

shall be the duty of the Attorney General and of the State's Attorney in the county where the case arises, to prosecute all violations of this Act or of the Rules and regulations made and published thereunder.

§ 15. EFFECT OF PARTIAL INVALIDITY.] If any provisions in a clause or section of this Act, or the application thereof to any person or circumstances, is held invalid, the validity of the remaining portions of the clause or section and of the Act, and of the application of such provisions to other persons or circumstances shall not be affected thereby.

§ 16. DISPOSITION OF FEES AND OTHER COLLECTIONS.] All monies arising from the collection of fees and other charges under the provisions of this Act shall be placed by the Commissioner, with the State Treasurer and be credited to the Seed Department revolving fund, and shall be disbursed upon order of the Commissioner and with the approval of the Board of Administration.

§ 17. SUPERSEDECE OF THIS ACT.] All Acts or parts of Acts in conflict with the provisions of this Act are superseded by the provisions hereof.

Approved March 4, 1931.

PROCEDURE

CHAPTER 216

(S. B. No. 75—Sathre.)

ACTIONS BY AND AGAINST PARTNERSHIPS AND ASSOCIATIONS

An Act to amend and re-enact Chapter 193 of the Laws of North Dakota for the year 1929.

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

§ 1. AMENDMENT.] That Chapter 193 of the Laws of North Dakota for the year 1929, be, and the same is, hereby amended and re-enacted to read as follows:

§ 1. When two or more persons have heretofore done or transacted, or are doing or transacting, or shall hereafter do or transact business as partners or associates under a common name, whether such name comprises the name of such persons or not, they may sue and be sued by such common name and in case such partners or associates are defendants, the Summons may be served on one or more of them; provided, that, if the business of such partners or associates is in charge of a manager or agent, the Summons must be served on such manager or agent, but in case the Sheriff of the County in which the business of such persons is

done or transacted shall make return that no such member, manager, or agent can be found in said County, then such service may be made by leaving a copy of the Summons in any office of such partners or associates with the person in charge of such office. The judgment in any such action shall bind the joint property of all the members or associates of such firm or association the same as though all of them had been named as defendants.

Approved March 9, 1931.

CHAPTER 217
(S. B. No. 8—Cain.)

CONCILIATION OF CONTROVERSIES

An Act providing for the conciliation of controversies at option of the moving party, and repealing Section 9192a6 of the 1925 Supplement to the Compiled Laws of 1913 and Chapter 187 of the Session Laws of 1929, and all other acts and parts of acts in conflict herewith.

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

§ 1. The moving party may file in court a certificate of a conciliator showing that an attempt has been made to effect a settlement of the claim and that such attempt has failed. Provided, however, that any person desiring to have any civil claim not specified as an exception herein submitted to a conciliator, may prior to suit thereon request one of the conciliators for the county in which he resides, or for the county in which the person complained against resides, to act as a conciliator. Thereupon such conciliator, if qualified and able to act, shall summon by letter or telephone or personally the party complained of to appear before him at a certain time. Upon the hour set for such conciliation hearing, if the parties are present, it shall be the duty of the conciliator to hear the parties and their witnesses and to endeavor to effect an amicable settlement of the controversy agreeable to law and equity. Conciliators may in their discretion administer oath and require statements under oath. They shall make no records of the evidence adduced, and no part of the proceedings shall be admitted as evidence, or considered at the trial of the case, and no conciliator shall be competent as a witness in respect thereto in any subsequent proceedings; but the foregoing shall not apply to actions known as provisional remedies or actions involving title to or possession of real estate and suits involving over Two Hundred (\$200.00) Dollars.

§ 2. Section 9192a6 of Supplement to the Compiled Laws of 1913 and Chapter 187, Session Laws of 1929 and all Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 6, 1931.

CHAPTER 218
(S. B. No. 72—Matthaei.)

**LIMITATION ACTION FORECLOSURE REAL ESTATE
MORTGAGES**

An Act to limit the time in which action may be commenced or defense interposed, involving certain actions or proceedings for the foreclosure of real estate mortgages.

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

§ 1. After six months from and after this Act takes effect, no action shall be commenced to set aside foreclosure of a real estate mortgage given prior to January 1st, 1931, and no foreclosure of such mortgage shall hereafter be set aside, in any action or proceedings by a foreign Executor, Administrator, or Guardian, by reason of the appointment of a resident Executor, Administrator, or Guardian, or by reason of the failure of any such foreign Executor, Administrator, or Guardian to file an authenticated copy of his appointment as such Executor, Administrator, or Guardian, in the Office of the Clerk of the District Court, or record such copy in the Office of the Register of Deeds of the county in which the action or proceedings to foreclose such mortgage were commenced, where a certified copy of such appointment has theretofore been recorded in such county, and in which action or proceedings to foreclose such mortgage a Sheriff's Certificate has been issued prior to the taking effect of this Act.

§ 2. EMERGENCY.] Whereas, some question has arisen with respect to the validity of certain real estate mortgage foreclosures in this State and the title to real property is dependent thereon and it is advisable that such titles be speedily settled, therefore, this Act is declared an emergency and shall be in full force and effect, immediately upon its passage and approval.

Approved March 6, 1931.

CHAPTER 219
(H. B. No. 131—Acheson.)

WHEN FORECLOSURE PROCEEDING ENJOINED

An Act to amend and re-enact Section 8074 of the Compiled Laws of 1913.

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

§ 1. That Section 8074 of the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 8074. WHEN PROCEEDING ENJOINED.] When the mortgagee or his assignee has served notice of intention to foreclose a

mortgage, and within the period provided by such notice it shall be made to appear by the affidavit of the mortgagor, his agent or attorney, to the satisfaction of a judge of the district court of the county where the mortgaged property is situated, that the mortgagor has a legal counterclaim or any other valid defense against the collection of the whole or any part of the amount claimed to be due on such mortgage, which proof must be made by affidavit stating the facts, but not on information and belief, such judge may by an order to that effect enjoin the mortgagee or his assignee from foreclosing such mortgage by advertisement and direct that all further proceedings for the foreclosure thereof be had in the district court properly having jurisdiction of the subject matter; provided, that after expiration of the period provided for in said notice of intention an order enjoining the foreclosure by advertisement shall be made only on motion or order to show cause; eight days notice of which motion, together with the affidavit used in support thereof, shall be served upon the attorneys or agent of the mortgagee or assignee in the same manner as service of other notices of motion; the affidavits in support of such motion shall state the facts upon which the application is made and shall not be on information and belief and shall disclose a legal counter-claim or other valid defense to the collection of the whole or some part of the amount claimed to be due on such mortgage, and upon the hearing of said motion the judge may likewise enjoin the foreclosure of the mortgage by advertisement in the same manner as if the application had been made ex parte within the period of the notice of intention to foreclose. Service of the restraining order may be made upon the attorney or agent of the mortgagee or assignee if obtained ex parte, or if obtained on motion or order to show cause, it may be served upon such attorney or agent, or upon the sheriff of the county where the foreclosure sale is to be had. Provided, further, that if the notice of intention does not disclose the address of a resident agent or attorney the order may be served upon such sheriff.

§ 11. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 2, 1931.