

11 tion of such funds may in its discretion, upon the application of the
 12 executor, administrator or trustee, as the case may be, enter an order
 13 authorizing such executor, administrator or trustee to pay such be-
 14 quest, legacy, share or interest to the parents or natural guardian of
 15 such minor, or to the person with whom such minor resides, for the
 16 use of such minor, and the receipt of such person or persons therefor,
 17 when presented to the court or filed with the report of distribution of
 18 any such executor, administrator or trustee, shall have the same force
 19 and effect as though such payment had been made to a duly appointed
 20 and qualified legal guardian of the person or property of such minor."

Approved April 10, 1939.

CHAPTER 245

REAL ESTATE MORTGAGE FORECLOSURE CONTINUANCES

S. F. 489

AN ACT to amend chapter five hundred twenty-five (525) code, 1935, and to grant additional power to courts of equity, to extend the time for entering judgments or decrees of foreclosure under certain conditions enumerated in this act, providing for continuance, and for appointment of a receiver, prescribing the powers and duties of the receiver, providing for the distribution of funds coming into the hands of the receiver and providing for other incidental and related matters.

WHEREAS, whenever a real estate mortgage or deed of trust or contract for sale of real estate is foreclosed due to default in payment or inability to pay on the part of the owner of such real estate by reason of drought, flood, heat, hail, storm or other climatic conditions or by reason of the infestation of pests, which affect the land in controversy, the safety and future welfare of the people of Iowa is endangered thereby, and acting under the police power reserved by the people of Iowa* does hereby provide that the following procedure shall be used by the Courts of this State, now, therefore:—

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

1 SECTION 1. That in all actions for the foreclosure of real estate
 2 mortgages, deeds of trust of real property and contracts for the pur-
 3 chase of real estate, when the owner or owners enter appearance and
 4 file answer admitting some indebtedness and breach of the terms of
 5 the above designated instrument (which admissions cannot after a
 6 continuance is granted hereunder, be withdrawn or denied) such
 7 owner or owners may apply for a continuance of the foreclosure
 8 action when and where the default or inability of such party or par-
 9 ties to pay or perform is mainly due or brought about by reason of
 10 drought, flood, heat, hail, storm or other climatic conditions or by
 11 reason of the infestation of pests which affect the land in controversy,
 12 or when the governor of the state of Iowa by reason of a depression
 13 shall have by proclamation declared a state of emergency to exist
 14 within this state. Said applications must be in writing and filed at or
 15 before final decree. Upon the filing of such application the court shall

*Note: In accordance with enrolled bill.

16 set a day for hearing of the same and provide by order for notice,
 17 to be given to plaintiff, of the time fixed for said hearing. If the court
 18 shall on said hearing find that the application is made in good faith,
 19 and the same is supported by competent evidence showing that default
 20 in payment or inability to pay is due to drought, flood, heat, hail, storm
 21 or other climatic conditions or due to infestation of pests or when the
 22 governor of the state of Iowa by reason of a depression shall have by
 23 proclamation declared a state of emergency to exist within this state,
 24 the court may in its descretion* continue said foreclosure proceeding
 25 or proceedings as follows:

26 a. If the default or breach of terms of the written instrument or
 27 instruments on which the action is based occur on or before the first
 28 day of March of any year by reason of any of the causes herein before
 29 specified, causing the loss and failure of crops on the land involved
 30 in the previous year, then the continuance shall end on the first day
 31 of March of the succeeding year.

32 b. If the default or breach of terms of said written instrument
 33 occur after the first day of March, but during that crop year and that
 34 year's crop fails by reason of any of the causes hereinbefore set out,
 35 then the continuance shall end on the first day of March of the second
 36 succeeding year.

37 c. Only one such continuance shall be granted, except upon a show-
 38 ing of extraordinary circumstances in which event the court may in
 39 its discretion grant a second continuance for such further period as
 40 to the court may seem just and equitable, not to exceed one year.

41 d. The order shall provide for the appointment of a receiver to take
 42 charge of the property and to rent the same and the owner or party
 43 in possession shall be given preference in the occupancy thereof and
 44 the receiver shall collect the rents and income and distribute the pro-
 45 ceeds as follows:

- 46 1. For the payment of the costs of receivership.
- 47 2. For the payment of taxes due or becoming due during the
- 48 period of receivership.
- 49 3. For the payment of insurance on the buildings on the premises.
- 50 4. The balance remaining shall be paid to the owner of the written
- 51 instrument upon which the foreclosure is based, to be credited
- 52 thereon.

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

1 SEC. 3. This act, being deemed of immediate importance, shall
 2 become effective from and after its publication in the Hawarden In-
 3 dependent, a newspaper published at Hawarden, Iowa, and in the St.
 4 Charles News, a newspaper published at St. Charles, Iowa.

Approved April 26, 1939.

I hereby certify that the foregoing act was published in the Hawarden Independent,
 May 4, 1939, and the St. Charles News, May 4, 1939.

EARL G. MILLER, *Secretary of State.*

*Note: In accordance with enrolled bill.