

A bill for an act

relating to real property; specifying notice requirements; modifying provisions governing the reduced redemption period for abandoned property; establishing a duty to protect vacant foreclosed property under certain circumstances; providing for the imposition of fines for failure to maintain property; altering the posting requirement for trespassing on construction sites; modifying provisions governing public nuisances; imposing civil and criminal penalties; amending Minnesota Statutes 2008, sections 463.251, subdivisions 2, 3; 504B.151, subdivision 1; 504B.178, subdivision 8; 580.021, subdivision 1; 580.04; 580.041, subdivision 1a; 580.042, subdivision 1; 582.031; 582.032, subdivisions 2, 4, 5; 609.605, subdivision 1; 617.80, subdivision 7, by adding a subdivision; 617.81, subdivisions 2, 4.

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

Section 1. Minnesota Statutes 2008, section 463.251, subdivision 2, is amended to read:

Subd. 2. **Order; notice.** (a) If in any city a building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the governing body may order the building secured and shall cause notice of the order to be served upon the owner of record of the premises or the owner's agent, the taxpayer identified in the property tax records for that parcel, the holder of the mortgage or sheriff's certificate, and any neighborhood association for the neighborhood in which the building is located that has requested notice, by delivering or mailing a copy to the owner or agent, the identified taxpayer, the holder of the mortgage or sheriff's certificate, and the neighborhood association, at the last known address. Service by mail is complete upon mailing.

(b) The notice under this subdivision must include a statement that:

(1) informs the owner and the holder of any mortgage or sheriff's certificate of the requirements of subdivision 3 and that costs may be assessed against the property if the person does not secure the building;

(2) informs the owner and the holder of any mortgage or sheriff's certificate that the person may request a hearing before the governing body challenging the governing body's determination that the property is vacant or unoccupied and hazardous; and

(3) notifies the holder of any sheriff's certificate of the holder's duty under section 582.031, subdivision 1, paragraph (b), to enter the premises to protect the premises from waste and trespass if the order is not challenged or set aside and there is prima facie evidence of abandonment of the property as described in section 582.032, subdivision 7.

Sec. 2. Minnesota Statutes 2008, section 463.251, subdivision 3, is amended to read:

Subd. 3. **Securing building by city; lien.** If the owner of the building or a holder of the sheriff's certificate of sale fails to either comply or provide to the governing body a reasonable plan and schedule to comply with an order issued under subdivision 2 or to request a hearing on the order within ~~six~~ 14 days after the order is served, the governing body shall cause the building to be properly secured and the cost of securing the building may be charged against the real estate as provided in section 463.21. In the metropolitan area, as defined in section 473.121, subdivision 2, the governing body may work with neighborhood associations to develop and implement plans to secure vacant buildings in a timely and cost-effective fashion. The city may use rehabilitation and revitalization funds in implementing this section.

Sec. 3. Minnesota Statutes 2008, section 504B.151, subdivision 1, is amended to read:

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

(1) the contract for deed has been reinstated or paid in full;

(2) the mortgage default has been cured and the mortgage reinstated;

(3) the mortgage has been satisfied;

(4) the property has been redeemed from a foreclosure sale; or

(5) a receiver has been appointed.

(b) Before entering into a lease under this section and accepting any rent or security deposit from a tenant, the landlord must notify the prospective tenant in writing that the landlord has received notice of a contract for deed cancellation or notice of a mortgage foreclosure sale as appropriate, and the date on which the contract cancellation period or the mortgagor's redemption period ends.

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

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to leases entered into on or after that date.

Sec. 4. Minnesota Statutes 2008, section 504B.178, subdivision 8, is amended to read:

Subd. 8. **Withholding rent.** No tenant may withhold payment of all or any portion of rent for the last payment period of a residential rental agreement, except an oral or written month to month residential rental agreement concerning which neither the tenant nor landlord has served a notice to quit, or for the last month of a contract for deed cancellation period under section 559.21 or a mortgage foreclosure redemption period under chapter 580, 581, or 582, on the grounds that the deposit should serve as payment for the rent. Withholding all or any portion of rent for the last payment period of the residential rental agreement creates a rebuttable presumption that the tenant withheld the last payment on the grounds that the deposit should serve as payment for the rent. Any tenant who remains in violation of this subdivision after written demand and notice of this subdivision shall be liable to the landlord for the following:

(1) a penalty in an amount equal to the portion of the deposit which the landlord is entitled to withhold under subdivision 3 other than to remedy the tenant's default in the payment of rent; and

(2) interest on the whole deposit as provided in subdivision 2, in addition to the amount of rent withheld by the tenant in violation of this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to cancellations of contracts for deed in which the notice of cancellation is first served or published on or after August 1, 2009, and mortgage foreclosures under Minnesota Statutes, chapter 581, in which the lis pendens is recorded on or after August 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 580.021, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages under this chapter and chapter 581 on property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residency on the date of service of the notice of sale of the owner.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to foreclosures under Minnesota Statutes, chapter 581, in which the lis pendens is recorded on or after August 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 580.04, is amended to read:

580.04 REQUISITES OF NOTICE.

Each notice shall specify or contain:

(1) the name of the mortgagor, the mortgagee, each assignee of the mortgage, if any, and the original or maximum principal amount secured by the mortgage;

(2) the date of the mortgage, and when and where recorded, except where the mortgage is upon registered land, in which case the notice shall state that fact, and when and where registered;

(3) the amount claimed to be due on the mortgage on the date of the notice;

(4) a description of the mortgaged premises, conforming substantially to that contained in the mortgage, and the commonly used street address of the mortgaged premises;

(5) the time and place of sale;

(6) the time allowed by law for redemption by the mortgagor, the mortgagor's personal representatives or assigns; and

(7) ~~if the party foreclosing the mortgage desires to preserve the right to reduce the redemption period under section 582.032 after the first publication of the notice, the notice must also state~~ for mortgaged premises described in section 582.032, subdivision 1, the following statement in capital letters: "THE TIME ALLOWED BY LAW FOR REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION 582.032, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED."

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to notices of sale first published on or after that date.

Sec. 7. Minnesota Statutes 2008, section 580.041, subdivision 1a, is amended to read:

Subd. 1a. **Applicability.** This section applies to foreclosure of mortgages under this chapter and chapter 581 on property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residency on the date of service of the notice of sale on the owner.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to foreclosures under Minnesota Statutes, chapter 581, in which the lis pendens is recorded on or after August 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 580.042, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages under this chapter and chapter 581.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to foreclosures under Minnesota Statutes, chapter 581, in which the lis pendens is recorded on or after August 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 582.031, is amended to read:

582.031 LIMITED RIGHT OF ENTRY; DUTY TO ENTER AND PROTECT PREMISES.

Subdivision 1. **Right of entry.** (a) If premises described in a mortgage or sheriff's certificate are vacant or unoccupied, the holder of the mortgage or sheriff's certificate or the holder's agents and contractors may, ~~but is under no obligation to,~~ enter upon the premises to protect the premises from waste and trespass, until the holder of the mortgage or sheriff's certificate receives notice that the premises are occupied. The holder of the mortgage or sheriff's certificate does not become a mortgagee in possession by taking actions authorized or required under this section. An affidavit of the sheriff, the licensing, regulatory, or inspection authority of a municipality in which the property is located, the holder of the mortgage or sheriff's certificate, or a person acting on behalf of the holder, describing the premises and stating that the same are vacant or unoccupied, is prima facie evidence of the facts stated in the affidavit and is entitled to be recorded in the office of the county recorder or the registrar of titles in the county where the premises are located, if it contains a legal description of the premises.

(b)(1) If the holder of a sheriff's certificate knows that there is prima facie evidence of abandonment of the property, as described in section 582.032, subdivision 7, clauses (1) to (6), the holder:

(i) shall enter the premises and make reasonable periodic inspections, and install or change the locks on all doors, install locks on all windows that do not have them, and ensure that any existing window locks are functioning properly; and

(ii) may, to protect the premises from waste, trespass, or falling below minimum community standards for public safety and sanitation, enter the premises and board windows, doors, and other openings, install and operate an alarm system, and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activity.

(2) Upon an installation or change of locks as required by this section, the holder of a sheriff's certificate must deliver a key to the premises to the mortgagor or any person lawfully claiming through the mortgagor, upon request.

This paragraph only applies where the holder of a mortgage or sheriff's certificate otherwise holds five or more properties.

Subd. 2. **Authorized actions.** The holder of the mortgage or sheriff's certificate may take the following actions to protect the premises from waste, trespass, or from falling below minimum community standards for public safety and sanitation: make reasonable periodic inspections, install or change locks on doors and windows, board windows, doors, and other openings, install and operate an alarm system, and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities. If the holder of the mortgage or sheriff's certificate installs or changes locks under this section, a key to the premises must be promptly delivered to the mortgagor or any person lawfully claiming through the mortgagor, upon request.

Subd. 3. **Costs.** All costs incurred by the holder of the mortgage or sheriff's certificate to protect the premises from waste or trespass or from falling below minimum community standards for public safety and sanitation may be added to the principal balance of the mortgage or the costs allowable upon redemption. The costs may bear interest to the extent provided in the mortgage and may be added to the redemption price if the costs are incurred after a foreclosure sale. If the costs are incurred after a foreclosure sale, the holder of any sheriff's certificate of sale or certificate of redemption must comply with the provisions of section 582.03. The provisions of this section are in addition to, and do not limit or replace, any other rights or remedies available to holders of mortgages and sheriff's certificates, at law or under the applicable mortgage agreements.

Sec. 10. Minnesota Statutes 2008, section 582.032, subdivision 2, is amended to read:

Subd. 2. **Before foreclosure sale.** Notwithstanding section 580.23 or 581.10, if at any time before the foreclosure sale but not more than 30 days before the first publication of the notice of sale, a court order is entered reducing the mortgagor's redemption period to five weeks under subdivision 7, after the mortgaged premises have been sold as provided in chapter 580 or 581, the mortgagor, and the mortgagor's personal representatives or assigns, within five weeks after the sale under chapter 580, or within five weeks after the date of the order confirming the sale under chapter 581, may redeem the mortgaged premises as provided in section 580.23, subdivision 1, or 581.10, as applicable. ~~If an order is obtained after the first publication of the notice of sale, the five-week redemption period applies only if the notice of sale contained the statement required by section 580.04, clause (7).~~

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to foreclosures for which the notice of sale is first published on or after that date.

Sec. 11. Minnesota Statutes 2008, section 582.032, subdivision 4, is amended to read:

Subd. 4. **Summons and complaint.** In a foreclosure by advertisement, the party foreclosing a mortgage or holding the sheriff's certificate of sale or the political subdivision in which the mortgaged premises are located may initiate a proceeding in district court to reduce the mortgagor's redemption period under this section. The proceeding must be initiated by the filing of a complaint, naming the mortgagor, or the mortgagor's personal representatives or assigns of record, as defendant, in district court for the county in which the mortgaged premises are located. If the proceeding is initiated by a political subdivision, the party foreclosing the mortgage or holding the sheriff's certificate of sale must also be named as a defendant and the summons and complaint shall be delivered by certified mail to the foreclosing attorney. If the proceeding is commenced after the foreclosure sale, the holders of junior liens and interests entitled to notice under subdivision 3 must also be named as defendants. The complaint must identify the mortgaged premises by legal description and must identify the mortgage by the names of the mortgagor and mortgagee, and any assignee of the mortgagee; the date of its making; and pertinent recording information. The complaint must allege that the mortgaged premises are:

(1) ten acres or less in size;

(2) improved with a residential dwelling consisting of less than five units, which is not a model home or a dwelling under construction;

(3) not property used in agricultural production; and

(4) abandoned.

The complaint must request an order reducing the mortgagor's redemption period to five weeks. When the complaint has been filed, the court shall issue a summons commanding the person or persons named in the complaint to appear before the court on a day and at a place stated in the summons. The appearance date shall be not less than 15 nor more than 25 days from the date of the issuing of the summons. A copy of the filed complaint must be attached to the summons.

Sec. 12. Minnesota Statutes 2008, section 582.032, subdivision 5, is amended to read:

Subd. 5. **Order to show cause.** In a foreclosure by action, the plaintiff or the holder of the sheriff's certificate may make a motion to reduce the mortgagor's redemption period under this section. The political subdivision in which the mortgaged premises are located may intervene in the action and make a motion to reduce the redemption period. The motion must conform generally to the pleading requirements provided in subdivision 4. For purposes of the motion, the court has continuing jurisdiction over the parties and the mortgaged premises through the expiration of the redemption period. When the motion has been filed, the court shall issue an order to show cause commanding the parties it considers appropriate to appear before the court on a day and at a place stated in the order. The appearance date may not be less than 15 nor more than 25 days after the date of the order to show cause. A copy of the motion must be attached to the order to show cause.

Sec. 13. Minnesota Statutes 2008, section 609.605, subdivision 1, is amended to read:

Subdivision 1. **Misdemeanor.** (a) The following terms have the meanings given them for purposes of this section.

(1) "Premises" means real property and any appurtenant building or structure.

(2) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.002, subdivision 16.

(3) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(4) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(5) "Posted," as used:

(i) in paragraph (b), clause (4), means the placement of a sign at least 8-1/2 inches by 11 inches in a conspicuous place on the exterior of the building, or in a conspicuous

place within the property on which the building is located. The sign must carry a general notice warning against trespass;

(ii) in paragraph (b), clause (9), means the placement of a sign at least 8-1/2 inches by 11 inches square in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, and additional signs in at least two conspicuous places for each ten acres being protected. or in a conspicuous place within the area being protected. If the area being protected is less than three acres, one additional sign must be conspicuously placed within that area. If the area being protected is three acres but less than ten acres, two additional signs must be conspicuously placed within that area. For each additional full ten acres of area being protected beyond the first ten acres of area, two additional signs must be conspicuously placed within the area being protected. The sign must carry an appropriate a general notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land warning against trespass; and

~~(ii)~~ (iii) in paragraph (b), clause (10), means the placement of signs that:

(A) state "no trespassing" or similar terms carry a general notice warning against trespass;

(B) display letters at least two inches high;

(C) state that Minnesota law prohibits trespassing on the property; and

(D) are posted in a conspicuous place and at intervals of 500 feet or less.

(6) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(7) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee; or

(10) enters the locked or posted aggregate mining site of another without the consent of the owner or lawful possessor, unless the person is a business licensee.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2008, section 617.80, subdivision 7, is amended to read:

Subd. 7. **Owner.** "Owner," for purposes of sections 617.80 to 617.87, means ~~the person in whose name the building or affected portion is recorded with the county auditor for taxation purposes.~~ a person having legal title to the premises, a mortgagee or vendee in possession, a trustee in bankruptcy, a receiver, or any other person having legal ownership or control of the premises.

Sec. 15. Minnesota Statutes 2008, section 617.80, is amended by adding a subdivision to read:

Subd. 7a. **Occupant.** "Occupant" means a person who occupies or resides in a building or rental unit with the permission of the owner or a tenant or lessee.

Sec. 16. Minnesota Statutes 2008, section 617.81, subdivision 2, is amended to read:

Subd. 2. **Acts constituting a nuisance.** (a) For purposes of sections 617.80 to 617.87, a public nuisance exists (1) upon proof of one or more separate behavioral incidents described in item (i), (v), ~~or~~ (viii), or (ix), or (2) upon proof of two or more separate behavioral incidents described in item (ii), (iii), (iv), (vi), (vii), or ~~(ix)~~ (x), committed within the previous 12 months within the building:

(i) prostitution or prostitution-related activity committed within the building;

- 11.1 (ii) gambling or gambling-related activity committed within the building;
- 11.2 (iii) maintaining a public nuisance in violation of section 609.74, clause (1) or (3);
- 11.3 (iv) permitting a public nuisance in violation of section 609.745;
- 11.4 (v) unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or
- 11.5 use of controlled substances committed within the building;
- 11.6 (vi) unlicensed sales of alcoholic beverages committed within the building in
- 11.7 violation of section 340A.401;
- 11.8 (vii) unlawful sales or gifts of alcoholic beverages by an unlicensed person
- 11.9 committed within the building in violation of section 340A.503, subdivision 2, clause (1);
- 11.10 (viii) unlawful sales or gifts of alcoholic beverages committed within the building
- 11.11 in violation of section 340A.401 or 340A.503, subdivision 2, clause (1), if multiple
- 11.12 violations occur during the same behavioral incident when the building is not occupied by
- 11.13 the owner or a tenant, lessee, or occupant;
- 11.14 (ix) unlawful use or possession of a dangerous weapon as defined in section 609.02,
- 11.15 subdivision 6, committed within the building; or
- 11.16 ~~(ix)~~ (x) violation by a commercial enterprise of local or state business licensing
- 11.17 regulations, ordinances, or statutes prohibiting the maintenance of a public nuisance as
- 11.18 defined in section 609.74 or the control of a public nuisance as defined in section 609.745.
- 11.19 (b) If the building contains more than one rental unit, two or more behavioral
- 11.20 incidents must consist of conduct:
- 11.21 (1) anywhere in the building by the same tenant ~~or~~, lessee, occupant, or persons
- 11.22 acting in conjunction with or under the control of the same tenant ~~or~~, lessee, or occupant;
- 11.23 (2) by any persons within the same rental unit while occupied by the same tenant
- 11.24 ~~or~~, lessee, or occupant, or within two or more rental units while occupied by the same
- 11.25 tenant ~~or~~, lessee, or occupant; or
- 11.26 (3) by the owner of the building or persons acting in conjunction with or under
- 11.27 the control of the owner.
- 11.28 (c) Proof of a nuisance exists if each of the elements of the conduct constituting the
- 11.29 nuisance is established by clear and convincing evidence.

11.30 Sec. 17. Minnesota Statutes 2008, section 617.81, subdivision 4, is amended to read:

11.31 Subd. 4. **Notice.** (a) If a prosecuting attorney has reason to believe that a nuisance is

11.32 maintained or permitted in the jurisdiction the prosecuting attorney serves, and intends to

11.33 seek abatement of the nuisance, the prosecuting attorney shall provide the written notice

11.34 described in paragraph (b), by personal service or certified mail, return receipt requested,

11.35 to ~~the owner~~ all owners and ~~all~~ interested parties known to the prosecuting attorney.

12.1 (b) The written notice must:

12.2 (1) state that a nuisance as defined in subdivision 2 is maintained or permitted in the
12.3 building and must specify the kind or kinds of nuisance being maintained or permitted;

12.4 (2) summarize the evidence that a nuisance is maintained or permitted in the
12.5 building, including the date or dates on which nuisance-related activity or activities are
12.6 alleged to have occurred;

12.7 (3) inform the recipient that failure to abate the conduct constituting the nuisance or
12.8 to otherwise resolve the matter with the prosecuting attorney within 30 days of service of
12.9 the notice may result in the filing of a complaint for relief in district court that could, among
12.10 other remedies, result in enjoining the use of the building for any purpose for one year or,
12.11 in the case of a tenant, lessee, or possessor, could result in cancellation of the lease; and

12.12 (4) inform the owner of the options available under section 617.85.