

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1049

Introduced by Wightman, 36.

Read first time January 22, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to civil procedure; to amend section 25-202,
2 Reissue Revised Statutes of Nebraska; to change
3 provisions relating to actions for the recovery of title
4 or possession of real estate or foreclosure of mortgages
5 or deeds of trust as mortgages; and to repeal the
6 original section.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-202, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-202 (1) An action for the recovery of the title or
4 possession of lands, tenements, or hereditaments, or for the
5 foreclosure of mortgages or the foreclosure of deeds of trust as
6 mortgages thereon, can only be brought within ten years after the
7 cause of action accrues or within twenty years after the cause of
8 action accrues in the case of a platted and subdivided lot. No
9 limitation shall apply to the time within which any county, city,
10 town, village, other municipal corporation, public power and
11 irrigation district, public power district, public irrigation
12 district organized under Chapter 70, article 6, irrigation district
13 organized under Chapter 46, article 1, or natural resources district
14 may begin an action for the recovery of the title or possession of
15 any public road, street, or alley, other public or political
16 subdivision grounds or lands, or city or town lots.

17 (2) For the purposes of this section as relates only to
18 the rights and interests of subsequent purchasers and encumbrancers
19 for value:

20 (a) The cause of action for foreclosure of the mortgage
21 or foreclosure of the deed of trust as a mortgage accrues on the last
22 date of maturity of the debt or other obligation secured by the
23 mortgage or deed of trust as the date is stated in or is
24 ascertainable from the filed record of the mortgage or deed of trust
25 or the filed record of an extension of the mortgage or deed of trust;

1 (b) If no date of maturity is stated or is ascertainable
2 from the filed mortgage or deed of trust or the filed extension, the
3 cause of action for foreclosure of the mortgage or foreclosure of the
4 deed of trust as a mortgage accrues no later than thirty years after
5 the date of the mortgage or deed of trust; or

6 (c) If the mortgage creditor files an affidavit to the
7 effect that the mortgage or deed of trust is unpaid and is still a
8 valid lien, the affidavit is filed before the cause of action is
9 barred under this section, and the affidavit is filed for record in
10 the office of the register of deeds, the cause of action is not
11 barred until ten years after the date the affidavit is filed, except
12 as provided in subsection (1) of this section. The period of ten
13 years shall not be extended by nonresidence, legal disability,
14 partial payment, acknowledgment of debt, or promise to pay, except as
15 provided in subsection (1) of this section.

16 Sec. 2. Original section 25-202, Reissue Revised Statutes
17 of Nebraska, is repealed.