

Sections 2, 5 to 10, and 12 are effective the day following final enactment.

Approved June 28, 1985

CHAPTER 18 — S.F.No. 30

An act relating to real property; changing notice period required for termination of contracts for the conveyance of real estate; designating seller's attorney as an agent; clarifying the application of the mortgage registry tax; modifying provisions relating to persons defaulting on homesteads; imposing a penalty; amending Minnesota Statutes 1984, sections 47.20, subdivision 15, as amended; 287.10; 336.9-402, as amended; 336.9-403, as amended; 559.21, subdivisions 3, 4, and 6, as amended, and by adding subdivisions; 580.031, as amended; 583.03, subdivision 2, as amended; 583.04, as amended; 583.05, as amended; and 583.07, as amended; and Laws 1985, chapter 233, section 6, as amended; repealing Minnesota Statutes 1984, section 559.21, subdivisions 1, 1a, 2, and 8, as amended.

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

Section 1. Minnesota Statutes 1984, section 47.20, subdivision 15, as amended by Laws 1985, chapter 306, section 1, is amended to read:

Subd. 15. (a) Notwithstanding the provisions of any other law to the contrary, any notice of default on homestead property as defined in section 583.02 to which the provisions of chapter 583 apply, mailed after May 24, 1983 and prior to May 1, 1985, or after the effective date of this section June 8, 1985, and prior to May 1, 1987, shall indicate that the borrower has 60 days from the date the notice is mailed in which to cure the default. The notice shall include a statement that the borrower may be eligible for an extension of the time prior to foreclosure and execution sale under sections 583.01 to 583.12.

(b) The statement must be in bold type, capitalized letters, or other form sufficient for the reader to quickly and easily distinguish the statement from the rest of the notice. The requirements of this paragraph must be followed on notices mailed under this subdivision on or after August 1, 1985. A violation of this paragraph is a petty misdemeanor.

Sec. 2. Laws 1985, chapter 233, section 6, as amended by Laws 1985, chapter 306, section 22, is amended by adding a subdivision to read:

Subd. 5. DEFINITIONS. The definitions in chapter 336 apply to this section.

Sec. 3. Minnesota Statutes 1984, section 287.10, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

287.10 PREPAYMENT OF TAX; EVIDENCE; NOTICE.

~~No such A mortgage, ne or papers relating to its foreclosure nor any, assignment, or satisfaction thereof, shall, must not be recorded or registered unless the tax shall have has been paid; nor shall any such. A document, or any record thereof, of the mortgage may not be received in evidence in any court, or have any validity as and is not valid notice or otherwise; but, unless the tax has been paid. If the tax be is paid, ne an error in computation or ascertainment of the amount thereof shall does not affect the validity of such the mortgage or the record or foreclosure thereof. This section does not apply to a mortgage or a contract for the conveyance of real estate that is exempt from taxation under section 287.04 or 287.05, subdivision 1.~~

Sec. 4. Minnesota Statutes 1984, section 336.9-402, as amended by Laws 1985, chapter 233, section 8, and chapter 306, section 24, is amended to read:

336.9-402 FORMAL REQUISITES OF FINANCING STATEMENT; AMENDMENTS; MORTGAGE AS FINANCING STATEMENT.

(1) A financing statement is sufficient if it gives the name of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned and the name of the record owner thereof and the crop years that are covered by the financing statement. ~~The financing statement may only cover the crops grown by a debtor in a single growing season and may not cover other collateral.~~ When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or when the financing statement is filed as a fixture filing (section 336.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into

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this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under section 336.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed within one year; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)); or

(e) a lien filed pursuant to Minnesota Statutes, chapter 514; or

(f) collateral which is subject to a filed judgment.

(2a) Except for documents filed under clauses (e) and (f), the reason for the omission of the debtor signature must be stated on the front of the financing statement.

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor)

.....

Address

.....

Name of secured party (or assignee)

.....

Address

.....

1. This financing statement covers the following types (or items) of property:

(Describe)

.....

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe real estate and the name of the record owner thereof)

.....

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3. (If applicable) The above goods are to become fixtures on

(Describe real estate)..... and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

4. (If products of collateral are claimed)

Products of the collateral are also covered.

Use whichever signature line is applicable.

Signature of debtor (or assignor)

.....

Signature of secured party (or assignee)

.....

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. If the sole purpose of the amendment is to change the name or address of the secured party, only the secured party need sign the amendment. A writing is sufficient if it sets forth the name and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, the file number and date of filing of the financing statement. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or a financing statement filed as a fixture filing (section 336.9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner. No description of the real estate or the name of the record owner thereof is required for a fixture filing where the debtor is a transmitting utility. Notwithstanding the foregoing a general description of the real estate is sufficient for a fixture filing where a railroad is the record owner of the real estate on which the fixtures are or are to be located; and for the purposes of this subsection, the requirement of a general description is satisfied if the fixture filing (1) identifies the section, township and range numbers of the county in which the land is located; (2) identifies the quarter-quarter of the section that the land is located

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in; (3) indicates the name of the record owner of the real estate; and (4) states the street address of the real estate if one exists.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement, amendment, continuation, assignment, release, or termination substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Sec. 5. Minnesota Statutes 1984, section 336.9-403, as amended by Laws 1985, chapter 233, section 9, and chapter 306, section 25, is amended to read:

336.9-403 WHAT CONSTITUTES FILING; DURATION OF FILING; EFFECT OF LAPSED FILING; DUTIES OF FILING OFFICER.

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in subsections subsection (6) and (9) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five year period, whichever occurs later regardless of whether the financing statement filed as to that security interest is destroyed by the filing officer pursuant to subsection (3). Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest

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becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, set forth the name and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, identify the original statement by file number and filing date, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 336.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained. If insolvency proceedings are commenced by or against the debtor, the secured party shall notify the filing officer both upon commencement and termination of the proceedings, and the filing officer shall not destroy any financing statements filed with respect to the debtor until termination of the insolvency proceedings. The security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five year period, whichever occurs later.

(4) Except as provided in subsection (7) a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The secretary of state shall prescribe uniform forms for statements and samples thereof shall be furnished to all filing officers in the state. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a

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continuation statement shall be \$5 if the statement is in the standard form prescribed by the secretary of state and otherwise shall be \$10, plus in each case, if the financing statement is subject to subsection (5) of section 336.9-402, \$5. An additional fee of \$5 shall be collected if more than one name is required to be indexed or if the secured party, at his option, shows a trade name for any debtor listed. There shall be no fee collected for the filing of an amendment to a financing statement if the amendment is in the standard form prescribed by the secretary of state and does not add additional debtor names to the financing statement. The fee for an amendment adding additional debtor names shall be \$5 if the amendment is in the form prescribed by the secretary of state and, if otherwise, \$10. The fee for an amendment which is not in the form prescribed by the secretary of state but which does not add additional names shall be \$5.

The secretary of state shall adopt rules for filing, amendment, continuation, termination, removal, and destruction of financing statements.

(6) If the debtor is a transmitting utility (subsection (5) of section 336.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 336.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or, for filing offices other than the secretary of state, where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described. If requested of the filing officer on the financing statement, a financing statement filed for record as a fixture filing in the same office where nonfixture filings are made is effective, without a dual filing, as to collateral listed thereon for which filing is required in such office pursuant to section 336.9-401 (1) (a); in such case, the filing officer shall also index the recorded statement in accordance with subsection (4) using the recording data in lieu of a file number.

(8) The fees provided for in this article shall supersede the fees for similar services otherwise provided for by law except in the case of security interests filed in connection with a certificate of title on a motor vehicle.

(9) A financing statement that covers crops growing or to be grown is effective for a period of two years. A continuation statement may be filed for the

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products of the crop covered in the original financing statement. A continuation statement is effective for a period of two years and may be filed within six months prior to the expiration of the two-year period for the financing statement.

Sec. 6. Minnesota Statutes 1984, section 559.21, is amended by adding a subdivision to read:

Subd. 2a. TERMINATION NOTICE. (a) If a default occurs in the conditions of a contract for the conveyance of real estate or an interest in the real estate that gives the seller a right to terminate it, the seller may terminate the contract by serving upon the purchaser or the purchaser's personal representatives or assigns, within or outside of the state, a notice specifying the conditions in which default has been made. The notice must state that the contract will terminate 60 days, or a shorter period allowed in subdivision 4, after the service of the notice, unless prior to the termination date the purchaser:

- (1) complies with the conditions in default;
 - (2) makes all payments due and owing to the seller under the contract through the date that payment is made;
 - (3) pays the costs of service of the notice, which include the reasonable costs of service by sheriff, public officer, or private process server, except as provided in paragraph (c);
 - (4) pays two percent of any amount in default at the time of service, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and
 - (5) pays an amount to apply on attorneys' fees actually expended or incurred, of \$125 if the amount in default is less than \$750, and of \$250 if the amount in default is \$750 or more, except as provided in paragraph (b).
- (b) An amount for attorneys' fees is not required to be paid under this section, unless some part of the conditions of default has existed at least 30 days prior to the date of service of the notice.

(c) Payment of costs of service is not required unless the seller notifies the purchaser of actual costs of service by certified mail to the purchaser's last known address at least ten days prior to the date of termination.

Sec. 7. Minnesota Statutes 1984, section 559.21, subdivision 3, is amended to read:

Subd. 3. For purposes of this section, the term "notice" means a writing stating the information required in this section, stating the name, address and telephone number of the ~~vendor~~ seller or of an attorney authorized by the ~~vendor~~ seller to accept payments pursuant to the notice and the fact that the person named is authorized to receive the payments, and including the following information in 12 point or larger bold type or in large legible handwritten letters:

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(a) For contracts executed prior to May 1, 1980:

THIS NOTICE IS TO INFORM YOU THAT BY THIS NOTICE THE SELLER HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, SECTION 559.21, TO TERMINATE YOUR CONTRACT FOR DEED FOR THE REASONS SPECIFIED IN THIS NOTICE. THE CONTRACT WILL TERMINATE DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DATE OF PUBLICATION OF THIS NOTICE) UNLESS BEFORE THEN THE PERSON AUTHORIZED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU THE AMOUNT THIS NOTICE SAYS YOU OWE PLUS THE COSTS OF SERVICE OF THIS NOTICE TOGETHER WITH THE MORTGAGE REGISTRATION TAX OF \$ AND \$ TO APPLY TO ATTORNEYS' FEES ACTUALLY EXPENDED OR INCURRED; OR UNLESS BEFORE THEN YOU SECURE FROM A COUNTY OR DISTRICT COURT AN ORDER THAT THE TERMINATION OF THE CONTRACT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES. IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR CONTRACT WILL TERMINATE AT THE END OF THE PERIOD AND YOU WILL LOSE ALL THE MONEY YOU HAVE PAID ON THE CONTRACT; YOU WILL LOSE YOUR RIGHT TO POSSESSION OF THE PROPERTY; YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE; AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY.

(b) For contracts executed on or after May 1, 1980:

THIS NOTICE IS TO INFORM YOU THAT BY THIS NOTICE THE SELLER HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, SECTION 559.21, TO TERMINATE YOUR CONTRACT FOR DEED THE PURCHASE OF YOUR PROPERTY FOR THE REASONS SPECIFIED IN THIS NOTICE. THE CONTRACT WILL TERMINATE DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DATE OF PUBLICATION OF THIS NOTICE) UNLESS BEFORE THEN THE PERSON AUTHORIZED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU THE AMOUNT THIS NOTICE SAYS YOU OWE PLUS ANY ADDITIONAL PAYMENTS DUE UNDER THE CONTRACT TO THE SELLER SINCE THE NOTICE WAS SERVED PLUS THE COSTS OF SERVICE OF THIS NOTICE (TO BE SENT TO YOU) TOGETHER WITH THE MORTGAGE REGISTRATION TAX OF \$ (WHICH IS TWO PERCENT OF THE AMOUNT IN DEFAULT AT THE TIME OF SERVICE OTHER THAN THE FINAL BALLOON PAYMENT, ANY TAX-

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ES, ASSESSMENTS, MORTGAGES, OR PRIOR CONTRACTS THAT ARE ASSUMED BY YOU) AND \$ TO APPLY TO ATTORNEYS' FEES ACTUALLY EXPENDED OR INCURRED; OR UNLESS BEFORE THEN YOU SECURE FROM A COUNTY OR DISTRICT COURT AN ORDER THAT THE TERMINATION OF THE CONTRACT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES. IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR CONTRACT WILL TERMINATE AT THE END OF THE PERIOD AND YOU WILL LOSE ALL THE MONEY YOU HAVE PAID ON THE CONTRACT; YOU WILL LOSE YOUR RIGHT TO POSSESSION OF THE PROPERTY; YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE; AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY.

Sec. 8. Minnesota Statutes 1984, section 559.21, subdivision 4, is amended to read:

Subd. 4. (a) The notice required by this section must be given notwithstanding any provisions in the contract to the contrary, ~~and shall except that earnest money contracts, purchase agreements, and exercised options that are subject to this section may, by their terms, provide for a shorter termination period, not less than 30 days.~~ The notice must be served within the state in the same manner as a summons in the district court, without and outside of the state, in the same manner, and without securing any sheriff's return of not found, making any preliminary affidavit, mailing a copy of the notice or doing any other preliminary act or thing whatsoever. Service of the notice without outside of the state may be proved by the affidavit of the person making the same, made before an authorized officer having a seal, and within the state by such an affidavit or by the return of the sheriff of any county therein.

(b) Three weeks published notice, and if the premises described in the contract are actually occupied, then in addition thereto, the personal service of a copy of the notice within ten days after the first date of publication of the notice, and in like manner as the service of a summons in a civil action in the district court upon the person in possession of the premises, has the same effect as the personal service of the notice upon the purchaser, his personal representatives or assigns, either within or ~~without outside of~~ the state as herein provided for. In case of service by publication, as herein provided, the notice shall specify the conditions in which default has been made, state that the purchaser, his personal representative, or assigns are allowed 90 days from and after the first date of publication of the notice to comply with the conditions of the contract, and state

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that the contract will terminate 90 days after the first date of publication of the notice, unless prior thereto the purchaser:

(1) complies with the conditions and, if required pursuant to subdivision 2;

(2) makes all payments due and owing to the vendor seller under the contract through the date that payment is made and;

(3) pays the costs of service, the mortgage registration tax, if actually paid by the vendor, as provided in subdivision 2a;

(4) pays two percent of the amount in default at the time of service, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and

(5) pays attorneys' fees as provided herein, and the purchaser, his personal representatives or assigns, shall be allowed 90 days from and after the first date of publication of the notice to comply with the conditions of the contract in subdivision 2a.

(c) The contract is reinstated if, within the time mentioned, the person served:

(1) complies with the conditions and, if required pursuant to subdivision 2;

(2) makes all payments due and owing to the vendor seller under the contract through the date that payment is made and;

(3) pays the costs of service, the mortgage registration tax, if actually paid by the vendor, as provided in subdivision 2a;

(4) pays two percent of the amount in default, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and

(5) pays attorneys' fees as provided herein, in subdivision 2a.

(d) the contract shall be thereby reinstated; but otherwise shall terminate is terminated if the provisions of paragraph (c) are not met.

(e) In the event that the notice was not signed by an attorney for the vendor seller and the vendor seller is not present in the state, or cannot be found therein, then compliance with the conditions specified in the notice may be made by paying to the clerk of the district court in the county wherein the real estate or any part thereof is situated any money due and filing proof of compliance with other defaults specified, and the clerk of the district court shall be deemed the agent of the vendor seller for such purposes. A copy of the notice with proof of service thereof, and the affidavit of the vendor seller, his agent or attorney, showing that the purchaser has not complied with the terms of the notice, may be

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recorded with the county recorder, and is prima facie evidence of the facts therein stated; but this section in no case applies to contracts for the sale or conveyance of lands situated in another state or in a foreign country.

Sec. 9. Minnesota Statutes 1984, section 559.21, subdivision 6, as amended by Laws 1985, chapter 306, section 7, is amended to read:

Subd. 6. **TEMPORARY MINIMUM ADDITIONAL NOTICE.** (a) Notwithstanding the provisions of any other law to the contrary, ~~no contract for conveyance of homestead property, as defined in section 583.02, shall terminate until 60 days after service of notice if the notice is served after May 24, 1983, and prior to May 1, 1985 or after the effective date of this section and prior to May 1, 1987, 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. The a notice shall to terminate a contract for conveyance of homestead property to which the provisions of chapter 583 apply, served after May 24, 1983, and prior to May 1, 1985, or after June 8, 1985, and prior to May 1, 1987, must include a statement that the borrower purchaser may be eligible for an extension of the time prior to foreclosure and execution sale termination under sections 583.01 to 583.12.~~

(b) ~~The notice statement must be in bold type, capitalized letters, or other form sufficient for the reader to quickly and easily distinguish the notice statement from the rest of the writing; notice. The requirements of this paragraph must be followed on notices served under this subdivision on or after August 1, 1985. A violation of this requirement paragraph is a petty misdemeanor.~~

(c) ~~This section subdivision does not apply to earnest money contracts, purchase agreements or exercised options.~~

Sec. 10. Minnesota Statutes 1984, section 559.21, is amended by adding a subdivision to read:

Subd. 8. **ATTORNEY AS AGENT.** Any attorney expressly authorized by the seller to receive payments in the notice of termination under this section is designated as the attorney who may receive service as agent for the seller of all summons, complaints, orders, and motions made in conjunction with an action by the purchaser to restrain the termination.

Sec. 11. Minnesota Statutes 1984, section 580.031, as amended by Laws 1985, chapter 306, section 15, is amended to read:

580.031 MINIMUM NOTICE.

(a) 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 583.02, to which the provisions of chapter 583 apply if the notice is published for the first time after May 24, 1983 and prior to May 1,

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1985 or after the effective date of this section June 8, 1985, and prior to May 1, 1987. The notice must contain the information specified in section 580.04.

(b) ~~The notice must be in bold type, capitalized letters, or other form sufficient for the reader to quickly and easily distinguish the notice from the rest of the writing; violation of this requirement is a petty misdemeanor.~~

(c) ~~At least eight 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. 12. Minnesota Statutes 1984, section 583.03, subdivision 2, as amended by Laws 1985, chapter 306, section 17, is amended to read:

Subd. 2. **GENERAL EXCLUSION.** The provisions of sections 47.20, subdivision 15, 559.21, subdivision 6, 580.031, and 583.01 to 583.12 do not apply to:

(1) mortgages or contracts for deed made after the effective date of this act, ~~nor to~~ May 24, 1983;

(2) mortgages or contracts for deed made before the effective date of this act ~~which~~ May 24, 1983, ~~that~~ are renewed or extended after the effective date of this act May 24, 1983, for a period longer than one year, ~~nor to~~; or

(3) 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 this act May 24, 1983.

No court shall allow a stay or postponement, or extension of time that would cause any right to be lost or adversely affected by any statute of limitation.

Sec. 13. Minnesota Statutes 1984, section 583.04, as amended by Laws 1985, chapter 306, section 18, is amended to read:

583.04 MORTGAGOR MAY APPLY TO DISTRICT COURT FOR RELIEF.

Any mortgagor, or owner in possession of the mortgaged premises including farm homestead 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 ~~default~~ the foreclosure proceedings and prior to the sale, petition the district court of the county where the foreclosure proceedings are pending, serving a summons and verified petition 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 May 24, 1983, may petition the district court in the same manner, requesting that the contract termination be postponed for up to 90 days. Upon receiving the petition, the court shall order a

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stay in the foreclosure proceedings or contract termination until after the hearing on the petition. The court may order costs and attorney fees to be paid by the person applying for relief. If the court orders attorney fees to be paid, the amount may not exceed \$150 or one-half of the attorney fees allowed in section 582.01, whichever is less. The court may order the attorney fees to be prorated and combined with payments ordered under section 583.08. The court may not order attorney fees to be paid by the person applying for relief, if the person is receiving public assistance or legal aid for their own legal representation.

Sec. 14. Minnesota Statutes 1984, section 583.05, as amended by Laws 1985, chapter 306, section 19, is amended to read:

583.05 COURT MAY ORDER POSTPONEMENT OF SALE; FINDINGS.

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

(1) that the petitioner is unemployed, underemployed, facing catastrophic medical expenses, 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 postponement of the sale, the mortgagee shall publish notice of the new sale date as provided in section 580.03. ~~If the court grants a postponement of the sale, the mortgagee shall not publish notice of a new sale date as provided in section 580.03 until the postponement period has expired, except as provided in section 583.08.~~ Section 580.07 does not apply to foreclosure sales postponed by a court pursuant to sections 583.01 to 583.12.

Sec. 15. Minnesota Statutes 1984, section 583.07, as amended by Laws 1985, chapter 306, section 20, is amended to read:

583.07 REDUCTION OF REDEMPTION PERIOD.

If the court grants a postponement of the foreclosure sale pursuant to sections 583.01 to 583.12, the redemption period pursuant to section 580.23 may be reduced by an equivalent period of time, provided, that in no event ~~shall~~ may the redemption period be less than 30 days. If the court does not grant a postponement of the foreclosure sale, the redemption period ~~shall~~ must be as provided in section 580.23.

Sec. 16. REPEALER.

(a) Minnesota Statutes 1984, section 559.21, subdivisions 1, 1a, and 2 are repealed.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) Minnesota Statutes 1984, section 559.21, subdivision 8, as added by Laws 1985, chapter 300, section 29, is repealed.

Sec. 17. EFFECTIVE DATE.

(a) Sections 1, 2, 4, 5, 11, 12, 14, and 15, and the amendments in section 9 to Minnesota Statutes 1984, section 559.21, subdivision 6, paragraph (b), as amended, are effective retroactive to June 8, 1985.

(b) Sections 3, 6 to 8, 10, and 16, and the amendments in section 9 to Minnesota Statutes 1984, section 559.21, subdivision 6, paragraphs (a) and (c), as amended, are effective August 1, 1985, and apply to contracts for the conveyance of real estate or any interest therein executed before, on, or after that date.

(c) Section 13 is effective the day after final enactment.

Approved July 5, 1985

Changes or additions are indicated by underline, deletions by ~~strikeout~~.