

# REAL ESTATE.

## CHAPTER 154.

[S. B. No. 115—Wagner.]

### CANCELLING REAL ESTATE MORTGAGES OF RECORD.

AN ACT to Amend Chapter 125 of the Session Laws of 1901, to Amend Section 4719 of the Revised Codes of North Dakota, 1899, Relative to Discharge of Real Estate Mortgages.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That chapter 125 of the session laws of 1901, being section 4719 of the revised codes of North Dakota, 1899, be amended to read as follows:

§ 4719. REAL ESTATE MORTGAGES, HOW DISCHARGED BY CERTIFICATE.] A recorded mortgage must be discharged upon the record by the register of deeds having custody thereof on the presentation to him of a certificate of discharge, signed by the mortgagee, his executors, administrators, guardians, trustees, assigns or personal representatives, properly acknowledged or proved and certified as prescribed by the chapter on recording transfers, stating that the mortgage has been paid in full, or otherwise satisfied and discharged, and authorizing the officer to cancel same of record, giving a brief description of the mortgage; provided, however, that any person acting as personal representative of the mortgagee as aforesaid, must first file and have recorded a power of attorney in the register's office where such mortgage is recorded, showing his authority to discharge mortgages in behalf and for the mortgagee and in his name and stead. A certificate of the satisfaction of a mortgage may be made in substantially the following form:

This certifies that a certain mortgage executed by ..... of ..... mortgagor to ..... of ..... mortgagee dated the ..... day of ..... A. D. .... upon the ..... (here describe the property covered by the mortgage) and recorded in the office of the register of deeds in and for the county of ..... and state of North Dakota, in book ..... of mortgages on page ..... is paid and satisfied; and ..... hereby authorize and require said register of deeds to discharge the same of record in his office.

Witness ..... hand this ..... day of ..... A. D. ....  
(Acknowledgment.)

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1905:

## CHAPTER 155.

[S. B. No. 99—Pierce.]

## DEEDS LEGALIZED.

AN ACT to Legalize the Execution and Acknowledgment of Certain Deeds, Mortgages and Other Instruments in Writing, and the Record Thereof, and Making the Same or Certified Copies Thereof Admissible in Evidence.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. EXECUTION, ACKNOWLEDGMENT, FILING AND RECORDING LEGALIZED.] That the execution, acknowledgment, filing and recording of all deeds, mortgages and other instruments in writing, affecting the title to real property in this state, in good faith made, taken or certified to prior to the first day of January, 1905, and which have been filed or recorded in the proper counties of this state, be and the same are hereby declared to be legal and valid for all purposes; anything in the laws of the territory of Dakota or the state of North Dakota, or of any other state, territory or country at the time of such execution, acknowledgment, witnessing, filing or recording, to the contrary notwithstanding.

§ 2. ACTS OF EXECUTORS, ADMINISTRATORS, DEPUTIES, OFFICERS OR ATTORNEYS IN FACT LEGALIZED.] The acts of all properly appointed and constituted executors, administrators, officers of corporation, deputy public officials, and attorneys in fact, done in good faith, in the execution and acknowledgment of such instruments, are hereby declared to be legal and valid for all purposes, notwithstanding the fact that such executor, administrator, officer, deputy officer, or attorney in fact may not have signed the same in the form provided by laws in force at the time, or that the same was not sealed or stamped as required by laws in force at the time of such execution, and notwithstanding the fact that the certificate of acknowledgment thereon may not be in the form required or sealed as required by any laws in force at the time of making the same.

§ 3. ACKNOWLEDGMENTS LEGALIZED.] That the acts of all notaries public or other officers, done in good faith in taking and certifying to the acknowledgment of such instruments, whether such officers were qualified or authorized by law at the time to do so or not, are hereby declared legal and valid for all purposes.

§ 4. GOOD FAITH PRESUMED.] Good faith shall be presumed on the part of all persons and officers in the execution, acknowledgment, filing and recording of such instruments.

Approved March 13, 1905.

## CHAPTER 156.

[S. B. No. 150—Taylor.]

## LEGALIZING CERTAIN DEEDS.

AN ACT to Ratify and Confirm the Conveyance of the Family Homestead in Any Case in Which the Same Has Been Heretofore Deeded by Both Husband and Wife in Separate Instruments, Neither Having Joined in the Deed With the Other, Where the Respective Deeds Purport to Convey to the Same Person or Their Grantees, and Validating Such Deeds.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. SEPARATE DEEDS OF HUSBAND AND WIFE TO SAME PROPERTY LEGALIZED.] That in all cases where a married man has heretofore conveyed real property belonging to him, which may have been the homestead of himself or family, by a deed duly signed and acknowledged but not signed by his wife and his wife has either before or afterwards conveyed the same real estate by a deed duly signed and acknowledged but not signed by her husband, to the grantee named in her husband's deed or a subsequent grantee from him, the conveyance by such separate deeds shall be valid and effectual to pass the title to such grantee, the same as if the conveyance had been made by a single instrument duly executed and acknowledged by both husband and wife.

§ 2. EMERGENCY.] Whereas an emergency exists in that there are many titles outstanding at this time that are supposed by their owners to be perfect, but are open to objection upon the grounds corrected in this bill, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1905.

## CHAPTER 157.

[S. B. No. 73—Carroll.]

## RECORD OF TAX DEEDS.

AN ACT to Provide a Record for Perpetuating Proceedings and Instruments in Applications for Tax Deeds, and for Payment of Services Connected Therewith.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. COUNTY AUDITOR TO KEEP "TAX DEED RECORD." That it shall be the duty of the county auditor to keep a record to be known

as the "Tax Deed Record," in which the county auditor shall record at length all tax certificates as they may be presented for tax deed, the notice of expiration of the time for redemption issued thereon, and the return of such service of the notice of the expiration of the time for redemption as may be made.

§ 2. CERTIFIED COPY PRIMA FACIA EVIDENCE.] That a certified copy of said record, or any part thereof, under the hand and seal of the county auditor shall be prima facie evidence of the matters and things therein contained in the courts of North Dakota.

§ 3. FEES OF AUDITOR.] That for services of and recording these instruments the auditor shall be entitled to receive from the applicant for such deed the same fees as are allowed by law to the register of deeds for placing instruments of record.

Approved March 13, 1905.

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## CHAPTER 158.

[H. B. No. 24—Stavens.]

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### REDEEMING LAND SOLD FOR TAXES.

AN ACT to Amend Section 1267 of the Revised Codes of 1899, Relating to Redemptions From Sale of Real Estate for Taxes, Time of Payment of Subsequent Taxes, and Rate of Interest Thereon.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That section 1267 of the revised codes be and the same is hereby amended so as to read as follows:

§ 1267. WHEN AND HOW REDEEMED. IF NOT SOLD WHO MAY REDEEM. COUNTY AUDITOR TO CERTIFY AMOUNT DUE TO COUNTY TREASURER. DUTY OF COUNTY TREASURER.] If at said sale any piece or parcel of land shall be sold to a purchaser the same may be redeemed at any time within three years from the date of sale by any person or corporation having an interest therein who shall pay into the treasury of the county for the credit of the person thereto entitled, the amount paid by the purchaser at the time of sale, with a penalty of five per cent and interest thereon at the rate specified in such certificate of sale, together with all amounts of subsequent taxes, penalties and interest paid by the holder of such certificate of sale up to the date of redemption with interest at the rate of two per cent per month from the date of payment of such subsequent tax, which date of payment shall not be prior to the day upon which such subsequent tax became delinquent. In case any piece or parcel of land was not sold for want of bidders, then any person or corporation having an interest therein shall have the same right of redemption from the county, and on the same terms as from a purchaser at a tax sale. The county auditor shall certify to the amount due

upon such redemption, and on payment of the same to the county treasurer, he shall make duplicate receipts for the certified amount, describing the property redeemed, one of which shall be filed with the county auditor, which shall have the effect to annul the sale. If the amount so paid for the purpose of redemption be less than required by law it shall not invalidate such redemption, but the county auditor shall be liable for the deficiency to the person entitled thereto. Minors, insane persons, or persons in captivity, or in any country with which the United States is at war, having an estate in, or liens on lands sold for taxes, may redeem the same within three years after such disability ceases; but in such case the right to redeem must be established in a suit for that purpose, brought against the party holding the title under sale. Any person who has or claims an interest in, or lien upon, any undivided estate in any piece or parcel of land sold, may redeem such undivided estate by paying into the treasury a proportionate part of the amount required to redeem the whole; and in such case the certificate of redemption shall express the estate or interest redeemed.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 9, 1905.

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## REGISTER OF DEEDS.

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### CHAPTER 159.

[H. B. No. 14—Purden.]

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#### WHAT INSTRUMENTS ENTITLED TO RECORD.

AN ACT to Amend Section 3563 of the Revised Codes of North Dakota of 1899, Relative to the Recording of Instruments in the Office of the Register of Deeds.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That section 3563 of the revised codes of North Dakota of 1899 be and the same is amended as follows:

1. Any instrument or judgment affecting the title to or possession of real property may be recorded under this chapter.

2. Judgments affecting the title to or the possession of real property, authenticated by the certificate of the clerk of court in which such judgments were rendered, may be recorded without acknowledgment or further proof.

3. Letters patent from the United States, final receivers' receipts from the United States land offices, contracts between the state and