

MORTGAGES

CHAPTER 190

H. B. No. 213—(Morland and Beede)

MORATORIUM FROM FORECLOSURES AND EVICTIONS

An Act to amend and re-enact Sections 5 and 8 of Chapter 165 of the Session Laws of 1939, providing for relief in certain cases during the emergency declared to exist, from foreclosure of mortgages or other liens on real estate, and execution sales of real estate, and cancellation of contracts for the sale of real property, eviction of tenants from real estate, and for postponing certain sales and extending the period of redemption from certain sales, and relating to the jurisdiction and procedure for such relief, and for the right to possession during the extended period, and limiting the right to emergency actions for deficiency judgment, and for extending the expiration of certain periods of redemption to thirty days after the passage of this Act; and providing that the Act shall not be applicable in certain cases set forth in this Act; repealing all acts inconsistent herewith and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 5 of Chapter 165 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 5. Where any mortgage or other lien upon certain real estate has been foreclosed and the period of redemption has not yet expired, or where sale is hereafter had in the case of real estate mortgage or other lien foreclosure proceedings, now pending, or which may hereafter be instituted, prior to the expiration of two years from and after the passage and approval of this amendment, or upon the sale of any real property under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter within two years from and after the passage and approval of this act, the period of redemption may be extended for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1943; or where stay of execution has been granted against the cancellation of a contract or the ejectment of a tenant from premises, for such additional time as the court may deem just and equitable, but in no event beyond July 1, 1943. Provided that the mortgagor or the owner in possession of said property in the case of mortgage foreclosure proceedings, or the lienor or person in possession of said property in the case of foreclosure of such a lien, or the judgment debtor in the case of sale under judgment or execution, or the tenant in case of judgment of eviction, or the vendee in case of a contract of sale of real property, shall, prior to the expiration of the period of redemption, or in case of judgment or eviction or

cancellation of land contract within the period of time described in Section 4 hereof, apply to the court having jurisdiction of the matter, on not less than ten days written notice to the mortgagee, the lienee, judgment creditor or plaintiff, or the attorney of either as the case may be, for an order determining the reasonable value of the income of said property, or if the property has no income then the reasonable rental value of the property involved in such sale, cancellation or eviction, and directing and requiring such mortgagor, lienor, vendee, tenant or other judgment debtor to pay all or a reasonable part of such income or rental value in or toward the payment of taxes, insurance, interest, mortgage, or judgment indebtedness, at such time and in such manner as shall be fixed and determined and ordered by the court; provided, however, that in fixing the rental value of farm lands, the court shall thereupon hear said application and after such hearing shall make and file its order directing the payment by such mortgagor, lienor, vendee, tenant or judgment debtor of such an amount, at such times and in such manner as to the court shall, under all circumstances, appear just and equitable, and provided that upon the service of notice or demand aforesaid, that the running of the period of redemption shall be tolled until the court shall make its order upon such application. Provided, further, however, that if such mortgagor, lienor, vendee, tenant, or judgment debtor or personal representative shall default in the payments, or any of them, in such order required on his part to be done, or commits waste, his right of redemption from said sale shall terminate thirty days after such default, and holders of subsequent liens may redeem in the order and manner now provided by law beginning thirty days after the filing of notice of such default with the clerk of court, and his right to possession shall cease and the party acquiring title to such real estate shall then be entitled to immediate possession of said premises. If default is claimed by allowance of waste, such thirty day period shall not begin to run until the filing of an order of the court finding such waste. Provided, further, that the time of redemption from any real estate mortgage or other lien foreclosure, or judgment, or execution sale heretofore made which otherwise cannot expire less than thirty days after the passage and approval of this amendment, shall be, and the same hereby is extended to a date thirty days after the passage and approval of this amendment, and in such case the mortgagor, lienor, vendee, tenant or judgment debtor, or the assignee or personal representative of either, as the case may be, or the owner in possession of the real property may, prior to said date, apply to said court for, and the court may thereupon grant, the relief as hereinbefore and in this section provided. Provided, further, that prior to July 1, 1943 no action shall be maintained in this State for a deficiency judgment until the period of redemption, as allowed by existing laws or as extended under the provisions of this act, has expired; provided, however that the provisions of this

act shall not be construed as a repeal of Chapter 155 of the Session Laws of 1933 or any other similar enactment.

§ 2. AMENDMENT.] That Section 8 of Chapter 165 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 8. Every law and all provisions thereof now in force insofar as inconsistent with the provisions of this act, are hereby suspended until July 1, 1943. No extension of the period for redemption, nor any postponement of sale judgment on execution shall be ordered or allowed under this act which would have the effect of extending the period of redemption or enforcement of judgment beyond July 1, 1943.

§ 3. EMERGENCY.] This act is declared to be an emergency measure and shall take effect from and after its passage and approval.

Approved March 17, 1941.

MOTOR VEHICLES

CHAPTER 191

S. B. No. 50—(Committee on Tax & Tax Laws)

ONE CENT GASOLINE TAX

An Act Assessing and levying from July 1, 1941, to July 1, 1943, on all licensed dealers of motor vehicle fuels, a special additional license tax of one cent per gallon on motor vehicle fuels used or sold by them in addition to all other taxes now imposed upon them; appropriating the proceeds of such special tax on the State Highway fund for specific purposes; making all provisions of Initiated Measure approved June 30, 1926, and amendments thereto and known as the "Motor Vehicle Fuel Tax Law", other than division of proceeds between the State and Counties and other than for costs of administration and collection and other than penalties for violation applicable to said special license tax; providing for exemption of motor vehicle fuels sold and used for agricultural and industrial purposes; and fixing fines and penalties for the violation of the provisions of this Act.

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

§ 1. There is hereby imposed, beginning the first day of July, 1941, and ending the 30th day of June, 1943, on dealers in motor vehicle fuels, a special motor vehicle fuel license tax of one cent per gallon on all motor vehicle fuels used and sold in the State