

1.1 A bill for an act

1.2 relating to mortgages; requiring certain notices related to redemption rights be
1.3 made to a mortgagor; providing for a private right of action; amending Minnesota
1.4 Statutes 2008, sections 580.03; 580.041, as amended; 580.06.

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

1.6 Section 1. Minnesota Statutes 2008, section 580.03, is amended to read:

1.7 **580.03 NOTICE OF SALE; SERVICE ON OCCUPANT.**

1.8 Six weeks' published notice shall be given that such mortgage will be foreclosed by
1.9 sale of the mortgaged premises or some part thereof, and at least four weeks before the
1.10 appointed time of sale a copy of such notice shall be served in like manner as a summons
1.11 in a civil action in the district court upon the person in possession of the mortgaged
1.12 premises, if the same are actually occupied. If there be a building on such premises used
1.13 by a church or religious corporation, for its usual meetings, service upon any officer
1.14 or trustee of such corporation shall be a sufficient service upon it. The ~~notice~~ notices
1.15 required by sections 580.041 and 580.042 must be served simultaneously with the notice
1.16 of foreclosure required by this section.

1.17 Sec. 2. Minnesota Statutes 2008, section 580.041, as amended by Laws 2009, chapter
1.18 123, section 7, and Laws 2009, chapter 130, section 7, is amended to read:

1.19 **580.041 FORECLOSURE ADVICE AND REDEMPTION RIGHTS NOTICE**
1.20 **TO OWNERS.**

1.21 Subd. 1a. **Applicability.** This section applies to foreclosure of mortgages by
1.22 advertisement under this chapter and foreclosure of mortgages by action under chapter
1.23 581 on property consisting of one to four family dwelling units, one of which the owner

2.1 occupies as the owner's principal place of residency when the notice of pendency under
2.2 section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded.

2.3 Subd. 1b. **Form and delivery of foreclosure advice notice.** The foreclosure advice
2.4 notice required by this section must be in 14-point boldface type and must be printed on
2.5 colored paper that is other than the color of the notice of foreclosure required by sections
2.6 580.03 and 580.04 and the notice of redemption rights required by this section, and that
2.7 does not obscure or overshadow the content of the notice. The title of the notice must
2.8 be in 20-point boldface type. The notice must be on its own page. The foreclosure
2.9 advice notice required by this section must be delivered with the notice of foreclosure
2.10 required by sections 580.03 and 580.04. The foreclosure advice notice required by this
2.11 section also must be delivered with each subsequent written communication regarding the
2.12 foreclosure mailed to the mortgagor by the foreclosing party up to the day of redemption.
2.13 A foreclosing mortgagee will be deemed to have complied with this section if it sends
2.14 the foreclosure advice notice required by this section at least once every 60 days during
2.15 the period of the foreclosure process. The foreclosure advice notice required by this
2.16 section must not be published.

2.17 Subd. 1c. **Form and delivery of notice of redemption rights.** The notice of
2.18 redemption rights required by this section must be in 14-point boldface type and must be
2.19 printed on colored paper that is other than the color of the notice of foreclosure required
2.20 by sections 580.03 and 580.04 and the foreclosure advice notice required by this section,
2.21 and that does not obscure or overshadow the content of the notice. The title of the notice
2.22 must be in 20-point boldface type. The notice must be on its own page. The notice of
2.23 redemption rights must be delivered with the notice of foreclosure required by sections
2.24 580.03 and 580.04. The notice of redemption rights required by this section must not
2.25 be published.

2.26 Subd. 2. **Content of foreclosure advice notice.** The foreclosure advice notice
2.27 required by this section must appear substantially as follows:

2.28 "Help For Homeowners in Foreclosure

2.29 The attorney preparing this foreclosure is: _____

2.30 (Attorney name, address, phone)

2.31 It is being prepared for:

2.32 _____

2.33 (Lender name, loss mitigation phone number)

2.34 AS OF [insert date], this lender says that you owe \$[insert dollar amount] to bring
2.35 your mortgage up to date (or "reinstate" your mortgage). You must pay this amount
2.36 to keep your house from going through a sheriff's sale. The sheriff's sale is scheduled
2.37 for [insert date] at [insert time] at [insert place].

3.1 Mortgage foreclosure is a complex process. People may contact you with advice and
3.2 offers to help "save" your home.

3.3 **Remember:** It is important that you learn as much as you can about foreclosure and
3.4 your situation. Find out about all your options before you make any agreements with
3.5 anyone about the foreclosure of your home.

3.6 **Getting Help**

3.7 As soon as possible, you should contact your lender at the above number to talk
3.8 about things you might be able to do to prevent foreclosure. You should also
3.9 consider contacting the foreclosure prevention counselor in your area. A foreclosure
3.10 prevention counselor can answer your questions, offer free advice, and help you
3.11 create a plan which makes sense for your situation.

3.12 Contact the Minnesota Home Ownership Center at 651-659-9336 or 866-462-6466
3.13 or www.hocmn.org to get the phone number and location of the nearest counseling
3.14 organization. Call today. The longer you wait, the fewer options you may have for
3.15 a desirable result.

3.16 ~~**Information About the Foreclosure Process**~~

3.17 ~~You do not need to move at the time of the sheriff's sale. After the sheriff's sale you~~
3.18 ~~have the right to "redeem." Redeem means that you pay off the entire loan amount~~
3.19 ~~plus fees to keep your house. You can keep living in your home for a period of time.~~
3.20 ~~This is called a "redemption period." The redemption period is [insert number of~~
3.21 ~~months] months after the sheriff's sale. This redemption period is your chance to~~
3.22 ~~try and sell your home or refinance it with a different loan. You can also pay the~~
3.23 ~~redemption amount with any other funds you have available. At the end of the~~
3.24 ~~redemption period you will have to leave your home. If you do not, the person or~~
3.25 ~~company that bid on your home at the sheriff's sale has the right to file an eviction~~
3.26 ~~against you in district court."~~

3.27 Subd. 2a. **Content of notice of redemption rights.** The notice of redemption rights
3.28 required by this section must appear substantially as follows:

3.29 **"What Happens After the Foreclosure Sale**

3.30 After the sheriff's sale, you have the right to "redeem." Redeem means that you pay the
3.31 amount bid for your house at the sheriff's sale plus fees to keep your house. You can
3.32 keep living in your home for a period of time after the foreclosure sale. This is called a
3.33 "redemption period." The redemption period is [insert number of months] months after
3.34 the sheriff's sale. (The redemption period may be shortened if you have postponed the
3.35 foreclosure or if the property is declared to be abandoned.)

4.1 At the end of the redemption period, if you do not redeem or sell, you will have to
4.2 leave your home. If you do not leave, the person or company that bid on your home at the
4.3 sheriff's sale has the right to file an eviction against you in district court.

4.4 **Be Careful of Foreclosure Scams**

4.5 Be careful! After the foreclosure sale, people may approach you to buy your house
4.6 or offer to deed your house to them for little or no money.

4.7 Before you give up the rights to your house or sign any documents (including a
4.8 deed), be sure you know how much the house sold for at the sheriff's sale and decide if
4.9 you can save it by buying it back from the winning bidder.

4.10 **How to Find Out How Much Your House Sold For at the Foreclosure Sale**

4.11 The amount you need to pay to keep your house ("redeem") may be less than the
4.12 amount you owed on your mortgage before the sale (although it could also be more). You
4.13 can learn what this amount is (and who the winning bidder at the sale was) by attending
4.14 the sheriff's sale or by calling the sheriff's office after the sale.

4.15 **You Can Also Sell Your House**

4.16 During the redemption period, if you sell your home, you must sell it for enough to
4.17 pay off the winning bidder from the sheriff's sale AND pay any recorded liens, fines, or
4.18 fees that have accumulated. (A lien is a legal claim that someone has put on your property
4.19 because you owe that person money. A recorded lien means that it has been filed with the
4.20 county as a public document.) If there is any money left from the sale of the house after
4.21 all these debts are paid, you can keep it.

4.22 **Get More Information and Advice**

4.23 For more information and advice, contact an attorney or a mortgage foreclosure
4.24 prevention counselor. You can find a mortgage foreclosure prevention counselor by
4.25 contacting the Minnesota Home Ownership Center at 651-659-9336 or 866-462-6466
4.26 or www.hocmn.org to get the phone number and location of the nearest counseling
4.27 organization."

4.28 Subd. 3. **Affidavit.** Any person may establish compliance with or inapplicability of
4.29 this section by recording, with the county recorder or registrar of titles, an affidavit by
4.30 a person having knowledge of the facts, stating that the notice required by this section
4.31 has been delivered in compliance with this section or that this section is not applicable
4.32 because the property described in the notice of foreclosure did not consist of one to four
4.33 family dwelling units, one of which was occupied by the owner as the owner's principal
4.34 place of residency. The affidavit and a certified copy of a recorded affidavit shall be prima
4.35 facie evidence of the facts stated in the affidavit. The affidavit may be recorded regarding

5.1 any foreclosure sale, including foreclosure sales which occurred prior to August 1, 2005,
5.2 and may be recorded separately or as part of the record of a foreclosure.

5.3 Subd. 4. **Validation of foreclosure sales.** No mortgage foreclosure sale under this
5.4 chapter shall be invalid because of failure to comply with this section unless an action
5.5 to invalidate the sale is commenced and a notice of lis pendens is filed with the county
5.6 recorder or registrar of titles within one year after the last day of the redemption period of
5.7 the mortgagor, the mortgagor's personal representatives, or assigns. This subdivision shall
5.8 not affect any action or proceeding pending on August 1, 2005, or which is commenced
5.9 before February 1, 2006, in any court of this state, provided a notice of lis pendens of the
5.10 action is filed with the county recorder or registrar of titles before February 1, 2006.

5.11 Sec. 3. Minnesota Statutes 2008, section 580.06, is amended to read:

5.12 **580.06 SALE, HOW AND BY WHOM MADE; NOTICE TO MORTGAGOR.**

5.13 Subdivision 1. Requirements for sale. The sale shall be made by the sheriff or the
5.14 sheriff's deputy at public venue to the highest bidder, in the county in which the premises
5.15 to be sold, or some part thereof, are situated, between 9:00 a.m. and 4:00 p.m.

5.16 Subd. 2. Notice of results of sale required; contents. (a) Except as provided in
5.17 paragraph (c), a person attempting to acquire title to the mortgagor's property following
5.18 the sheriff's sale and prior to the end of the redemption period, must provide to the
5.19 mortgagor, by personal delivery three days prior to entering into an agreement to acquire
5.20 title, notice of the results of the foreclosure as provided under paragraph (b).

5.21 (b) The notice required under paragraph (a) must contain the following information:

5.22 (1) the date the sale occurred;

5.23 (2) the identity of the purchaser and any assignees of the purchaser;

5.24 (3) the sale price; and

5.25 (4) the following statement: "There are very important things you need to know now
5.26 that your house has been auctioned at the sheriff's sale:

5.27 (i) you have (insert the number of months) to "redeem," which means to pay the
5.28 winning bidder the sale price listed above (plus interest and costs) and keep your house;

5.29 (ii) the redemption period may be shortened if you have postponed the foreclosure
5.30 or if the property is declared to be abandoned;

5.31 (iii) whether you can pay off the amount or not, YOU DO NOT HAVE TO MOVE
5.32 RIGHT AWAY. YOU CAN KEEP LIVING IN YOUR HOME until the end of this
5.33 redemption period;

5.34 (iv) read all notices and documents related to the foreclosure of your home
5.35 carefully!! THE AMOUNT YOU NEED TO PAY THE WINNING BIDDER TO KEEP

6.1 YOUR HOUSE (THE PRICE LISTED ABOVE PLUS INTEREST AND COSTS) MAY
6.2 BE LESS THAN THE AMOUNT YOU OWED ON YOUR MORTGAGE BEFORE
6.3 THE SALE; and

6.4 (v) you can also try to sell your home during this "redemption period." You must sell
6.5 it for enough to pay off the winning bidder from the sheriff's sale and pay any recorded
6.6 liens, fines, or fees that have built up. A lien is a legal claim that someone has put on your
6.7 property because you owe them money. A recorded lien means that it has been filed with
6.8 the county as a public document. For example, if you owe on a second mortgage or to a
6.9 contractor, there could be a recorded lien against the property.

6.10 If there is any money left from the sale of the house after all these debts are paid,
6.11 you can keep it.

6.12 For more information and advice, contact an attorney or a mortgage foreclosure
6.13 prevention counselor. You can find a mortgage foreclosure prevention counselor in
6.14 your county by calling the Minnesota Home Ownership Center at 651-659-9336 or
6.15 866-462-6466 or www.hocmn.org."

6.16 (c) This subdivision does not apply to:

6.17 (1) a seller or buyer who has entered into a signed agency agreement, facilitator
6.18 agreement, or other written agreement to buy or sell the mortgagor's property with a
6.19 person licensed under chapter 82;

6.20 (2) a buyer who offers to buy the mortgagor's property for a purchase price that
6.21 meets or exceeds the amount required to be paid by the mortgagor to redeem the property;

6.22 (3) a foreclosing lender acquiring the mortgagor's property by a deed in lieu of
6.23 foreclosure;

6.24 (4) a nonprofit lender holding a certificate of exemption from the Department of
6.25 Commerce; or

6.26 (5) the state or a local unit of government or an agent of the state or a local unit
6.27 of government.

6.28 Subd. 3. **Private right of action.** (a) Any person who violates subdivision 2 is liable
6.29 to the mortgagor for the sum of:

6.30 (1) actual, incidental, and consequential damages;

6.31 (2) \$1,000 statutory damages; and

6.32 (3) costs, disbursements, and reasonable attorney fees.

6.33 (b) It shall be a rebuttable presumption that a person has complied with subdivision
6.34 2 if the person has recorded with the county recorder or registrar of titles an affidavit by a
6.35 person having knowledge of the facts, stating that the mortgagor received the notice

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7.1 required under subdivision 2. The affidavit and a certified copy of a recorded affidavit
7.2 shall be prima facie evidence of the facts stated in the affidavit.

7.3 Sec. 4. **EXPIRATION.**

7.4 This act expires December 31, 2012.