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# MORATORIUM

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## CHAPTER 10. [H. B. No. 9—Kurtz.]

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### CIVIL RIGHTS OF MEMBERS OF MILITARY AND NAVAL ESTABLISHMENTS.

An Act Regulating the Civil Rights of Members of the Military and Naval Establishments of the United States Engaged in the Present War.

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

§ 1. No proceeding, by action or otherwise, shall be had or taken in this state for the foreclosure of a mortgage, or other lien, or real or personal property, or for the cancellation of an executory contract for the sale of land; or for the recovery of any indebtedness against any person in the active military service of the United States as hereinafter defined, during the time the United States is engaged in the present war and for an additional period of one year, and during such time no further proceeding shall be taken in any action or proceeding that is pending at the time of the taking effect of this Act in which such a person is a party over the objection of such party, his attorney or any person interested on his behalf, nor shall any judgment against such person in the military service be enforced against him or his property during said period.

§ 2. The term "person in the active military service of the United States" within the meaning of this Act, means any person who is actually called to service and is under the direction and command of the military authorities of the United States in any line of military duty that prevents him from attending to his own ordinary business affairs, but it does not include a person only temporarily or incidentally engaged in some special or temporary service.

§ 3. Any proceeding taken against any such person in the active military service of the United States, shall be treated as absolutely void, at the election of such person, and upon proper application to vacate the same within the period mentioned in Section 1 hereof, it shall be vacated and declared void as a matter of course; provided, however, if such proceedings were taken in good faith without knowledge of the fact that the person proceeded against was so in the service of the United States, then the person so proceeding shall not be liable to any damages on account of taking such proceedings and shall be subject to no penalties on account thereof, except that he shall be liable to account to the person so proceeded against in such way as to equitably restore such person to the position he would be in if such proceedings had not been taken.

§ 4. Notwithstanding anything in this Act to the contrary, provided, in case it shall be made to appear to a district court

of this state that the property of a person so engaged in the active military service of the United States, subject to liens or to seizure under execution is of such character or so situate that it is liable to become wasted and depreciated in value, or for any reason should be disposed of, the court shall make his order that the person in possession of such property, or such relatives of the owner as it shall deem proper, be cited to appear before it and upon such appearance the court shall diligently and informally and with a view to avoiding expense, inquire into the situation, and if upon such inquiry the court is satisfied that such property will depreciate in value, or that the interests of the parties require that it should be disposed of, it shall make an order that upon giving bond with sufficient surety, to be approved by the clerk of said court, to indemnify the owner for the value of the property in case it shall ever be adjudged that such foreclosure or seizure was not for a valid existing debt, which bond shall be filed in the office of the clerk of said court, then such mortgage or other lien may be foreclosed, or such property may be taken on execution, as the case may be, but the judgment in any such foreclosure proceeding shall not be taken to have established the validity or amount of the debt for foreclosure of which such action was had, but such question shall be open to determination in any action on such bond, provided, however, to recover on such bond the owner must bring his action within the period mentioned in Section 1 of this Act.

§ 5. In any character of proceeding that may come before the county court or any other court of the state for the administration of estates, or for any other purpose in which there are parties who do not make appearance it shall be the duty of such court of its own motion to diligently inquire and ascertain whether any of such parties are in the active military service of the United States, and that they have any probable substantial rights involved in such proceeding, then the court shall stay the closing of the proceeding or shall segregate the right of such party leaving such right undetermined, or make such other appropriate disposition of the proceeding as will, under the circumstances thereof, serve to protect the rights of such parties, and the court may in any appropriate case, require any other party to such proceeding to give bond with sufficient surety for the protection of the rights of such person.

§ 6. All taxes, whether on real or personal property, now due or hereafter to become due on property owned by any person in the active military service of the United States, shall be held in abeyance and no proceedings taken for the collection thereof until the expiration of the period mentioned in Section 1 of this Act.

To obtain the benefits of this Section it shall be necessary for some person on behalf of such person in the military service, to file with the Treasurer of the appropriate county, an affidavit to the effect that the person against whom such taxes are charged is in such active military service, which affidavit shall be filed at

or before the time when taxes become delinquent, and upon the filing thereof the Treasurer shall make a notation upon his records to the effect that the collection of such taxes is suspended on account of the military service of the taxpayer. But nothing herein shall be taken as preventing the right of the Treasurer to receive payment of such taxes whenever offered.

§ 7. In any action or proceeding sought to be taken after the close of the period provided for in Section 1 of this Act, the period of such military service shall be excluded in computing the statutory limitation.

§ 8. Nothing in this Act provided shall be construed as limiting the right of any person in the active military service of the United States to maintain on his own behalf any action in any court, or to make appearance and give consent to the maintenance of any action or proceeding against him, or to waive by express agreement any right or privilege granted hereby.

§ 9. EMERGENCY.] Whereas, large numbers of the citizens of the state are now absent from the state in the military service of the United States, it is necessary for the immediate preservation of the public peace, health and safety that the provisions of this Act become operative at once after its passage and approval.

It is hereby provided that the same shall take effect and be in force from the time of its approval by the Governor.

Approved January 29, 1918.

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## PROHIBITION

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### CHAPTER 11.

[H. B. No. 8—Introduced by Mr. Harris.]

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#### A JOINT RESOLUTION RATIFYING A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA:

WHEREAS, Both houses of the sixty-fifth Congress of the United States of America, at the second session by a constitutional majority of two-thirds thereof, made and passed the following proposition to amend the Constitution of the United States of America, in the following words, to-wit:

#### “JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States. Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several states as provided by the Constitution: