

CHAPTER 215 — H.F.No. 102

An act relating to agricultural and residential real estate; requiring 60 days' notice of default on a real estate mortgage, notice of termination of a real estate contract for deed, and eight weeks' notice of commencement of a sale and foreclosure proceeding; providing that a court may order a delay in a foreclosure sale or contract termination under certain circumstances; limiting the right to maintain actions for deficiency judgments; amending Minnesota Statutes 1982, sections 47.20, by adding a subdivision; 559.21, by adding a subdivision; proposing new law coded in Minnesota Statutes, chapter 580; proposing new law coded as Minnesota Statutes, chapter 583.

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

Section 1. Minnesota Statutes 1982, section 47.20, is amended by adding a subdivision to read:

Subd. 15. Notwithstanding the provisions of any other law to the contrary, any notice of default on homestead property as defined in section 5, mailed after the effective date of this section and prior to May 1, 1984, shall indicate that the borrower has 60 days from the date the notice is mailed in which to cure the default.

Sec. 2. Minnesota Statutes 1982, section 559.21, is amended by adding a subdivision to read:

Subd. 6. TEMPORARY MINIMUM NOTICE. Notwithstanding the provisions of any other law to the contrary, no contract for conveyance of homestead property, as defined in section 5, shall terminate until 60 days after service of notice if the notice is served after the effective date of this section and prior to May 1, 1984 or 90 days after service of notice if the contract was entered into after May 1, 1980 and the contract vendee has paid 25 percent or more of the purchase price. The notice shall specify this 60- or 90-day period. This section does not apply to earnest money contracts, purchase agreements or exercised options.

Sec. 3. [580.031] TEMPORARY MINIMUM NOTICE.

Notwithstanding the provisions of any other law to the contrary, eight weeks' published notice must be given prior to the foreclosure sale of a homestead, as defined in section 5, if the notice is published for the first time after the effective date of this section and prior to May 1, 1984. The notice must contain the information specified in section 580.04. At least four weeks before the appointed time of sale, a copy of the notice must be served upon the person in possession of the mortgaged premises, if the premises are actually occupied.

Sec. 4. [583.01] LEGISLATIVE FINDINGS.

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The legislature finds that the number of unemployed persons in this state has reached the highest level since the Depression of the 1930's; that farm commodity prices are below the break-even point for the cost of production; that the number of mortgage loans currently in default due to the unemployment of the principal wage earner has reached critical levels; and that by reason of these conditions and the high rates of interest on mortgage loans, many of the citizens of this state will be unable for extended periods of time, to meet payments of taxes, interest, and principal of mortgages on their properties and are, therefore, threatened with loss of their real property through mortgage foreclosure, contract termination, and judicial sales. The legislature further finds that these conditions have resulted in an emergency of a nature that justifies and validates legislation for the extension of the time prior to foreclosure and execution sales and for other relief.

Sec. 5. [583.02] DEFINITIONS.

As used in sections 4 to 15, the term "homestead" means residential or agricultural real estate, a portion or all of which is entitled to receive homestead credit under section 273.13, subdivision 15a.

Sec. 6. [583.03] APPLICATION.

Subdivision 1. PROPERTY COVERED. The provisions of sections 1 to 15 apply to first mortgages secured by and contracts for deed conveying, homesteads within the meaning of section 5, including:

(a) mortgages held by the United States or by any agency, department, bureau, or instrumentality of the United States, as security or pledge of the mortgagor, its successors or assigns; and

(b) mortgages held as security or pledge to secure payment of a public debt or to secure payment of the deposit of public funds.

Subd. 2. GENERAL EXCLUSION. The provisions of sections 1 to 15 do not apply to mortgages or contracts for deed made after the effective date of sections 1 to 15, nor to mortgages or contracts for deed made before the effective date of sections 1 to 15, which are renewed or extended after the effective date of sections 1 to 15 for a period longer than one year, nor to mortgages, judgments, or contracts for deed, regardless of when made, if a second or subsequent mortgage is made against the property after the effective date of sections 1 to 15. No court shall allow a stay, postponement, or extension of time that would cause any right to be lost or adversely affected by any statute of limitation.

Sec. 7. [583.04] MORTGAGOR MAY APPLY TO DISTRICT COURT FOR RELIEF.

Any mortgagor, or owner in possession of the mortgaged premises, or anyone claiming under the mortgage, or anyone liable for the mortgage debt, may at any time after the issuance of the notice of the foreclosure proceedings and

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prior to the sale, petition the district court of the county where the foreclosure proceedings are pending, serving a summons and verified complaint requesting that the sale in foreclosure be postponed for up to six months or, in the case of a farm homestead located on more than ten acres, for up to 12 months. A contract for deed vendee or anyone claiming under the contract or liable for the contract payment, in any case where the contract has not yet been terminated as of the effective date of sections 4 to 15, may petition the district court in the same manner, requesting that the contract termination be delayed for up to 90 days. Upon receiving the petition, the court shall order a stay in the foreclosure proceedings until after the hearing on the petition. As a condition precedent to the postponement of the foreclosure sale, the party serving the verified complaint shall file it and pay to the clerk for the person foreclosing the mortgage the actual costs incurred, including attorney's fees, in the foreclosure proceeding before postponement. As a condition precedent to delay of the contract termination, the party seeking relief shall file the verified complaint and pay to the clerk for the person canceling the contract, the actual costs, including attorney's fees incurred in the cancellation. If payment is made by other than cash or certified check, the order postponing the sale or termination is not final until after the check or other negotiable instrument has been paid.

Sec. 8. [583.05] COURT MAY ORDER DELAY IN SALE; FINDINGS.

The court may consider the following criteria in determining whether or not to order a delay in the sale or contract termination:

(1) that the petitioner is unemployed, underemployed or facing economic problems due to low farm commodity prices; and

(2) that the petitioner has an inability to make payments on the mortgage or contract for deed.

If the court grants or denies a delay in the sale, the mortgagee shall publish notice of the new sale date as provided in section 580.03. Section 580.07 does not apply to foreclosure sales postponed by a court pursuant to sections 4 to 15.

Sec. 9. [583.06] COMPROMISES.

If the parties to a foreclosure action agree in writing to a compromise settlement thereof, or of composition of the mortgage indebtedness, or both, the court shall have jurisdiction and may by its order confirm and approve the settlement or composition, or both, as the case may be.

Sec. 10. [583.07] REDUCTION OF REDEMPTION PERIOD.

If the court grants a delay in the foreclosure sale pursuant to sections 4 to 15, the redemption period pursuant to section 580.23 shall be reduced by an equivalent period of time provided, that in no event shall the redemption period

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be less than 30 days. If the court does not grant a delay in the foreclosure sale, the redemption period shall be as provided in section 580.23.

Sec. 11. [583.08] PARTIAL PAYMENT.

The petition must also request the court to determine the reasonable value of the income on the property, or, if the property has no income, then the reasonable rental value of the property subject to the contract for deed or mortgage and must direct the contract vendee or mortgagor to pay all or a reasonable part of the income or rental value for the payment of taxes, insurance, interest or principal at the times and in the manner determined by the court. In determining the amount of income or rental value to be paid, the court may consider the relative financial conditions and resources of the parties and the ability of the mortgagor or contract vendee to pay. The court shall hear the petition and after the hearing shall make and file its order directing the payment by the contract vendee or mortgagor of an amount at the times and in the manner that the court determines just and equitable. In the case of contracts for deed, the court shall insure that the payment required by the contract vendee is sufficient to adequately maintain the vendor's standard of living. If the mortgagor or contract vendee defaults in the payments ordered, the mortgagee may immediately commence foreclosure proceedings as provided in section 580.03, and the contract vendor may terminate the contract 30 days after the default. If default is claimed because of waste, the mortgagee or contract vendor may commence foreclosure proceedings or terminate the contract immediately after the filing of an order of the court finding the waste. No action shall be maintained for a deficiency judgment until the period of redemption as allowed by section 580.23, or by sections 4 to 15, has expired.

Sec. 12. [583.09] COURT MAY REVISE AND ALTER TERMS.

Upon the application of either party before the expiration of the extended period prior to the sale or contract termination and upon the presentation of evidence that the terms for partial payment fixed by the court are no longer just and reasonable, the court may revise and alter the terms, in the manner the changed circumstances and conditions require.

Sec. 13. [583.10] HEARING TO BE HELD WITHIN 30 DAYS.

The hearing on the petition must be held within 30 days after the filing of the petition. The order therein must be made and filed within five days after the hearing. Review by the supreme court may be had by certiorari, if application for the writ is made within 15 days after notice of the order. The writ is returnable within 30 days after the filing of the order.

Sec. 14. [583.11] LIMITATIONS.

No postponement or extension shall be ordered under conditions which would substantially diminish or impair the value of the contract or obligation of

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the person against whom the relief is sought without reasonable allowance to justify the exercise of the police power authorized in sections 4 to 15, or which would cause irreparable harm or undue hardship to any mortgagee, contract vendor, judgment creditor, or their successors or assigns. The remedy authorized by sections 4 to 15 shall be available to a mortgagor or contract vendee only one time on any piece of property.

Sec. 15. [583.12] INCONSISTENT LAWS SUSPENDED.

Every law, to the extent that it is inconsistent with sections 4 to 15 is suspended during the effective period of sections 4 to 15.

Sec. 16. REPEALER.

Sections 1 to 15 are repealed effective July 1, 1984, but any postponement or other relief ordered by a court continues to be valid for the period ordered by the court.

Sec. 17. EFFECTIVE DATE.

Sections 1 to 15 are effective the day following final enactment. Section 16 is effective July 1, 1984.

Approved May 23, 1983

CHAPTER 216 — H.F.No. 1124

An act relating to Minnesota Statutes; correcting erroneous, ambiguous, omitted, and obsolete references and text; eliminating certain redundant, conflicting, and superseded provisions; providing instructions to the revisor; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and errors of a noncontroversial nature in the 1983 regular session; amending Minnesota Statutes 1982, sections 10A.275; 10A.31, subdivision 2; 10A.32, subdivision 3b; 10A.335; 11A.24, subdivision 6; 15.06, subdivision 1; 16.861, subdivision 3; 17A.06, subdivision 3; 18.041; 32.212; 32.213; 35.251; 43A.18, subdivision 5; 45.16, subdivision 2; 48.605, subdivision 1; 60A.07, subdivision 8; 60A.17, subdivision 7a; 93.20, subdivision 9; 98.46, subdivision 16; 100.27, subdivision 9; 112.85, subdivision 2; 116D.05; 116G.03, subdivision 5; 116J.70, subdivision 2a; 116J.89, subdivision 1b, as added; 120.80, subdivision 1; 120.81, subdivision 1; 121.904, subdivision 11b; 124.2137, subdivision 1, as amended; 168.021, subdivision 2; 169.451; 169.974, subdivision 2; 169.974, subdivision 6; 169.99, subdivision 1; 171.131, subdivision 2; 179.63, subdivision 7, as amended; 179.70, subdivision 1; 204D.11, subdivision 1, as amended; 238.04, subdivision 2; 244.09, subdivision 1; 252A.13, subdivision 2; 253B.19, subdivision 5; 256.482, subdivision 1, as amended; 256.871, subdivision 7; 256.976, subdivision 4; 260.185, subdivision 1; 260.193, subdivision 6; 268.18, subdivision 2; 273.13, subdivisions 6 and 7d; 275.125, subdivision 1; 282.38, subdivisions 1 and 2; 290.012, subdivision 2; 290.06, subdivision 2dd, as added; 297.02, subdivision 5; 298.28, subdivision 1; 32G.30,

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