

## CHAPTER 116

## MORTGAGES. EMERGENCY DELAY OF FORECLOSURES

## H. F. 152

AN ACT to amend Senate File thirty-four (34), section two (2), acts of the Forty-sixth General Assembly, and approved by the governor on the fourth day of February, 1935, and now on file in the office of the secretary of state, relating to an emergency act relative to the foreclosure of real estate mortgages and deeds of trust or notes secured thereby.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Senate File thirty-four (34), section two (2), acts of  
2 the Forty-sixth General Assembly, approved by the governor on the  
3 fourth day of February, 1935, and now on file in the office of the secre-  
4 tary of state, is amended by inserting after the words "real estate"  
5 in line 8 the following:  
6 "or person liable on said mortgages or deeds of trust or notes se-  
7 cured thereby,"

1 SEC. 2. This act being deemed of immediate importance shall be in  
2 full force and effect from and after its publication in the Sioux City  
3 Tribune, a newspaper published in Sioux City, Iowa, and the Daven-  
4 port Democrat, a newspaper published in Davenport, Iowa.

House File 152. Approved February 22, 1935.

I hereby certify that the foregoing act was published in the Sioux City Tribune, February 23, 1935, and the Davenport Democrat, February 24, 1935.

MRS. ALEX MILLER, *Secretary of State.*

## CHAPTER 117

## CONTRACTS FOR THE SALE OF REAL ESTATE

## S. F. 59

AN EMERGENCY ACT relating to contracts for the sale of real estate where the vendor retains legal title; providing for the continuance of actions brought upon said contracts; providing for the suspension of forfeiture proceedings; providing for the preservation of the rights and equities of the vendee or his heirs or assigns under said contracts; providing for possession of said real estate, and to the rents, income and profits therefrom and providing for the distribution thereof; and providing for the suspension of all acts or parts of acts in conflict with this act while same is in effect.

WHEREAS, the Forty-fifth General Assembly enacted emergency legislation for the delay of foreclosures of real estate mortgages and deeds of trust, and for the extension of the period of redemption on real estate which had been sold at execution sale, and

WHEREAS, that at the time of the enacting of said emergency legislation, the governor of the state of Iowa had declared that an emergency existed, and the general assembly had determined that such an emergency did exist, which was general throughout the state, and that the safety and future welfare of the state as a whole was endangered thereby, the general assembly acting under the power reserved by the people of Iowa did so enact said emergency legislation, and

WHEREAS, in the case entitled "Des Moines Joint Stock Land Bank, Appellant, vs. David T. Nordholm, et al., Appellees," 217 Iowa, page 1319, decided by the supreme court of the state of Iowa, on the fourth day of April, 1934, it was held that legislation of this character was not in violation of the constitutional provisions regarding the impairment of the obligations of contracts, or the deprivation of vested property rights without due process of law, and it was stated that contract rights and vested interests must reasonably yield to the paramount rights of the state through the reservoir of its reserved police power to protect by appropriate legislation, its sovereignty, its government, its people and their general welfare against exigencies arising out of a great emergency, and

WHEREAS, the governor of the state of Iowa in his inaugural address to the Forty-sixth General Assembly stated that said emergency still existed, and that the need of the people of the state of Iowa for the delay of foreclosures, and the extension of the period of redemption provided for by the emergency legislation passed by the Forty-fifth General Assembly still exists and that the said emergency legislation should be extended, and

WHEREAS, the governor of the state of Iowa has not rescinded or recalled or otherwise modified the proclamation issued in the year 1933, above referred to, and

WHEREAS, the Forty-sixth General Assembly has determined that such emergency exists at this time, and that real estate contracts where the vendor retains legal title have not been afforded protection under the emergency legislation heretofore passed and that there is great need for the protection of purchasers under such contracts and that the emergency exists as to such contracts and is as great as was the emergency in 1933.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. The Forty-sixth General Assembly hereby declares and  
2 determines that the emergency which existed when the emergency  
3 laws passed by the Forty-fifth General Assembly were enacted does  
4 continue to exist, that such emergency at this time is general through-  
5 out the state of Iowa, and that the safety and future welfare of the  
6 state as a whole is in danger thereby, the general assembly acting  
7 under the power reserved by the people of the state of Iowa does  
8 hereby enact the following:

1 "SEC. 2. All contracts for the sale of real estate, executed prior to  
2 January 1, 1934, wherein the vendor has retained legal title, shall be  
3 subject to the provisions herein.

1 "SEC. 3. In any cause wherein any such real estate contract is  
2 sought to be foreclosed or forfeited, the vendee or his heirs or assigns  
3 shall be entitled to have his or their rights and equities in said real  
4 estate preserved, as herein provided, until March 1, 1937.

1 "SEC. 4. When any action at law or in equity is commenced upon  
2 any such contract, the vendee or his heirs or assigns, may file an appli-  
3 cation for a continuance of said cause, and upon a hearing thereon,  
4 unless good cause to the contrary is shown, the court shall order the  
5 said cause continued to March 1, 1937, and shall make further order  
6 or orders for possession of said real estate giving preference to the

7 vendee or vendees in possession, determine a fair rental to be paid by  
8 the party or parties to be in possession from the time the action was  
9 commenced, and the court shall further order the application and dis-  
10 tribution of the rents, income, and profits from said real estate, and  
11 make such provision for the preservation of said property as will be  
12 just and equitable during the continuance of said cause, which order  
13 or orders shall provide that such rents, income, or profits shall be paid  
14 to and distributed by the clerk of the district court of the county in  
15 which said suit is pending, or any other person agreed upon by the  
16 parties to the action, and further provide that in such distribution,  
17 taxes, insurance, cost of maintenance and upkeep of said real estate  
18 shall be paid in the priority named, and any balance distributed as the  
19 court may further direct; provided, however, that the court shall, upon  
20 a substantial violation of its said order or orders, or for other good and  
21 sufficient cause, set aside said order of continuance and the cause shall  
22 proceed to trial by law now provided, the provisions of this act to the  
23 contrary notwithstanding.

1 "SEC. 5. Within not to exceed thirty days after the service  
2 of a notice of forfeiture of a real estate contract, the vendee, or his  
3 heirs or assigns, may file in the office of the clerk of the district court  
4 of the county wherein a part or all of the real estate is situated, a  
5 verified petition praying that the said proceedings be abated. The  
6 said petition shall include a true copy of the contract sought to be for-  
7 feited, or reason for not filing same, together with the notice of for-  
8 feiture. Thereupon, the court, or any judge thereof, shall order that  
9 the forfeiture proceedings be suspended until hearing is had upon the  
10 said application, and no forfeiture shall ensue until such hearing is  
11 had. The court, in said order, shall fix the time and place of hearing  
12 upon the application and prescribe the manner and time of service of  
13 notice upon the adverse party or parties. Upon the hearing, unless  
14 good cause to the contrary is shown, the court shall order that the  
15 forfeiture proceedings continue to stand suspended until March 1, 1937.

1 "SEC. 6. It is further provided that all provisions contained in sec-  
2 tion 4 of this act as to possession of the real estate, the rents thereof,  
3 and the distribution of income therefrom, and all the provisions re-  
4 garding the violations of orders of the court, and the power of the  
5 court to terminate the period of suspension, shall be applicable to the  
6 procedure herein. The provisions of this act shall not be construed as  
7 to suspend, beyond March 1, 1937, the forfeiture of any contract which,  
8 but for the operation of this act, would have been completed.

1 "SEC. 7. The court in ruling upon any applications or petitions filed  
2 under this act shall take into consideration the initial payment made  
3 by the vendee, or his heirs or assigns, subsequent payments made upon  
4 the said contract, the efforts of the said vendee or his heirs or assigns  
5 to comply with the said contract and any other facts and circumstances  
6 showing good faith efforts on the part of the said vendee or his heirs  
7 or assigns to carry out the provisions of the said contract.

1 "SEC. 8. If any section, subsection, clause, sentence or phrase of  
2 this act is for any reason held to be unconstitutional and/or invalid,  
3 such decision shall not affect the validity of the remaining portions of

4 this act. The legislature hereby declares that it would have passed  
5 this act and each section, subsection, clause, sentence, or phrase hereof,  
6 irrespective of whether any one or more of the sections, subsections,  
7 clauses, sentences, or phrases be declared unconstitutional.

1 "SEC. 9. All acts or parts of acts in conflict with this act are sus-  
2 pended while this act is in effect.

1 "SEC. 10. From and after the first day of March, 1937, this act shall  
2 be of no force and effect."

1 SEC. 11. This act being deemed of immediate importance shall be  
2 in full force and effect from and after its publication in the Atlantic  
3 News-Telegraph, a newspaper published at Atlantic, Iowa, and the  
4 Mason City Globe-Gazette, a newspaper published at Mason City, Iowa,

Senate File 59. Approved February 20, 1935.

I hereby certify that the foregoing act was published in the Atlantic News-Telegraph,  
and the Mason City Globe-Gazette, February 20, 1935.

MRS. ALEX MILLER, *Secretary of State.*

## CHAPTER 118

### GUARDIANSHIP OF VETERANS. INVESTMENT OF FUNDS

#### S. F. 238

AN ACT to repeal the law as it appears in section twelve thousand six hundred forty-  
four-c fourteen (12644-c14), code, 1931, and to enact a substitute therefor relating  
to the investment of funds of veterans under guardianship.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. That the law as it appears in section twelve thousand six  
2 hundred forty-four-c fourteen (12644-c14), code, 1931, is hereby re-  
3 pealed and the following enacted as a substitute therefor:

4 "Every guardian shall invest the funds of the estate in such securi-  
5 ties, investments or real estate as may be authorized and permitted by  
6 order of court or in such securities as is authorized and enumerated in  
7 section twelve thousand seven hundred seventy-two (12772), and in  
8 which the guardian has no interest."

1 SEC. 2. This act being deemed of immediate importance shall be in  
2 full force and effect from and after its passage and publication in the  
3 Des Moines Daily Record, a newspaper published at Des Moines, Iowa,  
4 and in the Plain Talk, a newspaper published at Des Moines, Iowa.

Senate File 238. Approved May 4, 1935.

I hereby certify that the foregoing act was published in the Des Moines Daily Record  
and the Des Moines Plain Talk, May 9, 1935.

MRS. ALEX MILLER, *Secretary of State.*