

EMERGENCY ACTS

CHAPTER 78

MORATORIUM ACT

S. F. 16

AN EMERGENCY ACT relating to the extension of the redemption period from the sale under foreclosure of real estate where deeds of conveyance have not already passed; declaring that the emergency still exists; providing for the making of applications for extensions of the period of redemption and for the kind and manner of notices to be given; making the provisions of this act applicable to all cases where the courts have granted such extension; and providing for applications now on file, for payment and distribution of rents and for suspension of all acts or parts of acts in conflict with this act.

WHEREAS, the Forty-fifth General Assembly enacted chapter one hundred seventy-nine (179), and the Forty-sixth General Assembly enacted chapter one hundred ten (110), providing for the extension of the redemption period in any action for the foreclosure of a real estate mortgage or a deed of trust upon the conditions provided for in said acts, and

WHEREAS, at the time of the enacting of said chapters the governor of the state of Iowa had declared that an emergency existed, and the General Assembly of the state of Iowa 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, and the General Assembly acting under the power reserved by the people of Iowa did so enact said chapters, and

WHEREAS, the Forty-seventh General Assembly has determined that such emergency exists at this time, and that the need for continuing and extending the time to which such period of redemption may be applied for and extended, and for such relief is as great at this time as it was at the time of the enactment of chapter one hundred seventy-nine (179), acts of the Forty-fifth General Assembly, and chapter one hundred ten (110), acts of the Forty-sixth General Assembly, and economic conditions have since arisen greatly aggravating the then existing conditions, and

WHEREAS, since the enactment of said chapters, Iowa has been afflicted with a severe drouth, visited by destructive insect pests, and stricken by other devastating circumstances which greatly imperil the present and future welfare of the state as a whole, so that the Forty-seventh General Assembly has now determined that a new and additional emergency has arisen, and the governor has by proclamation so declared, therefore,

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

1 SECTION 1. That the Forty-seventh General Assembly hereby de-
 2 clares and determines that the emergency which existed when chapter
 3 one hundred seventy-nine (179) of the acts of the Forty-fifth General
 4 Assembly, and chapter one hundred ten (110) of the acts of the Forty-
 5 sixth General Assembly, were enacted does continue to exist, aggra-
 6 vated by new and distressing conditions, which of themselves consti-
 7 tute a new emergency, and that such emergency at this time is general
 8 throughout the state of Iowa, and that the safety and future welfare
 9 of the state as a whole is endangered thereby. The General Assembly
 10 acting under the power reserved by the people of Iowa does hereby
 11 enact the following:

1 "SEC. 2. In all foreclosure actions in which order has been entered
2 extending the period of redemption to March 1, 1937, as provided by
3 chapter 110 of the acts of the Forty-sixth General Assembly, and in all
4 foreclosure actions on mortgages and deeds of trust executed prior to
5 January 1, 1936, in which decrees have been entered but the period of
6 redemption has not expired, the court shall, unless upon hearing upon
7 said application good cause is shown to the contrary, or said applica-
8 tion is found not to have been made in good faith, order that no sher-
9 iff's deed shall be issued until March 1, 1939, and in the meantime
10 said owner or owners may redeem such property, and are entitled to
11 possession thereof. However a showing of present insolvency of the
12 mortgagor or mortgagors and/or present inadequacy of the security
13 shall not in themselves be sufficient to constitute good cause within the
14 meaning of this act.

15 "Provided, the court having jurisdiction of such foreclosure action
16 shall order and direct, that there shall be applied from the income of
17 said real estate so much thereof as is just and equitable, toward the
18 payment of taxes accruing thereon during the period of redemption
19 extension as provided by this act, and any balance distributed as the
20 court may direct, and shall make such provision for the preservation
21 of said property as will be just and equitable during the redemption
22 period, and to this end the court may, in his discretion, in order to
23 carry out the foregoing powers, appoint a receiver of said real estate,
24 and invest said receiver with such powers as the court may find will
25 be just and equitable to all parties to the proceeding.

26 "Providing, that in the event the said owner or owners do not com-
27 ply with the orders of the court, the order for extension of redemption
28 period as authorized by this act shall, on proper hearing, be set aside
29 by order of the court.

1 "SEC. 3. During the period of extension of redemption, as herein
2 provided, the owner or owners of said real estate shall have the ex-
3 clusive right to redeem, and the rights of redemption of subsequent
4 mortgagees, junior lienholders, and creditors shall terminate within the
5 period as by law now provided, the provisions of this act notwith-
6 standing.

1 "SEC. 4. During the period of extension of redemption, as herein
2 provided, the clerk of the district court of the county in which such
3 foreclosure action is brought, shall receive and disburse the income
4 from said real estate, as the court shall order as just and equitable.

1 "SEC. 5. Immediately upon this act going into effect the clerk of
2 the district court shall notify by registered mail in properly addressed
3 and stamped envelopes at their last known addresses all defendant
4 mortgagors or grantors of deeds of trust who have been granted ex-
5 tensions of the period of redemption, and which have not been revoked,
6 and also their attorney or attorneys of record, that unless an applica-
7 tion for a further extension under this chapter is made before March 1,
8 1937, that the extension theretofore granted shall automatically expire.

1 **SEC. 6. Immediately upon filing of the application for the further
2 extension of a period of redemption, the court shall set the time and

* Note: Amended by H. F. 341, Acts 47th G. A.

3 place of hearing and prescribe the kind of notice to be given to all
 4 parties plaintiff, and no sheriff's deed shall issue until the hearing is
 5 had upon such application and the extension of the period of redemp-
 6 tion denied, and unless good cause is shown why said extension should
 7 not be granted until March 1, 1939, as provided in section 2 of this act,
 8 the court shall grant the extension.

1 *"SEC. 7. All applications which have been filed for extension of
 2 redemption and upon which no hearings have been held shall be in
 3 full force and effect.

1 "SEC. 8. The words 'owner or owners' as used in this act, shall
 2 include any person holding rights in real estate as joint tenant, tenant
 3 in common, life tenant, devisee or heir at law and/or any person hold-
 4 ing the legal title to real estate. The application for extension by one
 5 or more owners, when made as provided in this act, shall inure to the
 6 benefit of all of the owners, if there be more than one.

1 "SEC. 9. All acts or parts of acts in conflict with this act are hereby
 2 suspended.

1 "SEC. 10. If any section, subsection, clause, sentence, or phrase
 2 of 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
 4 of 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. 11. This act being deemed of immediate importance shall be
 2 in full force and effect after its passage and publication in the Daily
 3 Freeman-Journal, a newspaper published at Webster City, Iowa, and
 4 in the Eagle Grove Eagle, a newspaper published at Eagle Grove, Iowa.

Senate File No. 16. Approved February 17, 1937.

I hereby certify that the foregoing act was published in the Eagle Grove Eagle,
 February 18, 1937, and the Freeman-Journal, Webster City, February 18, 1937.

ROBERT E. O'BRIAN, *Secretary of State.*

CHAPTER 79

REDEMPTION

H. F. 341

AN ACT to amend senate file sixteen (16), of the acts of the Forty-seventh General Assembly of the state of Iowa, and providing for jurisdiction of the judge of the district court either in term time or in vacation to make an order fixing time and place of hearing, and manner of service of notice on an application for extension of the right of redemption, and providing that the filing of the application for an extension of the right of redemption shall automatically extend the period of redemption until final hearing on the application, and staying the issuance of sheriff's deeds.

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

1 SECTION 1. That Senate File sixteen (16) of the acts of the Forty-
 2 seventh General Assembly of the state of Iowa be and the same is

* Note: Amended by H. F. 341, Acts 47th G. A.