

**CHAPTER 365****THE REAL ESTATE CHARGES ACT**Arrangement of Sections  
Section

1. Short title.
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3. Heir or devisee of real estate not to claim payment of mortgage out of personal assets.
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**REAL ESTATE CHARGES***(31st December, 1887.)*14/1887.  
32/1956.

**1.** This Act may be cited as the Real Estate Charges Act. **Short title.**

**2.** In this Act— **Interpretation.**

“mortgage” shall be deemed to extend to any lien for unpaid purchase money upon any lands or hereditaments purchased by a testator or intestate.

**3.** When any person shall, after the thirty-first day of March, 1888, die seised of or entitled to any estate or interest in any land or other hereditaments, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not, by his will, or deed, or other document, have **Heir or devisee of real estate not to claim payment of mortgage out of personal assets.**

signified any other or contrary intention, the heir or devisee to whom such lands or hereditaments shall descend or be devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage debts charged on the whole thereof:

Provided that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage debt either out of the personal estate of the person so dying as aforesaid, or otherwise:

Provided, also, that nothing herein contained shall affect the right of any person claiming under or by virtue of any will, deed, or document already made, or to be made before the first day of April, 1888.

**General direction  
in will  
concerning debts.**

**4.** In the construction of the will of any person who may die after the thirty-first day of March, 1888, a general direction that the debts, or that all the debts, of the testator shall be paid out of his personal estate shall not be deemed to be a declaration of an intention contrary to or other than the rule established by section **3**, unless such contrary or other intention shall be further declared by words expressly, or by necessary implication, referring to all or some of the testator's debts or debt charged by way of mortgage on any part of his real estate.

**Application of  
enactments in  
preceding  
sections.**

**5.** The enactments contained in the preceding sections shall, as to any testator or intestate dying after the thirty-first day of March, 1888, be held to extend to a testator or intestate dying seised or possessed of, or entitled to, any land or other hereditaments of whatever tenure which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, or any other equitable charge, including any lien for unpaid purchase money; and the devisee, or legatee, or heir shall not be entitled to have such sum or sums discharged or satisfied out of any other estate of the testator or intestate, unless,

in the case of a testator, he shall, within the meaning of the said enactments, have signified a contrary intention; and such contrary intention shall not be deemed to be signified by a charge of, or direction for payment of, debts upon or out of residuary real and personal estate, or residuary real estate.

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