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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **2604**

February 4, 2010

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The bill was read for the first time and referred to the Committee on Civil Justice

February 8, 2010

By motion, recalled and re-referred to the Housing Finance and Policy and Public Health Finance Division

February 15, 2010

Committee Recommendation and Adoption of Report:

Re-referred to the Committee on Commerce and Labor without further recommendation

1.1 A bill for an act
1.2 relating to economic development; allowing a stay of mortgage foreclosure
1.3 proceedings under certain conditions; landlord and tenant; providing rights to
1.4 tenants of foreclosed property; amending Minnesota Statutes 2008, section
1.5 504B.151, subdivision 2, by adding subdivisions; Minnesota Statutes 2009
1.6 Supplement, section 504B.151, subdivision 1; proposing coding for new law in
1.7 Minnesota Statutes, chapter 582.

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

1.9 Section 1. Minnesota Statutes 2009 Supplement, section 504B.151, subdivision 1,
1.10 is amended to read:

1.11 Subdivision 1. **Limitation on lease and notice to tenant.** (a) Once a landlord has
1.12 received notice of a contract for deed cancellation under section 559.21 or notice of a
1.13 mortgage foreclosure sale under chapter 580 or 582, or summons and complaint under
1.14 chapter 581, the landlord may only enter into (i) a periodic residential lease agreement
1.15 with a term of not more than two months or the time remaining in the contract cancellation
1.16 period or the mortgagor's redemption period, whichever is less or (ii) a fixed term
1.17 residential tenancy not extending beyond the cancellation period or the landlord's period
1.18 of redemption until:

- 1.19 (1) the contract for deed has been reinstated or paid in full;
- 1.20 (2) the mortgage default has been cured and the mortgage reinstated;
- 1.21 (3) the mortgage has been satisfied;
- 1.22 (4) the property has been redeemed from a foreclosure sale; or
- 1.23 (5) a receiver has been appointed.

1.24 (b) Before entering into a lease under this section and accepting any rent or security
1.25 deposit from a tenant, the landlord must notify the prospective tenant in writing that the

2.1 landlord has received notice of a contract for deed cancellation or notice of a mortgage
 2.2 foreclosure sale as appropriate, and the date on which the contract cancellation period or
 2.3 the mortgagor's redemption period ends. The landlord must also inform the prospective
 2.4 tenant of the tenant's right to continued utility services if the landlord defaults on utility
 2.5 payments during the foreclosure process.

2.6 (c) This section does not apply to a manufactured home park as defined in section
 2.7 327C.01, subdivision 5.

2.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.9 Sec. 2. Minnesota Statutes 2008, section 504B.151, subdivision 2, is amended to read:

2.10 Subd. 2. **Exception allowing a longer term lease.** ~~This section~~ Subdivision 1
 2.11 does not apply if:

2.12 (1) the holder or the mortgagee agrees not to terminate the tenant's lease other than
 2.13 for lease violations for at least one year from the commencement of the tenancy; and

2.14 (2) the lease does not require the tenant to prepay rent for any month commencing
 2.15 after the end of the cancellation or redemption period, so that the rent payment would be
 2.16 due prior to the end of the cancellation or redemption period.

2.17 For the purposes of this section, a holder means a contract for deed vendor or a
 2.18 holder of the sheriff's certificate of sale or any assignee of the contract for deed vendor or
 2.19 of the holder of the sheriff's certificate of sale.

2.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.21 Sec. 3. Minnesota Statutes 2008, section 504B.151, is amended by adding a
 2.22 subdivision to read:

2.23 **Subd. 5. Rights of tenant of foreclosed property.** (a) When a holder takes over a
 2.24 rental property as the result of a foreclosure:

2.25 (1) a tenant is deemed by operation of law to become the tenant of the holder; and

2.26 (2) all leases, verbal or written, and all terms and conditions of those agreements shall
 2.27 be transferred to the holder and recorded in a new lease between the holder and the tenant.

2.28 (b) A holder shall:

2.29 (1) maintain as rental property, property that was used as rental property by the
 2.30 landlord;

2.31 (2) offer renewal leases to tenants of the foreclosed property; and

2.32 (3) offer a fair market rent, that is, not exceeding the current rent.

2.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.1 Sec. 4. Minnesota Statutes 2008, section 504B.151, is amended by adding a
3.2 subdivision to read:

3.3 Subd. 6. **Eviction.** Notwithstanding any other law to the contrary, a holder must not
3.4 begin an eviction action against a tenant without cause. For purposes of this subdivision,
3.5 "cause" shall mean one or more of the following:

3.6 (1) the tenant has failed to pay a reasonable rent to the foreclosing owner, but only
3.7 if the foreclosing owner notified the tenant in writing of the reasonable rent amount, to
3.8 whom it was to be paid, and the due date;

3.9 (2) the tenant has violated an obligation or covenant of the tenancy or occupancy
3.10 other than the obligation to surrender possession upon proper notice and has failed to
3.11 cure the violation within a reasonable time after having received written notice from the
3.12 foreclosing owner;

3.13 (3) the tenant is permitting a nuisance to exist in, or is causing substantial damage
3.14 to, the unit, or is creating a substantial interference with the quiet enjoyment of other
3.15 occupants;

3.16 (4) the tenant is convicted of using or permitting the unit to be used for any illegal
3.17 purpose; or

3.18 (5) the tenant has refused the foreclosing owner reasonable access to the unit to make
3.19 necessary repairs or improvements required by law, inspect the premises as permitted
3.20 or required by agreement or by law, or show the rental housing unit to a prospective
3.21 purchaser or mortgagee.

3.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.23 Sec. 5. Minnesota Statutes 2008, section 504B.151, is amended by adding a
3.24 subdivision to read:

3.25 Subd. 7. **Termination of tenancy.** A holder must not terminate the tenancy of a
3.26 tenant of foreclosed property without cause as defined in subdivision 6.

3.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.28 Sec. 6. Minnesota Statutes 2008, section 504B.151, is amended by adding a
3.29 subdivision to read:

3.30 Subd. 8. **Periodic leases.** A holder must offer a fixed-term lease option to a tenant
3.31 with a periodic lease in place at the time the tenant becomes a tenant of the holder.

3.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.1 Sec. 7. Minnesota Statutes 2008, section 504B.151, is amended by adding a
4.2 subdivision to read:

4.3 Subd. 9. **Applicability.** The provisions of subdivisions 5 to 8 apply to all tenants
4.4 regardless of when a tenant entered into a rental agreement with the property owner or at
4.5 what stage the foreclosure process was in when the rental agreement was entered.

4.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.7 Sec. 8. **[582.33] FORECLOSURE MORATORIUM.**

4.8 Subdivision 1. **Emergency declared to exist.** The legislature declares that a public
4.9 economic emergency exists in the state due to the increase in foreclosure rates. The
4.10 legislature declares that these conditions have created a housing emergency that justifies
4.11 legislation creating a moratorium on mortgage foreclosures.

4.12 Subd. 2. **Stay of foreclosure process.** In any proceeding to foreclose a mortgage
4.13 upon residential property, whether by judicial process under this chapter and chapter
4.14 581 or by advertisement under this chapter and chapter 580, foreclosed borrowers and
4.15 tenants of rental property being foreclosed shall be entitled to stay the foreclosure process
4.16 and remain in possession of the mortgaged premises by serving a notice of right to stay
4.17 upon the mortgage holder or holder of a certificate of sale if different from the mortgage
4.18 holder, the court having jurisdiction over a judicial action to foreclose the mortgage, and
4.19 the sheriff in the jurisdiction where the mortgaged premises are located. The foreclosure
4.20 process shall be stayed effective as of the date of service of the notice of right to stay. The
4.21 stay shall continue in effect for a period of two years from the date of service of the notice,
4.22 provided that the conditions set forth in subdivision 3 are met.

4.23 Subd. 3. **Maintenance of stay.** In order to maintain a stay obtained under
4.24 subdivision 2:

4.25 (1) a foreclosed borrower in possession must maintain homestead status of the
4.26 property and continue to reside in the foreclosed property. A tenant in foreclosed property
4.27 must continue to reside in the foreclosed property;

4.28 (2) after receipt of written notice from the foreclosing lender or holder of a certificate
4.29 of sheriff's sale of the name and address to which the monthly payments are to be made,
4.30 the amount of the payment, the date that the first monthly payment is due, and the dates
4.31 of each subsequent payment, the holder of the stay shall make reasonable, affordable
4.32 monthly payments to the foreclosing lender or holder or holder of a certificate of sheriff's
4.33 sale. For foreclosed borrowers, the monthly payment shall be the monthly payment when
4.34 the mortgage was foreclosed or 41 percent based on the borrower's documented and
4.35 verified monthly gross income, whichever is less. For renters in possession of foreclosed

5.1 rental property, the monthly payment shall be the current monthly rental amount or
5.2 41 percent based on the borrower's documented and verified monthly gross income,
5.3 whichever is less; and

5.4 (3) the holder of the stay must refrain from conduct that would constitute just cause
5.5 for dissolution of the stay, as defined in subdivision 4.

5.6 Subd. 4. **Dissolution of stay.** Upon 30 days' written notice to the holder of the stay
5.7 and any other party designated by the holder of the stay, the foreclosing lender or holder of
5.8 a certificate of sheriff's sale shall be entitled to apply to a court in the jurisdiction where
5.9 the property is located for an order dissolving the stay. An order dissolving the stay and
5.10 granting possession of the property to the foreclosing lender or holder of the certificate
5.11 of sheriff's sale may be granted if the court finds that the public interest is served by
5.12 granting the order and upon a showing that the foreclosed borrower in possession or
5.13 tenant in possession of foreclosed property has failed to comply with the requirements of
5.14 subdivision 3 or that other just cause exists. For purposes of this subdivision, "other just
5.15 cause" means one or more of the following:

5.16 (1) if the holder of the stay is a tenant, that the tenant has violated an obligation or
5.17 covenant of the tenancy or occupancy other than the obligation to surrender possession
5.18 upon proper notice and has failed to cure the violation within a reasonable time after
5.19 having received written notice from the foreclosing owner;

5.20 (2) the foreclosed borrower or tenant is permitting a nuisance to exist in, or is
5.21 causing substantial damage to, the unit, or is creating a substantial interference with the
5.22 quiet enjoyment of other occupants;

5.23 (3) the foreclosed borrower or tenant is convicted of using or permitting the unit to
5.24 be used for any illegal purpose; or

5.25 (4) the foreclosed borrower or tenant has refused the foreclosing owner reasonable
5.26 access to the unit for the purpose of making necessary repairs or improvements required
5.27 by law, to inspect the premises as permitted or required by agreement or by law, or to show
5.28 the rental housing unit to a prospective purchaser or mortgagee.

5.29 Subd. 5. **Application.** This section applies only to mortgages executed before
5.30 the effective date of this section.

5.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.