

SUBSTITUTES FOR HOUSE FILES NOS. 18, 51, 149 AND 154.]

A BILL

*Com. on
Judiciary*

FOR AN ACT REGULATING AND DEFINING THE RIGHTS AND DUTIES OF MORTGAGEES AND MORTGAGORS OF PERSONAL PROPERTY, AND THE RIGHTS OF ATTACHING AND EXECUTION CREDITORS, AND ALSO AMENDATORY OF SECTION 1923, CODE OF 1873.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* The following shall be added to section 1923, of the Code of 1873: “The mortgagee, his agent or attorney, shall, before the instrument is filed for record, state thereon, under oath, the amount actually secured and owing, if given for money; and if given to secure further advances, in money or property; or to indemnify against liability, as surety, such statement shall set forth the nature and extent of the liability, and state that it was taken in good faith.”

SEC. 2. No recorder of any county shall receive any chattel mortgage for record without such sworn statement indorsed thereon or attached thereto.

SEC. 3. The interest of a mortgagor in personal property is subject to levy and sale under an execution or writ of attachment.

SEC. 4. Any junior lien holder on personal property shall have the right to redeem from the senior by paying him the amount of his claim; and on demand of any junior lien holder, the senior shall make oath in writing as to the amount of his claim, and if he refuse to make oath, or refuse to accept the amount claimed when tendered, the said senior's lien shall be postponed to that of the junior's offering to redeem. Said senior lien holder shall, on payment of the amount of his claim, assign his mortgage or lien to said junior or redeeming creditor.

SEC. 5. Any mortgagee or attaching or execution creditor shall be considered a lien holder for the purposes of this act.

SEC. 6. Should any junior lien holder offering to redeem be dissatisfied with the sworn statement of the amount due, the proceedings may be transferred to district or circuit court on notice, the same as other actions at law, and then tried, the same as in relation to traversing the answers of the garnishee under garnishment.

SEC. 7. Any mortgagor may stay proceedings of foreclosure of a chattel mortgage at any time by confessing judgment for the amount due and procuring sureties approved by the clerk, as

3 provided by law in other cases; and the property, if taken under said mortgage, shall be returned
4 to the mortgagor, and when the stay expires foreclosure proceedings may be commenced and the
5 property sold, or so much thereof as may be necessary to satisfy the amount due with costs, and
6 if not sufficient then general execution shall issue for the balance against the principal and surety
7 in said stay, as now provided by law.

SEC. 8. This act, being deemed of immediate importance, shall take effect from and after its
2 publication in the *Iowa State Register* and *Iowa State Leader*, newspapers published at Des Moines,
3 Iowa.