

HOUSE BILL NO. HB0189

Foreclosure and redemption revisions.

Sponsored by: Representative(s) Stubson and Senator(s)
Ross

A BILL

for

1 AN ACT relating to real property; specifying conditions
2 under which a foreclosure sale may be rescinded; amending
3 redemption periods for agricultural land; amending the
4 manner in which foreclosed distinct lots or tracts are
5 sold; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming;*

8

9 **Section 1.** W.S. 1-18-115 is created to read:

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11 **1-18-115. Rescission of foreclosure sale.**

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13 (a) A judicial or nonjudicial foreclosure sale may be
14 rescinded in accordance with this section at any time after
15 the sale but before the sheriff's deed has been recorded.

16

1 (b) If the purchaser at the foreclosure sale was the
2 foreclosing mortgagee, then the foreclosing mortgagee may
3 rescind the sale for any reason by executing and recording
4 a notice of foreclosure sale rescission in the office of
5 the county clerk of the county where the real estate is
6 located.

7

8 (c) If the purchaser at the foreclosure sale was not
9 the foreclosing mortgagee, then the foreclosing mortgagee
10 and the certificate holder may agree to rescind the
11 foreclosure sale for any reason. In order to rescind such
12 a foreclosure sale, the foreclosing mortgagee shall refund
13 to the certificate holder either an amount agreed upon by
14 the foreclosing mortgagee and the certificate holder, or
15 the foreclosure sale bid amount plus ten percent (10%)
16 interest per annum, calculated daily. In addition, both
17 the foreclosing mortgagee and the certificate holder shall
18 execute a notice of foreclosure sale rescission which shall
19 be recorded in the office of the county clerk of the county
20 where the real estate is located.

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22 (d) If the purchaser at the foreclosure sale was not
23 the foreclosing mortgagee, and the certificate holder will
24 not agree to rescind the foreclosure sale, then the

1 foreclosing mortgagee may still rescind the sale if the
2 statutory requirements for the foreclosure sale were not
3 fulfilled or if the foreclosure sale did not comply with
4 applicable federal or state law. In order to rescind such a
5 foreclosure sale, the foreclosing mortgagee shall refund to
6 the certificate holder the purchase price, plus ten percent
7 (10%) interest per annum, calculated daily, and the
8 foreclosing mortgagee shall execute and record a notice of
9 foreclosure sale rescission in the office of the county
10 clerk of the county where the real estate is located which
11 shall recite that the foreclosure sale is being rescinded
12 pursuant to this subsection. The refund of the certificate
13 holder's bid amount, plus interest, shall be the
14 certificate holder's only remedy notwithstanding any other
15 provision of law.

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17 (e) Upon recording a notice of foreclosure sale
18 rescission:

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20 (i) The mortgage and power of sale which are the
21 subject of the voided sale are revived and the mortgage may
22 be properly foreclosed in a subsequent foreclosure sale in
23 compliance with applicable law, and all junior liens and

1 rights of junior lienholders are revived with the same lien
2 priority as if no foreclosure sale had taken place;

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4 (ii) The certificate of sale is rendered null
5 and void as if no foreclosure sale had taken place; and

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7 (iii) The mortgagor's indebtedness to the
8 foreclosing mortgagee and all evidence thereof are revived
9 as of the date of the foreclosure sale and as if no
10 certificate of sale had been issued.

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12 **Section 2.** W.S. 1-18-104(b) and (e) and 34-4-107 are
13 amended to read:

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15 **1-18-104. Redemption by judgment creditors and**
16 **others; manner prescribed; subsequent redemptions;**
17 **possession, rents and profits, common carriers excepted.**

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19 (b) The redemptioner shall pay to the purchaser or to
20 the officer conducting the sale, either an amount agreed
21 upon by the purchaser and the redemptioner, or the amount
22 bid with interest at ten percent (10%) per annum from the
23 date of sale, and the amount of any assessments or taxes
24 and the amount due on any prior lien which the purchaser

1 may have paid after the purchase, with interest. If the
2 purchaser also has a lien prior to that of the
3 redemptioner, the redemptioner shall also pay the amount of
4 the lien with interest.

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6 (e) The execution debtor in case of a sale on
7 execution, and the mortgagor or owner in case of a mortgage
8 foreclosure, is entitled to possession of the lands sold
9 and to the rents and profits for a period of three (3)
10 months after the sale unless the property is agricultural
11 property in which case the entitlement to possession of the
12 lands sold and to the rents and profits shall be for a
13 period of twelve (12) months after the sale. At the
14 expiration of three (3) months from sale of nonagricultural
15 land and twelve (12) months from sale of agricultural land,
16 the purchaser is entitled to possession and to the rents
17 and profits of the lands until redemption is made from him,
18 and each redemptioner until another redemption is made is
19 likewise entitled to possession and to the rents and
20 profits.

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22 **34-4-107. Manner in which distinct tracts or lots**
23 **sold.**

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1 If the mortgaged premises consist of distinct tracts or
2 lots, ~~they shall be first offered~~ the foreclosing mortgagee
3 may offer for sale separately, ~~and no more~~ sufficient
4 tracts or lots as shall be ~~sold than shall be~~ necessary to
5 satisfy the amount due on such mortgage at the date of the
6 notice of sale, with interest and costs and expenses
7 allowed by law, ~~provided, however, that in the event the~~
8 ~~aggregate of bids on such distinct tracts or lots is not~~
9 ~~sufficient to satisfy said amount due, all such distinct~~
10 ~~tracts or lots shall be offered and~~ or the foreclosing
11 mortgagee may offer all such distinct tracts or lots to be
12 sold as a whole.

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14 **Section 3.** This act is effective July 1, 2011.

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(END)