A bill for an act

relating to civil actions; moving mortgage redemption sales to the end of the current redemption period; eliminating the redemption rights of the mortgagee; amending Minnesota Statutes 2006, sections 580.03; 580.04; 580.10; 580.12; 580.23, subdivisions 1, 2, 4; 580.28; 581.06; 581.10; 582.032; 582.041, subdivision 5; 582.042, subdivision 5; 582.05; 582.27, subdivision 1; 582.30, subdivision 2; 582.32, subdivisions 3, 5; proposing coding for new law in Minnesota Statutes, chapter 580; repealing Minnesota Statutes 2006, sections 580.25; 580.26; 580.27; Minnesota Statutes 2007 Supplement, section 580.24.

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

Section 1. **<u>[580.011] DEFINITION.</u>**

<u>(a) For purposes of this chapter and chapters 581 and 582, the terms defined in this section have the meanings given.</u>

<u>(b) "Postnotice reinstatement period" means the period of time between service of the notice of a foreclosure sale upon the occupants and the date upon which the sale is scheduled to be held, during which time the mortgage may be reinstated.</u>

<u>(c) "Service of the notice of a foreclosure sale upon the occupants" means the service of the notice of a foreclosure sale upon the occupants of the property, if the property is occupied, and if not, the determination that the property is not occupied, all as established by affidavit.</u>

Sec. 2. Minnesota Statutes 2006, section 580.03, is amended to read:

580.03 NOTICE OF SALE; SERVICE ON OCCUPANT.

Six weeks' published notice shall be given<u> prior to the sale, but beginning no earlier than 60 days prior to the sale,</u> that such mortgage will be foreclosed by sale of the mortgaged premises or some part thereof, and at least ~~four weeks~~<u> six months</u> before the appointed time of sale a ~~copy of such~~ like notice shall be served in like manner as a summons in a civil action in the district court upon the person in possession of the mortgaged premises, if the same are actually occupied. If there be a building on such premises used by a church or religious corporation, for its usual meetings, service upon any officer or trustee of such corporation shall be a sufficient service upon it. The notice required by section 580.041 must be served simultaneously with the notice of foreclosure required by this section.

Sec. 3. Minnesota Statutes 2006, section 580.04, is amended to read:

580.04 REQUISITES OF NOTICE.

Each notice shall specify:

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

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

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

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

(5) the time and place of sale;

(6) ~~the time allowed by law for redemption by the mortgagor, the mortgagor's personal representatives or assigns; and~~ that the mortgage may be reinstated prior to the sale by the mortgagor;

(7) that there is no postsale redemption right; and

~~(7)~~ (8) if the party foreclosing the mortgage desires to preserve the right to reduce the ~~redemption~~ postnotice reinstatement period under section 582.032 after the first publication of the notice, the notice must also state in capital letters: "THE TIME ALLOWED BY LAW FOR ~~REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES OR ASSIGNS,~~ THE POSTNOTICE REINSTATEMENT PERIOD MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION 582.032, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED."

Sec. 4. Minnesota Statutes 2006, section 580.10, is amended to read:

580.10 SURPLUS.

In all cases not provided for in section 580.09, if, after sale of any real estate, made as herein prescribed, there remains in the hands of the officer making the sale any surplus money, after satisfying the mortgage, with interest, taxes paid, and costs of sale, the surplus shall be paid over by such officer, on demand, to the junior lienors, if any, in order of their priority, and if any surplus remains after satisfying those liens, then to the mortgagor, the mortgagor's legal representatives or assigns.

Sec. 5. Minnesota Statutes 2006, section 580.12, is amended to read:

580.12 CERTIFICATE OF SALE; RECORD; EFFECT.

When any sale of real property is made under a power of sale contained in any mortgage, the officer shall make and deliver to the purchaser a certificate, executed in the same manner as a conveyance, containing:

(1) a description of the mortgage;

(2) a description of the property sold;

(3) the price paid for each parcel sold;

(4) the time and place of the sale, and the name of the purchaser; and

(5) the time that was allowed by law for ~~redemption~~ postnotice reinstatement, provided that if the ~~redemption~~ postnotice reinstatement period stated in the certificate is five weeks and a longer ~~redemption~~ postnotice reinstatement period was stated in the published notice of foreclosure sale, a certified copy of the court order entered under section 582.032, authorizing reduction of the ~~redemption~~ postnotice reinstatement period to five weeks, must be attached to the certificate.

A certificate ~~which states a five-week redemption period must be recorded within ten days after the sale; any other certificate~~ must be recorded within 20 days after the sale. When so recorded, ~~upon expiration of the time for redemption,~~ the certificate shall operate as a conveyance to the purchaser or the purchaser's assignee of all the right, title, and interest of the mortgagor in and to the premises named therein at the date of such mortgage, without any other conveyance. A certificate must not contain a time that was allowed for ~~redemption~~ postnotice reinstatement that is less than the time specified by section 580.23, 582.032, or 582.32, whichever applies.

Sec. 6. Minnesota Statutes 2006, section 580.23, subdivision 1, is amended to read:

Subdivision 1. **Six-month ~~redemption~~ postnotice reinstatement period.** (a) When ~~lands have been sold~~ service of the notice of the foreclosure upon the occupants has been given in conformity with the preceding sections of this chapter, the mortgagor, the mortgagor's personal representatives or assigns, ~~within~~ prior to the sale, which must be no less than six months after ~~such sale~~ that date of service, except as otherwise provided in subdivision 2 or section 582.032 or 582.32, may ~~redeem such lands, as hereinafter provided, by paying the sum of money for which the same were sold, with interest from the time of sale at the rate provided to be paid on the mortgage debt and, if no rate be provided in the mortgage note, at the rate of six percent per annum, together with any further sums which may be payable as provided in sections 582.03 and 582.031~~ reinstate the mortgage as provided in section 580.30.

(b) This subdivision does not limit the right to reinstate under section 580.30 prior to service of the notice referenced in paragraph (a).

Sec. 7. Minnesota Statutes 2006, section 580.23, subdivision 2, is amended to read:

Subd. 2. **12-month ~~redemption~~ postnotice reinstatement period.** (a) Notwithstanding the provisions of subdivision 1 ~~hereof~~, when ~~lands have been sold~~ the foreclosure notice referenced in subdivision 1 has been given in conformity with the preceding sections of this chapter, the mortgagor~~,~~ or the mortgagor's personal representatives or assigns, within 12 months after ~~such sale~~ service of that notice, may ~~redeem such lands in accordance with the provisions of payment of subdivision 1 thereof,~~ reinstate the mortgage as provided in section 580.30 if:

(1) the mortgage was executed prior to July 1, 1967;

(2) the amount claimed to be due and owing as of the date of the notice of foreclosure sale is less than 66-2/3 percent of the original principal amount secured by the mortgage;

(3) the mortgage was executed prior to July 1, 1987, and the mortgaged premises, as of the date of the execution of the mortgage, exceeded ten acres in size;

(4) the mortgage was executed prior to August 1, 1994, and the mortgaged premises, as of the date of the execution of the mortgage, exceeded ten acres but did not exceed 40 acres in size and was in agricultural use as defined in section 40A.02, subdivision 3;

(5) the mortgaged premises, as of the date of the execution of the mortgage, exceeded 40 acres in size; or

(6) the mortgage was executed on or after August 1, 1994, and the mortgaged premises, as of the date of the execution of the mortgage, exceeded ten acres but did not exceed 40 acres in size and was in agricultural use. For purposes of this clause, "in agricultural use" means that at least a portion of the mortgaged premises was classified for ad valorem tax purposes as:

(i) class 2a agricultural homestead property under section 273.13, subdivision 23;

(ii) class 2b rural or agricultural nonhomestead property under section 273.13, subdivision 23;

(iii) class 1b agricultural homestead property under section 273.13, subdivision 22; or

(iv) exempt wetlands under section 272.02, subdivision 11.

(b) This subdivision does not limit the right to reinstate prior to service of the notice.

Sec. 8. Minnesota Statutes 2006, section 580.23, subdivision 4, is amended to read:

Subd. 4. **Waiver; 12-month ~~redemption~~ postnotice reinstatement for ~~ag~~ agricultural use.** A mortgagor, before or at the time of granting a mortgage executed on or after August 1, 1994, may waive in writing the mortgagor's right under subdivision 2, clause (6), to have a 12-month ~~redemption~~ postnotice reinstatement period based upon the premises being in agricultural use as of the date of execution of the mortgage. The written waiver must be either a document separate from the mortgage or a separately executed and acknowledged addendum to the mortgage on a separate page. If the written waiver is a separate document, it must be in recordable form and must either recite the recorded document number of the mortgage or recite the names of the mortgagor and mortgagee, the legal description of the mortgaged property, and the date of the mortgage. If the written waiver is a separate document, it must be recorded in the office of the county recorder or registrar of titles no later than ten days after the recording of the mortgage. Where there is a waiver of the rights under subdivision 2, clause (6), the ~~redemption~~ postnotice reinstatement period in subdivision 1 applies.

Sec. 9. **[580.241] REDEMPTION LIMITED TO FEDERAL TAX LIEN.**

If the mortgaged property is subject to a federal tax lien, the United States may exercise its right to redeem after the foreclosure sale, to the extent required under section 7425(d)(1) of the Internal Revenue Code, for 120 days from the date of sale. The sheriff's certificate of sale must reference that redemption period.

Sec. 10. Minnesota Statutes 2006, section 580.28, is amended to read:

580.28 ACTION TO SET ASIDE MORTGAGE; FORECLOSURE; ~~REDEMPTION~~ REINSTATEMENT.

When an action is brought wherein it is claimed that any mortgage as to the plaintiff or person for whose benefit the action is brought is fraudulent or void, or has been paid or discharged, in whole or in part, if such mortgage ~~has been~~ is being foreclosed by advertisement, and the time for ~~redemption from~~ reinstatement prior to the foreclosure sale will expire before final judgment in such action, the plaintiff or beneficiary having the right to ~~redeem~~ reinstate, for the purpose of saving such right in case the action fails, may deposit with the sheriff before the time of ~~redemption~~ reinstatement expires the amount ~~for which the mortgaged premises were sold, with interest thereon to the time of deposit~~ required to reinstate the mortgage, together with a bond to the ~~holder of the sheriff's certificate of sale~~ mortgagee, in an amount and with sureties to be approved by the sheriff, conditioned to pay all interest that may accrue or be allowed on such deposit if the action fail. The person shall, in writing, notify such sheriff that the person claims the mortgage to be fraudulent or void, or to have been paid or discharged, in whole or in part, as the case may be, and that such action is pending, and direct the sheriff to retain such money and bond until final judgment. In case such action fails, such deposit shall operate as a ~~redemption of the premises from such foreclosure sale, and entitle the plaintiff to a certificate thereof~~ reinstatement of the mortgage. Such foreclosure proceeding, deposit, bond, and notice shall be brought to the attention of the court by supplemental complaint in the action, and the judgment shall determine the validity of the pending foreclosure sale, and the rights of the parties to the moneys and bond so deposited, which shall be paid and delivered by the sheriff as directed by such judgment upon delivery to the sheriff of a certified copy thereof. The remedy herein provided shall be in addition to other remedies now existing.

Sec. 11. Minnesota Statutes 2006, section 581.06, is amended to read:

581.06 SURPLUS.

When the sale is for cash, if, after satisfying the mortgage debt, with costs and expenses, there is a surplus, it shall be brought into court for the benefit of the junior lienors, if any, in order of priority; with any remaining amount for the benefit of the mortgagor or the person entitled thereto, subject to the order of the court. The junior lienor need not have taken any action in order to receive the amount to which the junior lienor is entitled under this section. If such surplus remains in court for three months without being applied for, the judge may direct it to be put out at interest, subject to the order of the court, for the benefit of the persons entitled thereto, to be paid to them upon order of the court.

Sec. 12. Minnesota Statutes 2006, section 581.10, is amended to read:

581.10 ~~REDEMPTION~~ REINSTATEMENT BY MORTGAGOR~~, CREDITOR~~.

The mortgagor, or those claiming under the mortgagor, within the time specified in section 580.23 or 582.032, whichever applies, ~~after the date of the order of confirmation~~ prior to the sale, may ~~redeem the premises sold~~ reinstate the mortgage, or any separate portion thereof, by paying the amount ~~bid therefor, with interest thereon from the time of sale at the rate provided to be paid on the mortgage debt, not to exceed eight percent per annum, and, if no rate to be provided in the mortgage, at the rate of six percent~~ then owing on the mortgage, together with any further sum which may be payable pursuant to ~~section~~ sections 582.03 and 582.031. ~~Creditors having a lien may redeem in the order and manner specified in section 580.24.~~

Sec. 13. Minnesota Statutes 2006, section 582.032, is amended to read:

582.032 FIVE-WEEK ~~REDEMPTION~~ REINSTATEMENT PERIOD; CERTAIN ABANDONED PROPERTIES.

Subdivision 1. **Application.** This section applies to mortgages executed after December 31, 1989, under which there has been a default in the payment of money existing for at least 60 days as of the date of the filing of the complaint or motion provided for in this section. This section applies only when the mortgaged premises are:

(1) ten acres or less in size;

(2) improved with a residential dwelling consisting of less than five units which is neither a model home nor a dwelling under construction; and

(3) not property used in agricultural production.

This section applies to foreclosures by action under chapter 581 and to foreclosures by advertisement under chapter 580.

Subd. 2. **Before foreclosure sale.** Notwithstanding section 580.23 or 581.10, if at any time before the foreclosure sale but not more than 30 days before the first publication of the notice of sale, a court order is entered reducing the mortgagor's ~~redemption~~ postnotice reinstatement period to five weeks under subdivision 7, after the ~~mortgaged premises have been sold as provided in chapter 580 or 581~~ end of the published notice period, the mortgagor, and the mortgagor's personal representatives or assigns, within five weeks after the ~~sale~~ published notice period under chapter 580~~,~~ or ~~within five weeks after the date of the order confirming the sale under chapter~~ 581, may ~~redeem the mortgaged premises~~ reinstate the mortgage as provided in section 580.23, subdivision 1, or 581.10, as applicable. If an order is obtained after the first publication of the notice of sale, the five-week ~~redemption~~ reinstatement period applies only if the notice of sale contained the statement required by section 580.04, clause (7).

~~Subd. 3.~~ ~~**After foreclosure sale.**~~ ~~Notwithstanding section 580.23 or 581.10, if at any time after the foreclosure sale, a court order is entered reducing the mortgagor's redemption period under subdivision 7, the period during which the mortgagor, the mortgagor's personal representatives and assigns, may redeem the mortgaged premises~~

~~in accordance with the provisions of section 580.23, subdivision 1, or section 581.10, as applicable, is reduced so as to expire five weeks from the date the order is entered. Within ten days after the order is entered, a certified copy of the order must be filed with the office of the county recorder or registrar of titles for the county in which the mortgaged premises are located, and a copy of the order must be posted in a conspicuous place on the mortgaged premises. Within ten days of the order's entry, a copy of the order must be sent by certified mail to any party holding a lien or interest of record junior to the foreclosed mortgage who has filed with the county recorder or registrar of titles a certificate identifying the lienholder and the lien claimed, stating the lienholder's address and the legal description of the property covered by the lien, and requesting notice of any postforeclosure sale reduction of the mortgagor's redemption period for any superior lien. Affidavits of posting and mailing to evidence the same are prima facie evidence of the facts stated therein and are entitled to recordation along with the certified copy of the order.~~

Subd. 4. **Summons and complaint.** In a foreclosure by advertisement, the party foreclosing a mortgage ~~or holding the sheriff's certificate of sale~~ may initiate a proceeding in district court to reduce the mortgagor's ~~redemption~~ reinstatement period under this section. The proceeding must be initiated by the filing of a complaint, naming the mortgagor, or the mortgagor's personal representatives or assigns of record, as defendant, in district court for the county in which the mortgaged premises are located. ~~If the proceeding is commenced after the foreclosure sale, the holders of junior liens and interests entitled to notice under subdivision 3 must also be named as defendants.~~ The complaint must identify the mortgaged premises by legal description and must identify the mortgage by the names of the mortgagor and mortgagee, and any assignee of the mortgagee; the date of its making; and pertinent recording information. The complaint must allege that the mortgaged premises are:

(1) ten acres or less in size;

(2) improved with a residential dwelling consisting of less than five units, which is not a model home or a dwelling under construction;

(3) not property used in agricultural production; and

(4) abandoned.

The complaint must request an order reducing the mortgagor's ~~redemption~~ postnotice reinstatement period to five weeks. When the complaint has been filed, the court shall issue a summons commanding the person or persons named in the complaint to appear before the court on a day and at a place stated in the summons. The appearance date shall be not less than l5 nor more than 25 days from the date of the issuing of the summons. A copy of the filed complaint must be attached to the summons.

Subd. 5. **Order to show cause.** In a foreclosure by action, the plaintiff ~~or the holder of the sheriff's certificate~~ may make a motion to reduce the mortgagor's ~~redemption~~ reinstatement period under this section. The motion must conform generally to the pleading requirements provided in subdivision 4. For purposes of the motion, the court has continuing jurisdiction over the parties and the mortgaged premises through the expiration of the ~~redemption~~ reinstatement period. When the motion has been filed, the court shall issue an order to show cause commanding the parties it considers appropriate to appear before the court on a day and at a place stated in the order. The appearance date may not be less than 15 nor more than 25 days after the date of the order to show cause. A copy of the motion must be attached to the order to show cause.

Subd. 6. **Service.** The summons or order to show cause may be served by any person not named a party to the action. The summons or order to show cause must be served at least seven days before the appearance date, in the manner provided for service of a summons in a civil action in the district court. If the defendant cannot be found in the county, the summons or order to show cause may be served by sending a copy by certified mail to the defendant's last known address, if any, at least ten days before the appearance date. The summons or order to show cause must be posted in a conspicuous place on the mortgaged premises not less than seven days before the appearance date. If personal or certified mail service cannot be made on a defendant, then the plaintiff or plaintiff's attorney may file an affidavit to that effect with the court and service by posting the summons or order to show cause on the mortgaged premises is sufficient as to that defendant.

Subd. 7. **Hearing; evidence; order.** At the hearing on the summons and complaint or order to show cause, the court shall enter an order reducing the mortgagor's ~~redemption~~ reinstatement period as provided in subdivision 2 or 3, as applicable, if evidence is presented supporting the allegations in the complaint or motion and no appearance is made to oppose the relief sought. An affidavit by the sheriff or a deputy sheriff of the county in which the mortgaged premises are located, or of a building inspector, zoning administrator, housing official, or other municipal or county official having jurisdiction over the mortgaged premises, stating that the mortgaged premises are not actually occupied and further setting forth any of the following supporting facts, is prima facie evidence of abandonment:

(1) windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired;

(2) doors to the premises are smashed through, broken off, unhinged, or continuously unlocked;

(3) gas, electric, or water service to the premises has been terminated;

(4) rubbish, trash, or debris has accumulated on the mortgaged premises;

(5) the police or sheriff's office has received at least two reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises; or

(6) the premises are deteriorating and are either below or are in imminent danger of falling below minimum community standards for public safety and sanitation.

An affidavit of the party foreclosing the mortgage ~~or holding the sheriff's certificate~~, or one of their agents or contractors, stating any of the above supporting facts, and that the affiant has changed locks on the mortgaged premises under section 582.031 and that for a period of ten days no party having a legal possessory right has requested entrance to the premises, is also prima facie evidence of abandonment. Either affidavit described above, or an affidavit from any other person having knowledge, may state facts supporting any other allegations in the complaint or motion and is prima facie evidence of the same. Written statements of the mortgagor, the mortgagor's personal representatives or assigns, including documents of conveyance, which indicate a clear intent to abandon the premises, are conclusive evidence of abandonment. In the absence of affidavits or written statements, or if rebuttal evidence is offered by the defendant or a party lawfully claiming through the defendant, the court may consider any competent evidence, including oral testimony, concerning any allegation in the complaint or motion. An order entered under this section must contain a legal description of the mortgaged premises.

Subd. 8. **Recording.** A certified copy of an order reducing a mortgagor's ~~redemption~~ <u>reinstatement</u> period entered under this section may be recorded in the office of the county recorder or registrar of titles for the county in which the mortgaged premises are located.

Sec. 14. Minnesota Statutes 2006, section 582.041, subdivision 5, is amended to read:

Subd. 5. ~~**Redemption**~~ <u>**Reinstatement.**</u> A party who has a right of ~~redemption~~ <u>reinstatement</u> may ~~redeem~~ <u>reinstate</u> the designated homestead, the remaining property, or the entire property including the homestead. The period of ~~redemption~~ <u>reinstatement</u> is the period for the entire property including the designated homestead.

Sec. 15. Minnesota Statutes 2006, section 582.042, subdivision 5, is amended to read:

Subd. 5. ~~**Redemption**~~ <u>**Reinstatement.**</u> The designated tracts may be ~~redeemed~~ <u>reinstated</u> separately or the entire foreclosed property may be ~~redeemed~~ <u>reinstated</u>. The period of ~~redemption~~ <u>reinstatement</u> is the period for the entire property including all of the designated tracts.

Sec. 16. Minnesota Statutes 2006, section 582.05, is amended to read:

582.05 RECEIVER OF RENTS WITH POSSESSION.

On the commencement of proceedings to foreclose, either by action or advertisement, any mortgage on a leasehold estate of more than three years covering urban property, or at any time after such commencement until the expiration of the period of ~~redemption~~ reinstatement, the owner of any such mortgage ~~or the purchaser at the foreclosure sale, as the case may be,~~ may apply to the district court for the appointment of a receiver to take immediate possession of the mortgaged premises and to hold, maintain, and operate the same and collect the rents and income therefrom, and apply the same in the manner hereinafter specified. The application for such receiver may be included in an action to foreclose the mortgage or may be by separate action and, if by separate action, the only necessary party defendant shall be the owner of the mortgaged leasehold at the time of the commencement of the action.

Sec. 17. Minnesota Statutes 2006, section 582.27, subdivision 1, is amended to read:

Subdivision 1. **Section 582.25.** Upon expiration of the periods specified in this section, the provisions of section 582.25 apply to a mortgage foreclosure sale subject to this section:

(A) as to all of the provisions of section 582.25, except clause (2), one year after the last day of the ~~redemption~~ reinstatement period of the mortgagor, the mortgagor's personal representatives or assigns;

(B) as to clause (2), ten years after the date of the foreclosure sale.

Sec. 18. Minnesota Statutes 2006, section 582.30, subdivision 2, is amended to read:

Subd. 2. **Not if six-month or five-week ~~redemption~~ reinstatement period.** A deficiency judgment is not allowed if a mortgage is foreclosed by advertisement under chapter 580, and has a ~~redemption~~ postnotice reinstatement period of six months under section 580.23, subdivision 1, or five weeks under section 582.032.

Sec. 19. Minnesota Statutes 2006, section 582.32, subdivision 3, is amended to read:

Subd. 3. **Procedure.** (a) Voluntary foreclosure may occur only in accordance with this section.

(b) The mortgagor and mortgagee shall enter into a written agreement for voluntary foreclosure under this section only during the existence of a default under the mortgage. At least one of the items constituting the default must have been in existence for at least one month on the date of agreement. The agreement shall identify the mortgage by recording data and the real estate by legal description, specify the date of the agreement and provide that:

(1) The mortgagor and mortgagee have agreed that the mortgage shall be voluntarily foreclosed with the mortgagor's ~~redemption~~ reinstatement period reduced to two months as provided in this section.

(2) The mortgagee waives any rights to a deficiency or other claim for personal liability against the mortgagor arising from the mortgage or the debt secured by the mortgage. This does not preclude an agreement between the mortgagor and mortgagee to a payment to the mortgagee as part of the voluntary foreclosure, or collection from a guarantor.

(3) The mortgagor waives its right to surplus sale proceeds, to contest foreclosure, and to rents and occupancy during the period from the date of agreement through the redemption period.

(4) The mortgagor consents to the appointment of a receiver for, or grants mortgagee possession of, the real estate and all rights of possession of the real estate, including, but not limited to operating, maintaining, and protecting the real estate, and the making of any additions or betterments to the real estate.

(5) A default exists under the mortgage and on the date of agreement at least one of the items constituting the default has been in existence for at least one month.

(c) Within seven days after the date of agreement, the mortgagee must record or file the agreement with the county recorder or registrar of titles, as appropriate, in each county where any part of the real estate is located. Filing or recording of a short form agreement signed by the mortgagor and mortgagee containing the following information satisfies this requirement:

(1) the identity and mailing address of the mortgagor and mortgagee;

(2) the legal description of the real estate;

(3) the mortgage identified by recording data;

(4) a statement that an event of default under the mortgage has existed for at least one month as of the date of agreement and foreclosure under this section has been agreed to by the parties; and

(5) the date of agreement.

(d) A certificate signed by the county or city assessor where the real estate is located, stating that, as of the date of agreement, the real estate was not in agricultural use as defined in section 40A.02, subdivision 3, and was not a homestead for property tax purposes under section 273.124, must be recorded before or with the certificate of sale in the office of the county recorder or registrar of titles where the real estate is located, and shall be prima facie evidence of the facts contained in the certificate.

(e) Within ten days of receipt of a written request for information from a holder of a junior lien, the mortgagee, without charge, shall deliver or mail by first class mail postage prepaid, to the address of the holder set forth in the request, either the agreement or a written statement of the amount of money and the value or a detailed description of any property paid or transferred, or to be paid or transferred, by the parties to the agreement under the terms of the agreement. Failure to provide this information does not invalidate the foreclosure.

Sec. 20. Minnesota Statutes 2006, section 582.32, subdivision 5, is amended to read:

Subd. 5. **Foreclosure procedure; notice to creditors.** (a) After the date of agreement, the mortgagee may proceed to foreclose the mortgage in accordance with the laws generally applicable to foreclosure by advertisement including this chapter and chapter 580, except as otherwise provided in this section.

(b) At least 14 days before the date of sale, the mortgagee shall:

(1) serve the persons in possession of the real estate with notice of the voluntary foreclosure sale under this section in the same manner as in a foreclosure by advertisement as provided in section 580.03; and

(2) mail notice of the voluntary foreclosure sale under this section to each holder of a junior lien who has filed or recorded a request for notice under section 580.032.

(c) The mortgagee shall publish notice of the voluntary foreclosure sale under this section in the same manner as in a foreclosure by advertisement as provided in section 580.03 for four consecutive weeks. The notice must include all information required under section 580.04, clauses (1) to (6), the date of agreement, and shall state that each holder of a junior lien may redeem in the order and manner provided in subdivision 9, beginning after the ~~expiration of the mortgagor's redemption period under this section~~ sale.

(d) The mortgagor's ~~redemption~~ reinstatement period is two months from the ~~date of sale, except~~ end of the published notice period, and that if the real estate is subject to a federal tax lien under which the United States is entitled to a 120-day redemption period under section 7425(d)(1) of the Internal Revenue Code, as amended, the ~~mortgagor's~~ United States' redemption period is 120 days from the date of sale. The certificate of sale must indicate the redemption period applicable under this paragraph.

Sec. 21. **REPEALER.**

Minnesota Statutes 2006, sections 580.25; 580.26; and 580.27, are repealed.

Minnesota Statutes 2007 Supplement, section 580.24, are repealed.

Sec. 22. **EFFECTIVE DATE.**

Sections 1 to 21 are effective August 1, 2008, and apply to foreclosures commenced on or after that date.