

A bill for an act

relating to real property; modifying provisions governing eviction of tenants in property subject to mortgage foreclosure or termination of contract for deed; specifying requirements for vendors under contracts for deed; modifying mortgage foreclosure notices and information requirements; modifying provisions for sheriff's sale postponement and perpetuating evidence of sale; amending Minnesota Statutes 2008, sections 504B.285, subdivision 1; 507.235, by adding a subdivision; 580.021, subdivisions 1, 2; 580.025; 580.04; 580.041, subdivision 1a; 580.042, subdivision 1; 580.07; 580.15.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 504B.285, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The person entitled to the premises may recover possession by eviction when:

(1) any person holds over real property:

(i) after a sale of the property on an execution or judgment; or

(ii) after the expiration of the time for redemption on foreclosure of a mortgage, or after termination of contract to convey the property, provided that if the person holding the real property after the expiration of the time for redemption or termination was a tenant during the redemption or termination period, ~~the person entered into the~~ under a lease of any duration and the lease began after the date of the notice of the mortgage foreclosure or contract for deed ~~cancellation and was executed but~~ prior to the expiration of the time for redemption or termination, and the person has received:

(A) at least two months' written notice to vacate no sooner than one month after the expiration of the time for redemption or termination, provided that the tenant pays the rent and abides by all terms of the lease; or

2.1 (B) at least two months' written notice to vacate no later than the date of the
2.2 expiration of the time for redemption or termination, which notice shall also state that the
2.3 sender will hold the tenant harmless for breaching the lease by vacating the premises if the
2.4 mortgage is redeemed or the contract is reinstated;

2.5 (2) any person holds over real property after termination of the time for which
2.6 it is demised or leased to that person or to the persons under whom that person holds
2.7 possession, contrary to the conditions or covenants of the lease or agreement under which
2.8 that person holds, or after any rent becomes due according to the terms of such lease or
2.9 agreement; or

2.10 (3) any tenant at will holds over after the termination of the tenancy by notice to quit.

2.11 Sec. 2. Minnesota Statutes 2008, section 507.235, is amended by adding a subdivision
2.12 to read:

2.13 Subd. 1a. **Requirements of vendor.** (a) A vendor entering into a contract for deed
2.14 involving residential real property must, contemporaneously with the execution of the
2.15 contract for deed:

2.16 (1) deliver to the vendee a copy of the contract for deed containing original
2.17 signatures in recordable form; and

2.18 (2) pay, or reimburse the vendee for payment of, any delinquent taxes necessary for
2.19 recordation of the contract for deed, unless the contract for deed provides for the vendee to
2.20 pay the delinquent taxes.

2.21 (b) For purposes of this subdivision:

2.22 (1) "contract for deed" has the meaning given in section 559.202, subdivision 2; and

2.23 (2) "residential real property" has the meaning given in section 559.202, subdivision
2.24 2.

2.25 **EFFECTIVE DATE.** This section is effective for contracts for deed acknowledged
2.26 on or after August 1, 2009.

2.27 Sec. 3. Minnesota Statutes 2008, section 580.021, subdivision 1, is amended to read:

2.28 Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages by
2.29 advertisement under this chapter and foreclosure of mortgages by action under chapter
2.30 581 on property consisting of one to four family dwelling units, one of which the owner
2.31 occupies as the owner's principal place of residency ~~on the date of service of the notice of~~
2.32 ~~sale of the owner~~ when the notice of pendency under section 580.032 or the lis pendens
2.33 for a foreclosure under chapter 581 is recorded.

3.1 EFFECTIVE DATE. This section is effective for foreclosures in which the notice
3.2 of pendency under section 580.032 or the lis pendens for a foreclosure under chapter
3.3 581 is recorded on or after August 1, 2009.

3.4 Sec. 4. Minnesota Statutes 2008, section 580.021, subdivision 2, is amended to read:

3.5 Subd. 2. **Requirement to provide notice of opportunity for counseling.** ~~When~~
3.6 ~~the written notice required under section 47.20, subdivision 8, is provided and~~ Before
3.7 the notice of pendency under section 580.032, subdivision 3, or the lis pendens for a
3.8 foreclosure under chapter 581 is filed recorded, a party foreclosing ~~on~~ a mortgage must
3.9 provide to the mortgagor information contained in a form prescribed in section 580.022,
3.10 subdivision 1, that:

3.11 (1) foreclosure prevention counseling services provided by an authorized foreclosure
3.12 prevention counseling agency are available; and

3.13 (2) ~~notice that~~ the party will transmit the homeowner's name, address, and telephone
3.14 number to an approved foreclosure prevention agency.

3.15 ~~Nothing in this subdivision prohibits~~ The notices required by this subdivision ~~from~~
3.16 ~~being~~ may be provided concurrently with the a written notice required under section
3.17 47.20, subdivision 8 of default.

3.18 For the purposes of this section, an "authorized foreclosure prevention counseling
3.19 agency" or "counseling agency" is a government agency or a nonprofit agency approved
3.20 funded, all or in part, for foreclosure prevention services, by the Minnesota Housing
3.21 Finance Agency or the United States Department of Housing and Urban Development, or
3.22 otherwise approved by the United States Department of Housing and Urban Development
3.23 to provide foreclosure prevention counseling services.

3.24 EFFECTIVE DATE. This section is effective for foreclosures in which the notice
3.25 of pendency under section 580.032 or the lis pendens for a foreclosure under chapter
3.26 581 is recorded on or after August 1, 2009.

3.27 Sec. 5. Minnesota Statutes 2008, section 580.025, is amended to read:

3.28 **580.025 FORECLOSURE DATA.**

3.29 Subdivision 1. Applicability. This section applies to foreclosure of mortgages under
3.30 this chapter on property consisting of one to four family dwelling units.

3.31 Subd. 2. Data required. The notice of pendency required by section 580.032,
3.32 subdivision 3; the notice of sale required by section 580.04; and the certificate of sale

4.1 required by section 580.12 shall include the following information to the best of the
4.2 knowledge of the party foreclosing the mortgage:

4.3 (1) the physical street address, city, and zip code of the mortgaged premises;

4.4 (2) the name of the transaction agent, residential mortgage servicer, and the lender
4.5 or broker, as defined in section 58.02, if the person holding the mortgage is a transaction
4.6 agent as defined in section 58.02, subdivision 30, or the name of the residential mortgage
4.7 servicer and the lender or broker, as defined in section 58.02, if the person holding the
4.8 mortgage is not a transaction agent as defined in section 58.02, subdivision 30;

4.9 (3) the tax parcel identification number of the mortgaged premises;

4.10 (4) if stated on the mortgage, the transaction agent's mortgage identification number;
4.11 and

4.12 (5) if stated on the mortgage, the name of the residential mortgage originator as
4.13 defined in section 58.02.

4.14 No liability shall accrue to the party foreclosing the mortgage or the party's attorney
4.15 for de minimis, good faith, or commercially reasonable errors in this information. The
4.16 omission of all or some of the information required by this section from the notice shall
4.17 not invalidate the foreclosure of the mortgage.

4.18 **EFFECTIVE DATE.** This section is effective for foreclosures in which the notice
4.19 of pendency under section 580.032 is recorded on or after August 1, 2009.

4.20 Sec. 6. Minnesota Statutes 2008, section 580.04, is amended to read:

4.21 **580.04 REQUISITES OF NOTICE.**

4.22 (a) Each notice shall specify:

4.23 (1) the name of the mortgagor, the mortgagee, each assignee of the mortgage, if any,
4.24 and the original or maximum principal amount secured by the mortgage;

4.25 (2) the date of the mortgage, and when and where recorded, except where the
4.26 mortgage is upon registered land, in which case the notice shall state that fact, and when
4.27 and where registered;

4.28 (3) the amount claimed to be due on the mortgage on the date of the notice;

4.29 (4) a description of the mortgaged premises, conforming substantially to that
4.30 contained in the mortgage;

4.31 (5) the time and place of sale; and

4.32 (6) the time allowed by law for redemption by the mortgagor, the mortgagor's
4.33 personal representatives or assigns; ~~and~~

5.1 (b) If the real estate is an owner-occupied, single-family dwelling, the notice must
5.2 also specify the date on or before which the mortgagor must vacate the property if the
5.3 mortgage is not reinstated under section 580.30 or the property redeemed under section
5.4 580.23. The notice must state that the time to vacate the property is 11:59 p.m. on the
5.5 specified date.

5.6 ~~(7)~~ (c) If the party foreclosing the mortgage desires to preserve the right to reduce the
5.7 redemption period under section 582.032 after the first publication of the notice, the notice
5.8 must also state in capital letters: "THE TIME ALLOWED BY LAW FOR REDEMPTION
5.9 BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES
5.10 OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS
5.11 ENTERED UNDER MINNESOTA STATUTES, SECTION 582.032, DETERMINING,
5.12 AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED
5.13 WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT
5.14 PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED."

5.15 **EFFECTIVE DATE.** This section is effective for foreclosures in which the notice
5.16 of pendency under section 580.032 is recorded on or after August 1, 2009.

5.17 Sec. 7. Minnesota Statutes 2008, section 580.041, subdivision 1a, is amended to read:

5.18 Subd. 1a. **Applicability.** This section applies to foreclosure of mortgages by
5.19 advertisement under this chapter and foreclosure of mortgages by action under chapter
5.20 581 on property consisting of one to four family dwelling units, one of which the owner
5.21 occupies as the owner's principal place of residency ~~on the date of service of the notice of~~
5.22 ~~sale on the owner~~ when the notice of pendency under section 580.032 or the lis pendens
5.23 for a foreclosure under chapter 581 is recorded.

5.24 **EFFECTIVE DATE.** This section is effective for foreclosures in which the notice
5.25 of pendency under section 580.032 or the lis pendens for a foreclosure under chapter
5.26 581 is recorded on or after August 1, 2009.

5.27 Sec. 8. Minnesota Statutes 2008, section 580.042, subdivision 1, is amended to read:

5.28 Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages by
5.29 advertisement under this chapter and foreclosure of mortgages by action under chapter
5.30 581 on property consisting of one to four family dwelling units, one or more of which
5.31 are occupied by a tenant as a residence.

6.1 EFFECTIVE DATE. This section is effective for foreclosures in which the notice
6.2 of pendency under section 580.032 or the lis pendens for a foreclosure under chapter
6.3 581 is recorded on or after August 1, 2009.

6.4 Sec. 9. Minnesota Statutes 2008, section 580.07, is amended to read:

6.5 **580.07 POSTPONEMENT.**

6.6 (a) The sale may be postponed, from time to time, by the party conducting the
6.7 foreclosure; The party requesting the postponement must, at the party's expense:

6.8 ~~by inserting (1) publish, only once, a notice of the postponement and the rescheduled~~
6.9 ~~date of the sale, if known, as soon as practicable, in the newspaper in which the original~~
6.10 ~~advertisement notice under section 580.03 was published, at the expense of the party~~
6.11 ~~requesting the postponement. The notice shall be published only once; and~~

6.12 (2) send by first class mail to the occupant, postmarked within three business days of
6.13 the postponed sale, notice:

6.14 (i) of the postponement; and

6.15 (ii) if known, the rescheduled date of the sale and the date on or before which the
6.16 mortgagor must vacate the property if the sheriff's sale is not further postponed, the
6.17 mortgage is not reinstated under section 580.30, the property is not redeemed under
6.18 section 580.23, or the redemption period is not reduced under section 582.032. The notice
6.19 must state that the time to vacate the property is 11:59 p.m. on the specified date.

6.20 (b) If the rescheduled date of the sale is not known at the time of the initial
6.21 publication and notice to the occupant of postponement, the foreclosing party must, at
6.22 its expense if and when a new date of sale is scheduled:

6.23 (1) publish, only once, notice of the rescheduled date of the sale, as soon as
6.24 practicable, in the newspaper in which the notice under section 580.03 and the notice of
6.25 postponement under paragraph (a) was published; and

6.26 (2) send by first class mail to the occupant, postmarked within ten days of the
6.27 rescheduled sale, notice:

6.28 (i) of the date of the rescheduled sale; and

6.29 (ii) the date on or before which the mortgagor must vacate the property if the
6.30 mortgage is not reinstated under section 580.30 or the property redeemed under section
6.31 580.23. The notice must state that the time to vacate the property is 11:59 p.m. on the
6.32 specified date.

6.33 EFFECTIVE DATE. This section is effective for notices of postponement
6.34 published or served on or after August 1, 2009.

7.1 Sec. 10. Minnesota Statutes 2008, section 580.15, is amended to read:

7.2 **580.15 PERPETUATING EVIDENCE OF SALE.**

7.3 Any party desiring to perpetuate the evidence of any sale made in pursuance of
7.4 this chapter may procure:

7.5 (1) an affidavit of the publication of the notice of sale and of any notice of
7.6 postponement to be made by the printer of the newspaper in which the same was inserted
7.7 or by some person in the printer's employ knowing the facts;

7.8 (2) an affidavit or return of service of such notice upon the occupant of the mortgaged
7.9 premises to be made by the officer or person making such service or, in case the premises
7.10 were vacant or unoccupied at the time the service must be made, an affidavit or return
7.11 showing that fact, to be made by the officer or person attempting to make such service;

7.12 (3) an affidavit by the person foreclosing the mortgage, or that person's attorney, or
7.13 someone knowing the facts, setting forth the facts relating to the military service status of
7.14 the owner of the mortgaged premises at the time of sale;

7.15 (4) an affidavit by the person foreclosing the mortgage, or that person's attorney,
7.16 or someone having knowledge of the facts, setting forth the fact of service of notice of
7.17 sale upon the secretary of the Treasury of the United States or the secretary's delegate in
7.18 accordance with the provisions of Section 7425 of the Internal Revenue Code of 1954
7.19 as amended by Section 109 of the Federal Tax Lien Act of 1966, and also setting forth
7.20 the fact of service of notice of sale upon the commissioner of revenue of the state of
7.21 Minnesota in accordance with the provisions of section 270C.63, subdivision 11. Any
7.22 such affidavit recorded prior to May 16, 1967 shall be effective as prima facie evidence of
7.23 the facts therein contained as though recorded subsequent to May 16, 1967;

7.24 (5) an affidavit by the person foreclosing the mortgage, or that person's attorney, or
7.25 someone having knowledge of the facts, setting forth the names of the persons to whom a
7.26 notice of sale was mailed as provided by section 580.032; and

7.27 (6) one or more affidavits by the person foreclosing the mortgage, or that person's
7.28 attorney or a person having knowledge of the facts, stating:

7.29 (i) whether section 580.021, 580.04, 580.041, 580.042, 582.039, 582.041, or 582.042
7.30 apply to the foreclosure proceedings; and

7.31 (ii) if any or all of those sections apply, that all notices required under those sections
7.32 have been provided.

7.33 Such affidavits and returns shall be recorded by the county recorder and they and the
7.34 records thereof, and certified copies of such records, shall be prima facie evidence of the
7.35 facts therein contained.

S.F. No. 1302, 3rd Engrossment - 86th Legislative Session (2009-2010) [s1302-3]

8.1 The affidavit provided for in clause (3) hereof may be made and recorded for the
8.2 purpose of complying with the provisions of the Servicemembers Civil Relief Act, and
8.3 may be made and recorded at any time subsequent to the date of the mortgage foreclosure
8.4 sale.

8.5 **EFFECTIVE DATE.** This section is effective for sales conducted before, on, or
8.6 after August 1, 2009.