

MINNESOTA STATUTES 1947 ANNOTATIONS

1385 FORECLOSURE OF MORTGAGES; GENERAL PROVISIONS 582.14

CHAPTER 582

FORECLOSURE OF REAL ESTATE MORTGAGES; GENERAL PROVISIONS

582.02 MAY BE COLLECTED, WHEN.

Failure to record certificate of sale within time specified by statute. 10 MLR 355.

582.04 HOMESTEAD INCLUDED IN MORTGAGE; SEPARATE SALE.

Application of doctrine of marshalling assets. 23 MLR 692.

Effect of claim of homestead on creditor's rights. 25 MLR 66, 79.

582.05 COURT TO APPOINT RECEIVER OF RENTS WITH POSSESSION.

Appointment of a receiver is largely a matter of discretion, a discretion to be cautiously and sparingly exercised. The action of the court will not be reversed on appeal except for a clear abuse of discretion. In the instant case, the plaintiff was not entitled to the appointment of a receiver to collect and apply the rents upon unpaid taxes or on the mortgage debt remaining unpaid at the time of the foreclosure sale. *House v Anderson*, 197 M 283, 266 NW 739.

Interference with possession of the receiver as contempt. 17 MLR 560.

582.06 DEFAULT TO BE SHOWN.

To obtain the appointment of a receiver, the mortgagee must prove by clear and convincing evidence that his debtor is insolvent, his security inadequate, and security becoming impaired by waste caused or permitted by the mortgagor. *Justus v Fogerstrom*, 145 M 189, 176 NW 645; *Nielson v Heald*, 151 M 181, 186 NW 299; *Larson v Orfield*, 155 M 282, 193 NW 453; *Lincoln Nat'l Life v Brack*, 196 M 433, 265 NW 290.

Covenants of title in mortgages. 12 MLR 34.

582.09 RECEIVER TO FILE ACCOUNT FOR APPROVAL.

The final account of the receiver was properly surcharged for certain personal property of the mortgagor which he did not retain in his custody when the redemption period expired. The expense of the receivers in foreclosure of the third mortgage were not entitled to precedence over the expenses of the receiver in foreclosure of the second mortgage. *City Nat'l Bank v Cascade Apartment Co.* 179 M 362, 229 NW 349.

582.11 POWERS AND DUTIES OF TRUSTEES IN CERTAIN CASES.

Power of trustee of bondholder to bid at foreclosure sale. 26 MLR 565.

582.12 COURT'S POWERS OVER TRUSTS NOT LIMITED.

Jurisdiction to remove a trustee under a trust deed. 18 MLR 565; 19 MLR 800.

582.13 STATE OF MINNESOTA MAY BE MADE DEFENDANT IN CERTAIN CASES.

This section does not supersede any express provision relating to actions to which the state may be made a party. See L. 1943, c. 134 and L. 1943, c. 662. 31 MLR 65.

582.14 LIMITATION ON FORECLOSURE.

Amended by L. 1947 c. 392 s. 1.

Notice prescribed in this section need not be recorded; filing alone is required. OAG Jan. 3, 1946 (373-b-16).