

## CHAPTER 576

## RECEIVERS, PROPERTY OF ABSENTEES

576.01 Receivers, when authorized.

**576.01 RECEIVERS, WHEN AUTHORIZED.**

*[For text of subd 1, see M.S.2004]*

**Subd. 2. Mortgage appointments.** A receiver shall be appointed in the following case:

After the first publication of notice of sale for the foreclosure of a mortgage pursuant to chapter 580, or with the commencement of an action to foreclose a mortgage pursuant to chapter 581, and during the period of redemption, if the mortgage being foreclosed secured an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units and was not a lien upon property which was entirely homesteaded, residential real estate containing four or less dwelling units where at least one unit is homesteaded, or agricultural property, the foreclosing mortgagee or the purchaser at foreclosure sale may at any time bring an action in the district court of the county in which the mortgaged premises or any part thereof is located for the appointment of a receiver; provided, however, if the foreclosure is by action under chapter 581, a separate action need not be filed. Pending trial of the action on the merits, the court may make a temporary appointment of a receiver following the procedures applicable to temporary injunctions under the Rules of Civil Procedure. If the motion for temporary appointment of a receiver is denied, the trial of the action on the merits shall be held as early as practicable, but not to exceed 30 days after the motion for temporary appointment of a receiver is heard. The court shall appoint a receiver upon a showing that the mortgagor has breached a covenant contained in the mortgage relating to any of the following:

- (1) application of tenant security deposits as required by section 504B.178;
- (2) payment when due of prior or current real estate taxes or special assessments with respect to the mortgaged premises, or the periodic escrow for the payment of the taxes or special assessments;
- (3) payment when due of premiums for insurance of the type required by the mortgage, or the periodic escrow for the payment of the premiums;
- (4) keeping of the covenants required of a landlord or licensor pursuant to section 504B.161, subdivision 1.

The receiver shall be an experienced property manager. The court shall determine the amount of the bond to be posted by the receiver.

The receiver shall collect the rents, profits and all other income of any kind, manage the mortgaged premises so to prevent waste, execute leases within or beyond the period of the receivership if approved by the court, pay the expenses listed in clauses (1), (2), and (3) in the priority as numbered, pay all expenses for normal maintenance of the mortgaged premises and perform the terms of any assignment of rents which complies with section 559.17, subdivision 2. Reasonable fees to the receiver shall be paid prior thereto. The receiver shall file periodic accountings as the court determines are necessary and a final accounting at the time of discharge.

The purchaser at foreclosure sale shall have the right, at any time and without limitation as provided in section 582.03, to advance money to the receiver to pay any or all of the expenses which the receiver should otherwise pay if cash were available from the mortgaged premises. Sums so advanced, with interest, shall be a part of the sum required to be paid to redeem from the sale. The sums shall be proved by the affidavit of the purchaser, an agent or attorney, stating the expenses and describing the mortgaged premises. The affidavit must be recorded with the county recorder or the

registrar of titles, and a copy thereof shall be furnished to the sheriff and the receiver at least ten days before the expiration of the period of redemption.

Any sums collected which remain in the possession of the receiver at termination of the receivership shall, in the event the termination of the receivership is due to the reinstatement of the mortgage debt or redemption of the mortgaged premises by the mortgagor, be paid to the mortgagor; and in the event termination of the receivership occurs at the end of the period of redemption without redemption by the mortgagor or any other party entitled to redeem, interest accrued upon the sale price pursuant to section 580.23 or section 581.10 shall be paid to the purchaser at foreclosure sale. Any net sum remaining shall be paid to the mortgagor, except if the receiver was enforcing an assignment of rents which complies with section 559.17, subdivision 2, in which case any net sum remaining shall be paid pursuant to the terms of the assignment.

This subdivision shall apply to all mortgages executed on or after August 1, 1977, and to amendments or modifications of such mortgages, and to amendments or modifications made on or after August 1, 1977, to mortgages executed before August 1, 1977, if the amendment or modification is duly recorded and is for the principal purpose of curing a default.

**History:** 2005 c 4 s 141