

No. 31, A.]

[Published April 9, 1941.

CHAPTER 31.

AN ACT to amend 269.58 (1), (2) and (3), 281.20, 281.209 (1), (3) and (4), 281.21 (2) and 281.25 (1), to repeal and recreate 281.201 (2), and to repeal 281.22 and 281.26 of the statutes, relating to the moratorium on the foreclosures of real estate.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Subsections (1), (2) and (3) of section 269.58 of the statutes are amended to read:

(269.58) (1) It is declared that the provisions of this section are made necessary by a public emergency growing out of the present depression, resulting in numerous suits on evidence of indebtedness secured by real estate mortgages, and the consequent destruction of credit and property values, which condition seriously affects so many of our citizens as to imperil the public welfare, health and morals, and the peace and security of the people of the state. This act is declared to be temporary, and unless earlier repealed, shall terminate on April 1, * * * 1943, and shall apply to pending proceedings.

(2) No judgment in any action at law or equity shall be entered in any proceeding on an evidence of indebtedness secured by a mortgage on real estate where no action for the foreclosure of the mortgage has been commenced, except as hereinafter provided. In any such action the plaintiff, or his successors in interest, shall first apply to the court for entry of judgment, and shall serve notice of the application therefor by mail, directed to the last known address, posted at least 5 days before the hearing, upon the record owner of the equity of redemption of the property securing said indebtedness, and upon all parties who have appeared in the action or their attorneys; and all proceedings shall be stayed during the pendency of such hearing, and upon the hearing of such application the court shall fully inquire in regard to and upon all the facts and circumstances of the case, and may direct that no judgment be entered upon the indebtedness secured by said mortgage without foreclosure of the mortgage until the expiration of a reasonable period after hearing not exceeding one

year at a time, and in no event beyond March 1, * * * 1943, which order shall be subject to revision, but the entry of such judgment shall in no event be deferred beyond April 1, * * * 1943. On his application for such extension the party making the same shall set forth in a verified petition his economic condition, circumstances and earnings for the previous year. The extension may be granted by the court where the applicant shall pay, during the period for which the extension is made, the taxes and insurance, or the taxes, insurance and interest, in the discretion of the court.

(3) The provisions of this section shall not apply to any contract entered into on or after July 1, * * * 1933; *nor shall the provisions of this section apply to any action where the real estate involved is not a home as defined in section 281.201.*

SECTION 2. Section 281.20 of the statutes is amended to read:

281.20 It is hereby declared that a public economic emergency does, and continues to, exist in the state of Wisconsin. This economic emergency has deprived thousands of people in this state of employment, has necessitated the expenditure of many millions of public funds within this state to prevent starvation, has thrown the burden of support of thousands on the state and nation, and has caused many of the people of this state to lose their homes, their farms and their places of business, and threatens the loss of homes and lands which furnish those in possession the necessary shelter and means of subsistence, and resulting in increased burden on the State. In view of this emergency it is deemed necessary to adopt reasonable means to safeguard and preserve through this crisis the vital economic structure upon which the good of all depends. Such measures are designated "emergency legislation". All laws so designated shall expire when the emergency ceases, which shall be so proclaimed by the governor, and in any event, not later than April 1, * * * 1943, unless another date is specifically provided. Emergency legislation shall prevail over any other provisions of the statutes with which it may conflict.

SECTION 3. Subsection (2) of section 281.201 of the statutes is repealed and recreated to read:

(281.201) (2) "Home" means:

(a) A farm, irrespective of acreage, and the dwelling house thereon and the appurtenances owned and occupied as a home by the owner of the fee and operated as one farm; or

(b) Any single or two-family house with a private garage and out buildings located on not exceeding one-fourth of an acre in any city, village or recorded plat owned and occupied as a home by the owner of the fee.

SECTION 4. Subsections (1), (3) and (4) of section 281.209 of the statutes are amended to read:

(281.209) (1) Where any mortgage upon a home, as defined in subsection (2) of section 281.201, has been foreclosed and the period of redemption has not yet expired, or where a sale is hereafter had in the case of such real estate mortgage foreclosure proceedings, now pending, or which may hereafter be instituted prior to April 1, * * * 1943, or upon the sale of any such home under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter and prior to April 1, * * * 1943, the period of redemption may be extended for such additional time as the court may deem just and equitable but in no event beyond April 1, * * * 1944; provided that the mortgagor, or the owner of said property, in the case of mortgage foreclosure proceedings, or the judgment debtor, in case of sale under judgment or execution, shall prior to the expiration of the period of redemption, apply to the court having jurisdiction of the matter, on not less than 10 days' written notice to the mortgagee or judgment creditor, or the attorney of either, as the case may be, for an order determining the reasonable value of the income on said property, or, if the property has no income, then the reasonable rental value of the property involved in such sale, and directing and requiring such mortgagor, owner or judgment debtor, to pay all or a reasonable part of such income or rental value, in or toward the payment of taxes, insurance, interest, mortgage or judgment indebtedness at such times and in such manner as shall be fixed and determined and ordered by the court; and the court shall thereupon hear said application and after such hearing shall make and file its order directing the payment by such mortgagor, owner or judgment debtor, of such an amount at such times and in

such manner as to the court shall, under all the circumstances, appear just and equitable. Provided that upon the service of the notice aforesaid the running of the period of redemption shall be tolled until the court shall make its order upon such application. Provided, further, however, that if such mortgagor, owner or judgment debtor or personal representative, shall default in the payments, or any of them, in such order required, on his part to be done, or commits waste, his right to redeem from said sale shall terminate 60 days after such default, unless in the meantime such default shall have been made up, and holders of subsequent liens may redeem in the order and manner now provided by law beginning 30 days after the filing of notice of such default with the clerk of such court, unless such default shall have been made up, and his right to possession shall cease and the party acquiring title to any such real estate shall then be entitled to the immediate possession of said premises. If default is claimed on account of waste, such 60-day period shall not begin to run until the filing of an order of the court finding such waste. Provided, further, that the time of redemption from any such real estate mortgage foreclosure or judgment or execution sale heretofore, made, which otherwise would expire less than 30 days after the passage of this section, shall be and the same hereby is extended to a date 30 days after such passage, and in such case, the mortgagor, or judgment debtor, or the assigns or personal representative of either, as the case may be, or the owner of the property, may, prior to said date, apply to said court for and the court may thereupon grant the relief as hereinbefore and in this section provided. Provided, further, that no execution on any judgment entered in any action at law or equity on an evidence of indebtedness secured by a mortgage on a home, as defined in subsection (2) of section 281.201, shall be levied on such home until after the expiration of the period for the redemption of such home on foreclosure of the mortgage.

(3) In all mortgage foreclosure actions in which application for judgment of foreclosure and sale shall be made prior to April 1, * * * 1944, the defendants against whom a deficiency judgment is demanded and the defendants in possession of the mortgaged real estate shall be entitled to notice of such

application whether they shall have appeared in such action or not. Such notice shall be given personally or by registered mail direct to the last known address, posted at least 5 days prior to the date when the application is to be heard.

(4) The trial of any action, hearing or proceeding mentioned in this section shall be held within 30 days after the filing by any party of notice of hearing or trial, as the case may be, and such hearing or trial may be held at any general or special term, or in chambers, or during vacation of the court, and the order of the court shall be filed within 5 days after trial or hearing. This section is emergency legislation, *and the extension of the moratorium provisions of this section from April 1, 1941, to April 1, 1943, shall apply only to homes as defined in section 281.201.*

SECTION 5. Subsection (2) of section 281.21 of the statutes is amended to read:

(281.21) (2) Sections 281.20 to 281.209 shall apply only to mortgages and contracts made prior to July 1, * * * 1933. This section is emergency legislation.

SECTION 6. Section 281.22 of the statutes is repealed.

SECTION 7. Subsection (1) of section 281.25 of the statutes is amended to read:

(281.25) (1) In any action for the foreclosure of a land contract, or for the performance of such land contract, in which judgment shall be entered prior to April 1, * * * 1943, the court in its discretion may fix a period of redemption not to exceed 3 years conditioned that during such period the defendant pay the current interest or taxes, or both, in the discretion of the court. This subsection shall not apply to land contracts entered into after July 1, * * * 1933. This is emergency legislation, *and the extension of the moratorium provisions of this section from April 1, 1941 to April 1, 1943, shall apply only to homes as defined in section 281.201.*

SECTION 8. Section 281.26 of the statutes is repealed.

Approved April 7, 1941.