

MORTGAGING REAL ESTATE.

CHAPTER 110.

[H. B. 66.]

REAL ESTATE OF DECEASED PERSONS.

AN ACT to Provide for Mortgaging the Real Estate of a Deceased Person, of a Minor, or of an Incompetent Person.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. NOTICE SHALL BE GIVEN.] When it is shown to the satisfaction of the court at a hearing upon an application for the sale of real estate or upon a petition praying that the same may be mortgaged as provided in the next section after all the parties interested have been duly cited to appear, not less than ten nor more than thirty days from the date of filing such petition, which notice shall be given to all parties in interest in such manner as the court shall direct, that it will be for the benefit of the estate, the county court may direct an executor, administrator or guardian to mortgage any real estate of a decedent or of a minor or incompetent person for the purpose of paying an existing lien or mortgage on the property or for any other purpose for which a sale may be ordered or it may authorize him to make a renewal of an existing mortgage, but the homestead shall not be mortgaged without the consent of the person entitled thereto.

§ 2. PETITION MUST SPECIFY.] A petition for the purpose specified in the preceding section must specify the amount of money necessary to be raised and the purpose for which the same is required with such further particulars as are required in a petition for the sale of real property. The decree must fix the amount for which the mortgage may be given and the rate of interest that may be paid thereon, and may order the whole or any part of the money so secured to be paid from time to time out of the income of the mortgaged property. The mortgage or other contract executed by the executor, administrator or guardian in pursuance thereof may be approved upon his report in the same manner as a sale.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is now no law of the State of North Dakota providing for the mortgaging of the real estate of decedents, or of minors or incompetent persons; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1899.