

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
GEORGE B. YOUNG.

EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

SAINT PAUL:
WEST PUBLISHING COMPANY.
1883.

CHAPTER XXXIX.

CHATTEL MORTGAGES.

<p>TION. Mortgages to be filed—in what offices—indexes—effect of filing—acknowledgment—limitation and renewal. Filing, etc., of mortgages in unorganized counties. Town clerk may take acknowledgments. Copy of mortgage as evidence. Redemption, how made—action by mortgagor, etc. 12. Foreclosure, how made. Discharge of satisfied mortgage. Fraudulent sale, etc., by mortgagor—penalty.</p>	<p>NOTES, CONTRACTS, ETC., ON CONDITIONAL SALES. SECTION. 15-17. Such notes, etc., void unless filed—filing—in what offices—indexing—effect of filing as notice—limitation. 18-20. Copies as evidence—note, when paid, to be satisfied of record—fees of officers. NOTES, ETC., FOR SEED-GRAIN. 21-25. Note or contract may be filed—in what offices—effect of filing—lien on crop—enforcement of lien—application of law as to chattel mortgages—act retrospective.</p>
--	--

§ 1. Chattel mortgage void, unless filed. Every mortgage on personal property which is not accompanied by an immediate delivery, and followed by an actual and continued change of possession, of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith, unless it appears that such mortgage was executed in good faith, and not for the purpose of defrauding any creditor, and unless the mortgage, or a true copy thereof, is filed as herein-^{1-3, *§ 2c to 2d, incl.} provided.

4 M. 418 (533); 5 M. 386 (482); 7 M. 166 (225); 8 M. 178 (207); 20 M. 81; 21 M. 187; 23 M. 182. ^{See 1881 Supp't, p. 87.}

§ 2. Filing of mortgages—in what offices—indexes. Every such instrument shall be filed in the town or city where the property mortgaged is at the time of the execution of such mortgage, and a copy thereof filed in the town or city where the mortgagor, if a resident of this state, resides at the time of the execution thereof. In each town, such instrument shall be filed in the office of the town clerk thereof; and in the several cities, in the office of the recorder, clerk, or other officer in whose custody the records of the city are kept; and each of the officers hereinbefore named shall file all such instruments, when presented for that purpose, indorse thereon the time of reception, the number thereof, and shall enter in a suitable book, to be provided by him at the expense of the town or city, with an alphabetical index thereto, under the head of mortgagors and mortgagees respectively, the names of each party to such instrument, and in separate columns, opposite to such names, the number of the instrument, the date, the amount secured thereby, when due, and the date of filing the same. Such instrument or copy shall remain on file for the inspection of all persons interested. ^{And § 2. See 1883 Supp't, p. 99.}

^{22 M. 39.}

§ 3. Effect of filing acknowledgment—two years limitation—renewals. Every mortgage filed in pursuance of this chapter shall be held and considered to be full and sufficient notice, to all parties interested, of the existence and conditions thereof, but shall cease to be notice, as against the creditors of the mortgagor, and subsequent purchasers and mortgagees in good faith, after the expiration of two years from the filing thereof: *provided*, that no mortgage of goods or chattels shall be notice of any fact, as against the creditors of the mortgagor, or subsequent purchasers or mortgagees in good faith, unless the same is acknowledged before some officer authorized to take acknowledgment of deeds: *and provided further*, that whenever any mortgage of personal property in the

state is given for the security of a debt or obligation which does not become due and payable within two years after the date of said mortgage, the holder of any such mortgage, his agent or attorney, may, within thirty days next preceding the expiration of the said term of two years, file a copy of such mortgage, together with an affidavit of such holder thereof, his agent or attorney, stating the amount then claimed to be remaining unpaid upon, and secured by, such mortgage, and the extent of the interest in or lien upon the mortgaged property claimed by virtue thereof, in the office of the clerk or other proper officer of the town or city where the mortgaged property then is, and the mortgagor, if a resident of this state, then resides. The filing of such copy and affidavit shall extend the effect of the original filing of said mortgage for the further term of one year, when, and at the expiration of each succeeding year, the same may be again renewed, in like manner, with like effect, and for the like term of one year, not exceeding one year after the debt or obligation secured by said mortgage becomes due and payable by the original terms thereof. (*As amended 1870, c. 59, § 1, and 1875, c. 50, § 1.*)

8 M. 310 (351); 14 M. 228; 21 M. 187.

*§ 4. **Filing of mortgages in unorganized counties.** Every chattel mortgage upon property situate, at the time of the execution of such mortgage, in a county not organized into townships, and of which county the mortgagor is then a resident, shall be filed in the office of the register of deeds for such county; and the register of deeds of every such county shall file all such instruments when presented for that purpose, indorse thereon the time of reception, the number thereof, and shall enter in a suitable book, to be provided by him at the expense of the county, with an alphabetical index thereto, under the head of mortgagors and mortgagees respectively, the names of each party to such instrument, and in separate columns, opposite to such names, the number of the instrument, the date, the amount secured thereby, when due, and the date of filing the same. Such instrument shall remain on file for the inspection of all persons interested. (*1876, c. 53, § 1.*)

*§ 5. **Effect of filing—two years limitation—acknowledgment.** Every mortgage filed in pursuance of this act shall be held and considered to be full and sufficient notice, to all parties interested, of the existence and conditions thereof, but shall cease to be notice, as against the creditors of the mortgagor, and subsequent purchasers and mortgagees in good faith, after the expiration of two years from the filing thereof: *provided*, that no mortgage of goods or chattels shall be notice of any fact, as against the creditors of the mortgagor, or subsequent purchasers or mortgagees in good faith, unless the same is acknowledged before some officer authorized to take acknowledgment of deeds. (*Id.* § 2.)

*§ 6. **Acknowledgments may be taken by town clerks.** That township clerks are authorized and empowered to take and certify acknowledgments of chattel mortgages, and acknowledgments so taken shall be valid and binding in law. (*1871, c. 53, § 1.*)

§ 7. (SEC. 4.) **Copy of mortgage as evidence.** A copy of any such mortgage, or copy, filed and indorsed as aforesaid, together with any statement made in pursuance of this chapter, when certified by the clerk or other proper officer to be a true copy of the original on file in his office, shall be received in evidence in like manner and with like effect as the original mortgage or copy filed, and indorsement.

§ 8. (SEC. 5.) **Redemption of property mortgaged.** When the condition of a mortgage of personal property is broken, the mortgagor, or any person lawfully claiming or holding under him, may redeem the same, at any time before the property is sold in pursuance of the contract between the parties, or the right of redemption is foreclosed as hereinafter provided.

20 M. 411.

§ 9. (SEC. 6.) **Redemption, how made—action by mortgagor, etc.** The person entitled to redeem shall pay or tender to the mortgagee, or person holding under him,

the sum due on the mortgage, or offer performance of the thing to be done, and shall pay all reasonable and lawful charges and expenses incurred in the care and custody of the property, or otherwise arising from the mortgage; and if, upon such payment or performance, or tender thereof, the property is not forthwith restored, the person entitled to redeem may recover it in a civil action, with such damages as he may have sustained by the withholding thereof.

§ 10. (SEC. 7.) **Foreclosure—notice and service.** The mortgagee or his assigns, after condition broken, may give to the mortgagor, or the person in possession of the property claiming the same, written notice of his intention to foreclose the mortgage for breach of the condition thereof; which notice shall be served by leaving a copy with the mortgagor, or a person in possession of the property claiming the same, or by publishing it, at least once a week for three successive weeks, in a newspaper printed and published in the county or city where the mortgage is properly recorded, or where the property is situated, or if there is no such paper, in a newspaper printed and published at the capital of the state: *provided*, that nothing in this chapter contained shall deprive the mortgagee of his remedy by sale, in cases where such sale is authorized by the mortgage.

§ 11. (SEC. 8.) **Notice and proof of service to be filed.** The notice, with an affidavit of service, shall be filed wherever the mortgage is filed, and when so filed, the same, or a copy thereof, shall be admitted as evidence of the giving of such notice.

§ 12. (SEC. 9.) **Foreclosure, when complete.** If the money to be paid, or other thing to be done, is not paid or performed, or tender thereof made, within sixty days after such notice is so filed, the right to redeem shall be foreclosed. ^{* 11.}

*§ 13. **Mortgage, when satisfied, to be discharged of record.** Whenever any mortgage, filed under the provisions of this chapter, has been paid, or the conditions thereof satisfied, the mortgagee, or his assignee or personal representatives, shall give to the mortgagor, his assignee or personal representatives, a certificate in writing, under his hand, stating the date of the mortgage and a description of the property thereby mortgaged, and that the same has been discharged in full; and on delivering said certificate in writing to the officer with whom such mortgage is filed, the said officer shall deliver said mortgage to the person producing said certificate, on payment of the sum of ten cents for filing said certificate, and shall file said certificate in his office, endorsing thereon the name of the county, town (or city or village), and the true date of filing the same, and shall keep and preserve said certificate among the records in his office, and shall write the word "satisfied," with the date, opposite to such mortgage, in the book in which such mortgages are entered. (1872, c. 62, § 1.) ^{See 1883 Sup'r, p. 69.}

*§ 14. **Fraudulent sale, etc. of property by mortgagor—penalty.** That if any person, having conveyed any article of personal property by mortgage, shall, during the existence of the lien or title created by such mortgage, sell, transfer, conceal, take, drive or carry away, or in any way or manner dispose of said property or any part thereof, with intent to defraud, or cause or suffer the same to be done, without the written consent of the mortgagee of said property, he shall be deemed guilty of misdemeanor, and shall be liable to indictment, and, on conviction thereof, shall be punished by fine not less than twice the value of the property so sold or disposed of, or confined in the county jail not exceeding one year, or both, at the discretion of the court, and until the fine and all costs of such prosecution are paid. (1866, c. 30, § 1.)

FILING OF NOTES, CONTRACTS, ETC.*

*§ 15. **Notes, etc., given on conditional sales, void unless filed.** Every note of hand, or other evidence of indebtedness, or contract, the conditions of which are that

**An act to provide for filing certain notes, or other evidences of indebtedness, or contracts, in the office of town clerks. Approved March 10, 1873. (Laws 1873, c. 65.)*

the title or ownership to the property for which said note or other evidence of indebtedness, or contract is given, remains in the vendor, shall be absolutely void as against the creditors of the vendee, and as against subsequent purchasers and mortgagees in good faith, unless the note, or other evidence of indebtedness or contract, or true copies thereof, or, if said contract be oral, then a memorandum expressing the terms and conditions thereof, be filed as hereinafter provided. (1873, c. 65, § 1.)

*§ 16. **Filing of notes, etc.—in what offices—indexing.** Every such note, or other evidence of indebtedness, or contract, shall be filed in the town or city where the vendee resides at the time of the making thereof, in the office of the town clerk thereof, and in the several cities, in the office of the recorder, clerk, or other officer in whose custody the records are kept; and each of the officers hereinbefore named shall file all such instruments, when presented for that purpose, indorse thereon the time of reception, the number thereof, and shall enter, in a suitable book to be provided by him at the expense of the town or city, with an alphabetical index thereto, under the head of vendor and vendee respectively, the names of each party to such instrument, and in separate columns, opposite to such names, the number of the instrument, the date, the amount thereof, when due, and the date of filing the same. Such instrument, or a copy thereof, shall remain on file, for the inspection of all persons interested. (*Id.* § 2.)

*§ 16. See 1883 Sup. Ct. p. 61.

*§ 17. **Effect of filing as notice—limitation.** Every note, or other evidence of indebtedness, or contract, filed in pursuance of this chapter, shall be held and considered to be full and sufficient notice, to all parties interested, of the existence and conditions thereof, but shall cease to be notice, as against the creditors of the vendee, and subsequent purchasers and mortgagees in good faith, after the expiration of one year from the day on which such note, or other evidence of indebtedness, or contract, became due. (*Id.* § 3.)

*§ 18. **Copies of such notes, etc., as evidence.** A copy of any such note, or other evidence of indebtedness, or contract, or copy, filed and endorsed as aforesaid, together with any statement made in pursuance of this act, when certified by the clerk or other proper officer to be a true copy of the original on file in his office, shall be received in evidence in like manner and with like effect as the original instrument or copy filed or endorsed. (*Id.* § 4.)

*§ 19. **Note, etc., when paid, to be satisfied of record.** Whenever any note, or other evidence of indebtedness, or contract, filed under the provisions of this act, has been paid, or the conditions thereof satisfied, the vendor, or his assignee or personal representatives, shall give to the vendee, or his assignee or personal representatives, a certificate in writing, under his hand, stating the date of the instrument, and that the same has been paid and discharged in full; and on delivering said certificate in writing to the officer with whom such instrument is filed, the said officer shall deliver said instrument to the person producing said certificate, and shall file said certificate in his office, endorsing thereon the name of the county, town, (or city or village,) and the true date of filing the same, and shall write the word "satisfied," with the date, opposite to such instrument, in the book in which such instruments are entered. (*Id.* § 5.)

*§ 20. **Fees of officers for filing notes, etc.** The town clerk, and the recorder, clerk or other officer of any city or village, in whose custody the records of such village or city are kept, shall receive the sum of ten cents for filing every note, contract or other evidence of indebtedness, to be paid by the party presenting the same for filing, and the sum of ten cents for filing every certificate of discharge, to be paid by the party presenting the same for filing, which fee must be paid before such instruments or certificates shall be entitled to record. (*Id.* § 6.)

NOTES, ETC., GIVEN FOR SEED GRAIN.*

*§ 21. **Notes, etc., given for seed grain—lien on crop.** Any person who desires to secure a loan or purchase of sowing-seed at any time, may, at the time of receiving such seed, give a note or contract for the same to the party of whom he secures it, stating the amount and kind of seed, the terms of the loan or purchase, and the time and manner of return or payment: and the party furnishing such seed, and receiving such note or contract therefor, may acquire a just and valid lien upon the crop growing or raised from such seed, by filing, as hereinafter provided, said note or contract, or a true copy thereof, or a statement of the amount and kind of seed furnished, and the terms, time and manner of payment. (1875, c. 93, § 1.)

*§ 22. **Filing of notes, etc.—in what offices—effect of filing.** The note, contract or statement, or copy thereof, mentioned in section one of this act, shall, in order to constitute such lien, be filed with the town clerk of the town in which the borrower resides, or in which the land on which said seed is sown is situated; and the town clerk shall receive, file, endorse and enter the same, in the same manner as is by law required in case of chattel mortgages, and shall receive the same fees therefor; and from the time of filing such note, contract or statement, or copy thereof, the party loaning the seed, or assigns, shall have a valid first claim and lien upon the growing crop and the crop grown from such seed, to the amount and according to the terms of the contract, against all creditors and purchasers as well as against the owner; and such lien shall not be affected by any exemption laws; and the filing aforesaid shall constitute a sufficient notice to all persons of the existence of such lien; but such lien shall cease after one year from the date of filing the same. (*Id.* § 2.)

*§ 23. **Enforcement of lien on crop.** The party owning such note or contract, and having such lien, may, at any time after condition broken, proceed to take possession of the crop raised from the seed for which it was given, or so much thereof as he may be entitled to take or receive, according to the terms of such note or contract, and the necessary expense of taking the same; and upon the receipt of such payment or satisfaction, the lien shall become discharged. (*Id.* § 3.)

*§ 24. **Application of statute as to chattel mortgages.** The General Statutes relating to chattel mortgages, so far as not inconsistent with the provisions of this act, shall be applicable thereto. (*Id.* § 4.)

*§ 25. **When act to take effect.** This act shall take effect and be in force from and after its passage, and shall also be retrospective in its operation, so far as any notes given or contracts executed under the provisions for the year A. D. eighteen hundred and seventy-five. (*Id.* § 5.)

*An act to protect parties furnishing sowing-seed. Approved March 9, 1875. (Laws 1875, c. 93.)