



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1978

No. 116 of 1978

An Act to amend the Real Property Act, 1886-1975.

[Assented to 7th December, 1978]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Real Property Act Amendment Act, 1978". Short title.

(2) The Real Property Act, 1886-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Real Property Act, 1886-1978".

2. Sections 146, 147 and 148 of the principal Act are repealed and the following section is enacted and inserted in their place:—

Repeal of ss. 146, 147 and 148 of principal Act and enactment of section in their place.

146. (1) Where—

(a) all moneys due under a mortgage have been paid by the mortgagor;

and

(b) the mortgagee—

(i) is dead;

(ii) cannot be found;

or

(iii) is incapable of executing a discharge of the mortgage,

Discharge of mortgage by Treasurer in certain cases.

the Treasurer may execute a discharge of the mortgage.

(2) The Treasurer may receive moneys on behalf of a mortgagee, or the estate of a mortgagee, who—

(a) is dead;

(b) cannot be found;

or

(c) is incapable of executing a discharge of the mortgage,

and any moneys so received shall, for the purposes of this section, and the mortgage, be deemed to have been paid to the mortgagee.

(3) Any moneys received by the Treasurer under subsection (2) of this section shall be held by him upon trust for the mortgagee or other person entitled thereto.

(4) Subject to subsection (5) of this section, a discharge of mortgage executed under this section shall have the same effect as a discharge executed by the mortgagee.

(5) A discharge of mortgage executed under this section shall not operate as a discharge of the personal covenants of the mortgage.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor