

CHAPTER 583

MORTGAGE AND CONTRACT FOR
DEED MORATORIUMS

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583.01 LEGISLATIVE FINDINGS.

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.

History: 1983 c 215 s 4

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

583.02 DEFINITIONS.

As used in sections 583.01 to 583.12, 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.

History: 1983 c 215 s 5

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

583.03 APPLICATION.

Subdivision 1. **Property covered.** The provisions of sections 47.20, subdivision 15, 559.21, subdivision 6, 580.031, and 583.01 to 583.12 apply to first mortgages secured by and contracts for deed conveying, homesteads within the meaning of section 583.02, including: (1) 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 (2) 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 47.20, subdivision 15, 559.21, subdivision 6, 580.031, and 583.01 to 583.12 do not apply to mortgages or contracts for deed made after May 24, 1983, nor to mortgages or contracts for deed made before May 24, 1983, which are renewed or extended after May 24, 1983, for a period longer than one year, nor to mortgages, judgments, or contracts for deed,

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regardless of when made, if a second or subsequent mortgage is made against the property after May 24, 1983.

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.

History: 1983 c 215 s 6; 1984 c 474 s 4

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

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 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 May 24, 1983, 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.

History: 1983 c 215 s 7

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

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, 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 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 583.01 to 583.12.

History: 1983 c 215 s 8; 1984 c 474 s 5

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

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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.

History: 1983 c 215 s 9

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

583.07 REDUCTION OF REDEMPTION PERIOD.

If the court grants a delay in the foreclosure sale pursuant to sections 583.01 to 583.12, 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 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.

History: 1983 c 215 s 10

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

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, equity in the property held by the mortgagor or contract vendee, 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 583.01 to 583.12, has expired.

History: 1983 c 215 s 11; 1984 c 474 s 6

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

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

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reasonable, the court may revise and alter the terms, in the manner the changed circumstances and conditions require.

History: 1983 c 215 s 12

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

583.10 HEARING.

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.

History: 1983 c 215 s 13

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

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 the person against whom the relief is sought without reasonable allowance to justify the exercise of the police power authorized in sections 583.01 to 583.12, 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 583.01 to 583.12 shall be available to a mortgagor or contract vendee only one time on any piece of property.

History: 1983 c 215 s 14

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.

583.12 INCONSISTENT LAWS.

Every law, to the extent that it is inconsistent with sections 583.01 to 583.12 is suspended during the effective period of sections 583.01 to 583.12.

History: 1983 c 215 s 15

NOTE: This section is repealed by Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, effective July 1, 1985.