

CHATTEL MORTGAGES.

CHAPTER 26.

PUBLICATION OF NOTICE OF SALE.

AN ACT, to give Publicity to Chattel Mortgage Sales.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. FORECLOSURE.] The foreclosure of Chattel Mortgages otherwise than by action, shall be in accordance with this act, and any foreclosure sale of chattels contrary to the provisions thereof shall be invalid and no title to chattels shall pass thereby.

§ 2. WHAT NOTICE TO CONTAIN.] The notice of sale shall contain the names of the Mortgagor and Mortgagee, the name of the person by whom the mortgage is owned, the date of the instrument, the amount due thereon, the nature of the default, a description of the property to be sold in the language of the Mortgage, and the place of sale.

§ 3. PUBLIC PLACES.] The boards of county commissioners of the several counties, shall at their regular quarterly meetings in April and every year thereafter, designate not less than three public places in their respective counties, which shall be the only market places for the sale of chattels under the provisions of this act. Provided, that the Mortgagor may at the time of seizure designate by written notice delivered to the Mortgagee or his agent, any other place in the county as the place of sale, and provided further, that growing or harvested crops, grain in bulk, or buildings may be sold under the provisions of this act, without moving the same to the place of sale.

§ 4. NOTICE PUBLISHED—HOW.] The notice provided for in Section 2, shall be published once, and at least six days prior to the sale, in the newspaper of general circulation, printed and published nearest the place of sale in the county wherein the mortgage shall have been filed, or at the option of the Mortgagor, and in lieu of publication, the notice may be posted conspicuously, and for at least ten days in five public places in the county, provided, that the notice of sale shall be by publication, unless the Mortgagor or his agent

shall notify the Mortgagee or his representative, in writing at the time of seizure of his election to notice by posting.

§ 5. SALES—POSTPONED.] All sales under this act, shall be made between the hours of 12 o'clock M. and 4 o'clock P. M., on Saturday, within twenty days after the seizure of the property, unless the sale shall be postponed, provided, that for lack of bidders, or by request of the Mortgagor, any sale may be postponed one week by public announcement at the time of postponement. The sale shall not take place for one week following the date of publication.

§ 6. FEES.] The fee for the publication of notice under the provisions of this act, shall in no case exceed the sum of three (3) dollars. 2, The officer making the sale shall be allowed the same fees as are allowed by law for levying upon and selling personal property under execution. 3, No greater charge shall be valid for the keeping of live stock between the date of its seizure, and the date of sale than is now provided by law for the keeping of live stock when impounded. 4, The Register of Deeds shall receive for filing the report provided for in Section 7, the sum of ten cents.

§ 7. REPORT OF SALE.] Within ten (10) days after the foreclosure of any mortgage as herein provided, the person making the sale shall make out in writing a full report of all the proceedings in such foreclosure, specifying particularly, the property sold, the amount received therefor, the amount of the costs and expenses, itemized, and the disposition made by him of the proceeds of the sale, and shall file the same in the office of the Register of Deeds of the county where the mortgage is filed, which report shall be received in all courts as prima facie evidence of the facts therein recited.

§ 8. DISPOSITION OF PROCEEDS.] Out of the proceeds arising from the sale, the officer making the sale, shall pay first the costs and expenses of the foreclosure, second, shall pay the person or persons entitled thereto, the amount of the mortgage debt, and third, shall pay the balance, if any there be, to the owner of the mortgaged property.

§ 9. Any stipulation or agreement in any Chattel Mortgage, by which any provisions of this act, are waived in form, shall be inoperative and void.

§ 10. REPEAL.] All acts or parts of acts, in conflict with this act, are hereby repealed, but nothing in this act, shall be construed to prevent foreclosure by action.

§ 11. EFFECT WHEN.] This act shall take effect and be in force from and after July First, Eighteen Hundred and Eighty-Nine.

Approved, March 8th, 1889.