trust deed, or for the holders of certificates or other evidences of equitable interest, in the mortgage or trust deed, or when a mortgagor after the mortgage has been executed and delivered, but not before nor as a part of the mortgage transaction, conveys directly to the mortgage trustee, thereby eliminating his title, the trustee may at any time petition the district court of the county in which the property, or any portion of it, is situated for instructions in the administration of the trust. Upon the filing of the petition, the court shall make an order fixing a time and place for hearing it, unless hearing has been waived, in writing, by the beneficiaries of the trust. Notice of the hearing shall be given by publishing a copy of the order one time in a legal newspaper of the county at least 20 days before the date of the hearing, and by mailing a copy of it to each known party in interest then in being whose address is known, at his last known address, at least ten days before the date of the hearing, or in any other manner the court orders. If the court deems further notice necessary, it shall be given as specified in the order. Upon the hearing the court shall make such order as it deems appropriate, including an order to sell, mortgage, or lease the property, or any part of it, in the manner and upon the terms as the court prescribes. In the case of a sale, the court, in its discretion, may authorize the trustee to sell at private sale or may direct the sheriff of the county to offer the property for sale at public auction and sell it to the highest bidder for cash. Any sale of property made at public auction shall be reported to the court for confirmation and be confirmed by the court before it is effective and valid. Notice of hearing on the confirmation shall be given to all parties in interest who have appeared in the proceedings. Upon confirmation, the sheriff shall make, execute, and deliver, subject to the terms and conditions the court imposes, a good and sufficient instrument of conveyance, assignment, and transfer. No confirmation of a private sale, mortgage, or lease shall be required. The order of confirmation in the case of a sale at public auction, and the order authorizing a private sale, mortgage, or lease, shall be final and conclusive as to all matters determined in it. It shall be binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, except that appeal may be taken from the order by any party in interest within 30 days from its entry, by filing notice of appeal with the clerk of the district court, who shall mail a copy of the notice to each adverse party who has appeared of record.

History: 1983 c 247 s 194