

No. 26, A.]

[Published March 27, 1931.

CHAPTER 20.

AN ACT to repeal section 241.16 and to amend section 241.13 of the statutes, relating to chattel mortgage sales.

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

SECTION 1. Section 241.16 of the statutes is repealed.

SECTION 2. Section 241.13 of the statutes is amended to read: 241.13 (1) No *private or public* sale of any personal property taken by virtue of any chattel mortgage, lease or other instrument intended as security, except instruments covered by chapter 122, except by consent of the mortgagor, his legal representatives or assigns, shall be made * * * *unless at least five days before such sale the mortgagee or his agent shall serve upon the owner of the equity of redemption in such property so taken, if he resides within the county, a written notice of such proposed sale served either as a circuit court summons is served, or served by mailing to him by registered mail; nor shall any property during such time be removed from the county where it was situated when taken; and during such period such property shall be subject to redemption by payment of the mortgage debt, and the actual and necessary costs and expenses of taking and keeping it incurred at the time of making redemption.*

(2) (a) At any time prior to forty-eight hours in advance of a public sale the mortgagor may serve upon the mortgagee or his agent in charge of the property notice that he elects to have such public sale conducted by an auctioneer or other competent person, not interested in such sale or mortgaged property who shall reside within the city or village where such property is located, to be named in such notice, and thereafter no other person shall conduct such sale; provided, however, that if such auctioneer or other person so named shall not attend and conduct the sale, any other person may sell the mortgaged property at the request of the owner of the mortgage, lease or other instrument intended as security.

(b) Such auctioneer or other person shall be compensated wholly by the mortgagor and shall have no claim against the mortgagee or against the proceeds of the property sold, except that portion of the proceeds which belongs to the mortgagor.

The auctioneer or other person named in such last-mentioned notice shall conduct such sale, but shall forthwith turn over to the mortgagee or his agent all the proceeds of such sale to be accounted for and disposed of as provided by law.

(c) No costs or expense for taking and keeping property levied upon and seized before the debt for which such property was pledged as security becomes due shall be taxed or allowed, unless the mortgagee, his legal representatives or assigns, shall have given at least five days' written notice to the mortgagor, his assigns, or the person in whose possession the said mortgaged property shall be, of his intention to levy upon and take such property under and by virtue of such chattel mortgage, lease or other instrument intended as security, which said notice shall be served in the same manner as a summons in circuit court is served, or by registered mail.

* * * (3) The mortgagor, his wife, his assignee or assignees, may at any time after sale, within five days, redeem the property sold at the chattel mortgage sale at the actual amount at which same was sold, plus any expense necessary for the keeping of said property subsequent to the sale, and said property shall not be removed from the town in which said sale took place before the right of redemption expires. Any person aggrieved by a violation of any provision of this section may recover of the person who violated same, in addition to his actual damages, twenty-five dollars as liquidated damages. If any such property is sold at private or public sale, without * * * proper notice, or is sold within the period herein limited, without such consent the mortgage debt shall be deemed paid and the mortgage securing same be deemed canceled.

SECTION 3. This act shall take effect upon passage and publication.

Approved March 26, 1931.