

by such justice, and the fees advanced for the advertisement and appraisal of such estray as herein provided, and after deducting the fees allowed such justice for such sale and advertisement thereof, the residue of the proceeds of such sale shall be paid to the county treasurer, who shall receipt to the justice therefor. All moneys so deposited with the county treasurer shall by him be retained in the treasury for six months thereafter, separate and apart from all other moneys, and if the owner of any such estray shall within such period appear before the board of county commissioners and establish his title to such estray, such board shall order the amount so paid into the treasury to be paid to such owner. If no such person appear within six months after the deposit of such money as herein provided, the same shall be passed to the school fund of the county and shall be accounted for and expended as other school money.

Approved March 10, 1925.

FORECLOSURE

CHAPTER 141

(H. B. No. 69—Carr and Elken.)

FORECLOSURE OF REAL ESTATE MORTGAGES BY AGENT OR ATTORNEY AND VALIDATING PRIOR SALES

An Act To Amend and Re-enact Section 8076 of the Compiled Laws of North Dakota for the year 1913, as Amended and Re-enacted by chapter 250 of the Session Laws of North Dakota for the year 1923 relating to foreclosure of mortgages by agent or attorney, and legalizing and validating sales heretofore made where the power of attorney has been filed for record at or prior to the time fixed for the making of the same.

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

§ 1. AMENDMENT.] That Section 8076 of the Compiled Laws of North Dakota for the year 1913, as amended and re-enacted by chapter 250 of the Session Laws of North Dakota for the year 1923, is amended and re-enacted as follows:

§ 8076. FORECLOSURE OF REAL ESTATE MORTGAGE BY AGENT OR ATTORNEY NOT VALID, WHEN.] No sale of real estate upon a foreclosure made by an agent or attorney by advertisement shall be valid for any purpose, unless such power of attorney as is provided for by law, shall be procured and recorded in the office of the Regis-

ter of Deeds of the county wherein said real estate is located, on or before the day fixed or appointed to make the same; Provided, that any person, firm or corporation not owning such mortgage, but controlling the same shall, in addition to furnishing such power of attorney, furnish such agent or attorney making such foreclosure a copy of the instrument authorizing such control, and a failure to do so shall invalidate the foreclosure.

§ 2. All sales of real estate made prior to the passage and approval of this act under executions issued pursuant to judgments entered in actions for the foreclosure of real estate mortgages, are hereby declared to be legal and valid for all purposes, even though no power of attorney was filed for record in the office of the Register of Deeds of the county wherein said real estate was located prior to the day of sale of said real estate, provided such a power of attorney as is provided for in Section 8075 of the Compiled Laws of North Dakota for 1913 was filed in the office of the Clerk of the District Court of the County in which such judgment was entered, prior to such date of sale.

§ 3. All sales of real estate made under a mortgage foreclosure prior to the passage and approval of this act, are hereby declared legal and valid for all purposes, even though no power of attorney was filed for record in the office of the Register of Deeds of the county wherein said real estate was located, before the day of sale of said real estate, provided said power of attorney as is provided for in section 8075 of the Compiled Laws of North Dakota for 1913 was filed for record in the office of the Register of Deeds of the county wherein said real estate is located, at or prior to the time fixed or appointed to make the sale.

§ 4. This act is hereby declared to be an Emergency Measure and shall take effect and be in force from and after its passage and approval.

Approved February 24, 1925.

CHAPTER 142
(S. B. No. 257—Kaldor.)

FORECLOSURE REAL ESTATE MORTGAGES—NOTICE OF
INTENTION

An Act To Amend and Re-Enact Chapter 131 of the Session Laws of 1919 as Amended by Chapter 66 of the Session Laws of 1921, pertaining to the giving of Notices of Intention to Foreclose real Estate Mortgages.

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

§ 1. AMENDMENT.] That Chapter 131 of the Laws of North Dakota for the year 1919 as Amended by Chapter 66 of the Laws

of North Dakota for the year 1921, is hereby amended and re-enacted to read as follows :

§ 2. Before any action or proceeding shall be commenced to foreclose a mortgage on real property, a written notice describing land, the date and amount of the mortgage, the sum due for principal, interest and taxes respectively, and stating that if the same be not paid within thirty days from the date of the notice, proceedings will be commenced to foreclose the mortgage, shall be served more than thirty days prior to the commencement of such action or proceedings by registered mail addressed to the title owner according to the records in the office of the Register of Deeds Concerning and Affecting the title to the premises described in such notice at his or their post office address as shown by such records, and if such address is not so shown, personal service upon such owner or owners proven by the certificate of the sheriff or by the affidavit of the person serving the same shall be sufficient, or if the sheriff's return shows that after diligent inquiry made for the purpose of serving such notice, he is unable to make service thereof upon the said title owner or owners of record within the county where the said land is situated, then and in such case, such notice shall not be required to be served upon such owner or owners whose post office address is not shown by such records in the office of the Register of Deeds. An affidavit of proof of such service of notice shall be filed with the Clerk of the Court at the time of filing complaint in any action for foreclosure and shall be recorded with the notice and certificate of sale in all other cases. Provided, however, that if said owner shall, before the expiration of thirty days from the service of such notice, perform the conditions or comply with the provisions upon which the default shall have occurred, such mortgage shall be reinstated and shall remain in full force and effect the same as if no default had occurred therein.

Provided, further, that if an action or proceeding to foreclose is not begun within ninety days after the date of the notice herein provided for, then all proceedings hereunder shall be deemed to be discontinued.

Approved March 10, 1925.