

# JUDICIAL PROCEDURE, CIVIL

## CHAPTER 255

H. B. No. 786  
(Stockman)

### SALE OR CONVEYANCE OF REAL ESTATE, ENFORCEMENT OR CANCELLATION LIMITATION

#### AN ACT

To provide a limitation of ten years upon the commencement of an action or proceeding to cancel or enforce any contract for the sale or conveyance of real estate.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Cancellation or Enforcement of Contract for Sale of Real Estate: Limitation: When Time Begins to Run: Commencement of Proceedings.)** On and after July 1, 1960, no action or proceeding shall be maintained by a person out of possession to cancel or enforce any contract for the sale or conveyance of real estate, after twenty years from the date of said contract, as shown by the record of such instrument, or after twenty years from the date of recording of any instrument which describes or refers to such contract, which itself is not of record, unless the record of such contract or other instrument shows that less than ten years have elapsed since the due date of the last payment on the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon, or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension has not yet expired. The limitation of this Act shall not be extended by the nonresidence of any plaintiff or defendant or of any vendor or vendee, nor by reason of any payment made after the due date of the last payment on the indebtedness or part thereof, nor by reason of any disability of any party interested in the contract.

Approved March 12, 1959.

## CHAPTER 256

H. B. No. 785  
(Stockman)

## FORECLOSURE OF REAL ESTATE MORTGAGE LIMITATION

## AN ACT

To provide a limitation of ten years upon the commencement of an action or proceeding to foreclose a real estate mortgage and to repeal subsection 3 of section 28-0115 of the North Dakota Revised Code of 1943.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Foreclosure of Real Estate Mortgage: Limitation: When Time Begins to Run: Commencement of Proceedings.)** On and after July 1, 1960, no action or proceeding to foreclose a real estate mortgage heretofore or hereafter given, whether by action or advertisement, shall be maintained unless commenced within ten years from the due date of the last payment of the debt secured by the mortgage, as stated therein, and this limitation shall not be extended by the nonresidence of any plaintiff or defendant or any party interested in the land upon which the mortgage is a lien in any action to foreclose such mortgage, nor by reason of any payment made after such due date, nor by reason of any disability of any party interested in the mortgage, nor by reason of any extension of time of payment of the mortgage or the debt or obligation thereby secured or any portion thereof, unless such extension shall be in writing and shall have been recorded in the same office in which the original mortgage is recorded, within the limitation period herein provided, or prior to the expiration of any previously recorded extension of such mortgage or debt.

The time within which any such action or proceeding may be commenced shall begin to run from the date of such mortgage, unless the time of the due date of the last payment of the debt or obligation secured by such mortgage shall be clearly stated in such mortgage. Any action or proceeding to foreclose a real estate mortgage, whether by action, by advertisement or otherwise, commenced within the period of limitation herein provided may be prosecuted to completion notwithstanding the expiration of the period of limitation, and proceedings to foreclose a real estate mortgage by advertisement shall be deemed commenced on the date of the first publication of the notice of sale. A foreclosure action or proceeding shall also be deemed commenced by service or mailing of the

statutory notice of intention to foreclose, where such is required, providing that such service or mailing is followed by commencement of an action or by the first publication of a notice of mortgage foreclosure sale within ninety days.

**§ 2. Repeal.)** Subsection 3 of section 28-0115 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 12, 1959.