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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **1377**

03/07/2013 Authored by Hortman

The bill was read for the first time and referred to the Committee on Housing Finance and Policy

03/13/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act
1.2 relating to real estate; requiring loss mitigation by mortgage lenders and
1.3 servicers; amending Minnesota Statutes 2012, sections 580.02; 580.041,
1.4 subdivisions 1b, 2a.

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

1.6 Section 1. Minnesota Statutes 2012, section 580.02, is amended to read:

1.7 **580.02 REQUISITES FOR FORECLOSURE.**

1.8 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
1.9 this subdivision have the meanings given them.

1.10 (b) "Foreclosing party" means any entity that is foreclosing a residential mortgage
1.11 in any manner permitted by law.

1.12 (c) "Loss mitigation obligations" means each and every required action to be taken
1.13 by a residential mortgage servicer, lender, mortgagee, note owner, note holder, or any other
1.14 person or entity in connection with a residential mortgage loan to review and consider
1.15 the homeowner for a loan modification or other relief which will allow the homeowner to
1.16 retain ownership of the property.

1.17 (d) "Required action" means an action required under:

1.18 (1) any applicable statute or rule;

1.19 (2) any regulation, guidance, directive, or other publication issued by a federal
1.20 agency or government-sponsored enterprise; or

1.21 (3) any consent, settlement, or other legal agreement.

1.22 Subd. 2. **Generally applicable requisites.** To entitle any foreclosing party to make
1.23 such a foreclosure described in section 580.01, it is requisite:

2.1 (1) that some default in a condition of such mortgage has occurred, by which the
2.2 power to sell has become operative;

2.3 (2) that no action or proceeding has been instituted at law to recover the debt then
2.4 remaining secured by such mortgage, or any part thereof, or, if the action or proceeding
2.5 has been instituted, that the same has been discontinued, or that an execution upon the
2.6 judgment rendered therein has been returned unsatisfied, in whole or in part;

2.7 (3) that the mortgage has been recorded and, if it has been assigned, that all
2.8 assignments thereof have been recorded; provided, that, if the mortgage is upon registered
2.9 land, it shall be sufficient if the mortgage and all assignments thereof have been duly
2.10 registered; and

2.11 (4) before the notice of pendency as required under section 580.032 is recorded, the
2.12 party has complied with section 580.021.

2.13 Subd. 3. **Requisites applicable to certain foreclosing parties.** No foreclosing
2.14 party may publish or serve a notice of sale under section 580.03 until all loss mitigation
2.15 obligations relevant to the mortgage loan being foreclosed have been fully satisfied.

2.16 Sec. 2. Minnesota Statutes 2012, section 580.041, subdivision 1b, is amended to read:

2.17 Subd. 1b. **Form and delivery of foreclosure advice notice.** The foreclosure advice
2.18 notice required by this section must be in 14-point boldface type and must be printed on
2.19 colored paper that is other than the color of the notice of foreclosure required by sections
2.20 580.03 and 580.04 and the notice of redemption rights required by this section, and that
2.21 does not obscure or overshadow the content of the notice. The title of the notice must
2.22 be in 20-point boldface type. The notice must be on its own page. The foreclosure
2.23 advice notice required by this section must be delivered with the notice of foreclosure
2.24 required by sections 580.03 and 580.04. The foreclosure advice notice required by this
2.25 section also must be delivered with each subsequent written communication regarding the
2.26 foreclosure mailed to the mortgagor by the foreclosing party up to the day of redemption.
2.27 ~~A foreclosing mortgagee will be deemed to have complied with this section if it sends~~
2.28 ~~the foreclosure advice notice required by this section at least once every 60 days during~~
2.29 ~~the period of the foreclosure process~~ the foreclosure sale. The foreclosure advice notice
2.30 required by this section must not be published.

2.31 Sec. 3. Minnesota Statutes 2012, section 580.041, subdivision 2a, is amended to read:

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

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

3.1 After the sheriff's sale, you have the right to "redeem." Redeem means that you pay the
3.2 amount bid for your house at the sheriff's sale, plus interest and costs, to keep your house.
3.3 You can keep living in your home for a period of time after the foreclosure sale. This is
3.4 called a "redemption period." The redemption period is [insert number of months] months
3.5 after the sheriff's sale.

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

3.9 **Be Careful of Foreclosure Scams**

3.10 Be careful! After the foreclosure sale, people may approach you to buy your house
3.11 or ask you to transfer your house to them for little or no money.

3.12 Before you give up the rights to your house or sign any documents (including a
3.13 deed), be sure you know how much the house sold for at the sheriff's sale and decide if
3.14 you can save the house by paying the amount of the bid, plus interest and costs.

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

3.16 The amount you need to pay to redeem your house may be less than the amount you
3.17 owed on the mortgage before the sale. You can learn what this amount is (and who the
3.18 winning bidder at the sale was) by attending the sheriff's sale or by contacting the sheriff's
3.19 office after the sale.

3.20 **You Can Also Sell Your House**

3.21 During the redemption period, if you sell your home, you must sell it for enough
3.22 to pay off the winning bidder from the sheriff's sale and pay interest, fees, and other
3.23 claims against the property. If there is any money left from the sale of the house after all
3.24 these debts are paid, you can keep the money. You can also enter into a "short sale." A
3.25 short sale is an agreement in which the lender agrees to accept less than the full amount
3.26 you owe on the mortgage.

3.27 **Get More Information and Advice**

3.28 For more information and advice, contact an attorney or a mortgage
3.29 foreclosure prevention counselor. You can find a mortgage foreclosure
3.30 prevention counselor by contacting the Minnesota Home Ownership Center
3.31 at 651-659-9336 or 866-462-6466 or www.hocmn.org or contact the United
3.32 States Department of Housing and Urban Development at 1-800-569-4287 or
3.33 www.hud.gov/offices/hsg/sfh/hcc/hes.cfm?webListAction=search=MN#searchArea
3.34 www.hud.gov to get the phone number and location of the nearest certified counseling
3.35 organization."

4.1 Sec. 4. **EFFECTIVE DATE.**

4.2 Sections 1 and 2 are effective for foreclosures commenced on or after August 1,
4.3 2013. Section 3 is effective the day following final enactment.