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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3397

02/17/2020 Authored by Dehn, Davids, Halverson, Moller, O'Driscoll and others
The bill was read for the first time and referred to the Committee on Commerce

1.1 A bill for an act
1.2 relating to real property; clarifying ownership definitions; requiring the record
1.3 owner to be listed as grantee in tax-forfeited land sales; amending Minnesota
1.4 Statutes 2018, sections 282.301; 325N.01; 325N.10, subdivisions 2, 3; proposing
1.5 coding for new law in Minnesota Statutes, chapter 282.

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

1.7 Section 1. Minnesota Statutes 2018, section 282.301, is amended to read:

1.8 282.301 RECEIPTS FOR PAYMENTS; CERTIFICATION BY COUNTY
1.9 AUDITOR.

1.10 When any sale has been made under sections 282.012 and 282.241 to 282.324, the
1.11 purchaser shall receive from the county auditor at the time of repurchase a receipt, in such
1.12 form as may be prescribed by the attorney general. When the purchase price of a parcel of
1.13 land shall be paid in full, the following facts shall be certified by the county auditor to the
1.14 commissioner of revenue of the state of Minnesota: the description of land, the date of sale,
1.15 the name of the purchaser or the purchaser's assignee, and the date when the final installment
1.16 of the purchase price was paid. Upon payment in full of the purchase price, the purchaser
1.17 or the assignee shall receive a quitclaim deed from the state, to be executed by the
1.18 commissioner of revenue. The deed must be sent to the county auditor who shall have it
1.19 recorded before it is forwarded to the purchaser. Failure to make any payment herein required
1.20 shall constitute default and upon such default and cancellation in accord with section 282.40,
1.21 the right, title and interest of the purchaser or the purchaser's heirs, representatives, or assigns
1.22 in such parcel shall terminate.

2.1 **EFFECTIVE DATE.** This section is effective for purchases made on or after July 1,
2.2 2020.

2.3 Sec. 2. **[282.302] CONVEYANCE OF DEED UPON CERTIFICATION.**

2.4 Subdivision 1. **Conveyance to record owner.** Except as provided in subdivision 2, upon
2.5 receipt of the certification by the county auditor required under section 282.301, the
2.6 commissioner of revenue must issue a quitclaim deed in the name of the state, as grantor,
2.7 to the record owner of the property at the time of the expiration of the redemption period
2.8 established under section 281.23.

2.9 Subd. 2. **Sales to personal representatives, heirs, or devisees.** Notwithstanding
2.10 subdivision 1, the state deed must name the record owner's estate as grantee if a sale
2.11 conducted under section 282.01 is made to a personal representative, heir, or devisee of the
2.12 record owner, and the record owner is either deceased at the time of the expiration of
2.13 redemption period established under section 281.23 or is deceased at the time the certification
2.14 of payment under section 282.301 is made.

2.15 **EFFECTIVE DATE.** This section is effective for purchases made on or after July 1,
2.16 2020.

2.17 Sec. 3. **[282.303] ASSIGNMENT OF INSTALLMENT CONTRACT.**

2.18 If the record owner at the time of the expiration of redemption assigns an installment
2.19 contract used to repurchase, and the assignment was registered or recorded, the state deed
2.20 must name the assignee as the grantee.

2.21 **EFFECTIVE DATE.** This section is effective for purchases made on or after July 1,
2.22 2020.

2.23 Sec. 4. **[282.304] RECORDATION OF DEED; DEFAULT.**

2.24 (a) The quitclaim deed issued under section 282.302 must be sent to the county auditor
2.25 who must have it recorded before it is forwarded to the grantee. Recording of the deed to
2.26 the county auditor is deemed delivery to the grantee.

2.27 (b) Failure to make any payment required by this chapter will constitute default and
2.28 upon such default, the sale will be subject to the cancellation provisions of section 282.40.

2.29 **EFFECTIVE DATE.** This section is effective for purchases made on or after July 1,
2.30 2020.

3.1 Sec. 5. Minnesota Statutes 2018, section 325N.01, is amended to read:

3.2 **325N.01 DEFINITIONS.**

3.3 The definitions in paragraphs (a) to (h) apply to sections 325N.01 to 325N.09.

3.4 (a) "Foreclosure consultant" means any person who, directly or indirectly, makes any
3.5 solicitation, representation, or offer to any owner to perform for compensation or who, for
3.6 compensation, performs any service which the person in any manner represents will in any
3.7 manner do any of the following:

3.8 (1) stop or postpone the foreclosure sale;

3.9 (2) obtain any forbearance from any beneficiary or mortgagee;

3.10 (3) assist the owner to exercise the right of reinstatement provided in section 580.30;

3.11 (4) obtain any extension of the period within which the owner may reinstate the owner's
3.12 obligation;

3.13 (5) obtain any waiver of an acceleration clause contained in any promissory note or
3.14 contract secured by a mortgage on a residence in foreclosure or contained in the mortgage;

3.15 (6) assist the owner in foreclosure or loan default to obtain a loan or advance of funds;

3.16 (7) avoid or ameliorate the impairment of the owner's credit resulting from the recording
3.17 of a notice of default or the conduct of a foreclosure sale;

3.18 (8) save the owner's residence from foreclosure; or

3.19 (9) negotiate or modify the terms or conditions of an existing residential mortgage loan.

3.20 (b) A foreclosure consultant does not include any of the following:

3.21 (1) a person licensed to practice law in this state when the person renders service in the
3.22 course of the person's practice as an attorney-at-law;

3.23 (2) a person licensed as a debt management services provider under chapter 332A, when
3.24 the person is acting as a debt management services provider as defined in that chapter;

3.25 (3) a person licensed as a real estate broker or salesperson under chapter 82 when the
3.26 person engages in acts whose performance requires licensure under that chapter unless the
3.27 person is engaged in offering services designed to, or purportedly designed to, enable the
3.28 owner to retain possession of the residence in foreclosure;

3.29 (4) a person licensed as an accountant under chapter 326A when the person is acting in
3.30 any capacity for which the person is licensed under those provisions;

4.1 (5) a person or the person's authorized agent acting under the express authority or written
 4.2 approval of the Department of Housing and Urban Development or other department or
 4.3 agency of the United States or this state to provide services;

4.4 (6) a person who holds or is owed an obligation secured by a lien on any residence in
 4.5 foreclosure when the person performs services in connection with this obligation or lien if
 4.6 the obligation or lien did not arise as the result of or as part of a proposed foreclosure
 4.7 reconveyance;

4.8 (7) any person or entity doing business under any law of this state, or of the United States
 4.9 relating to banks, trust companies, savings and loan associations, industrial loan and thrift
 4.10 companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is
 4.11 a United States Department of Housing and Urban Development approved mortgagee and
 4.12 any subsidiary or affiliate of these persons or entities, and any agent or employee of these
 4.13 persons or entities while engaged in the business of these persons or entities;

4.14 (8) a person licensed as a residential mortgage originator or servicer pursuant to chapter
 4.15 58, when acting under the authority of that license, except that the provisions of sections
 4.16 325N.01 to 325N.06, 325N.08, and 325N.09 shall apply to any person operating under a
 4.17 mortgage originator license who negotiates or offers to negotiate the terms or conditions of
 4.18 an existing residential mortgage loan;

4.19 (9) a nonprofit agency or organization that has tax-exempt status under section 501(c)(3)
 4.20 of the Internal Revenue Code that offers counseling or advice to an owner of a home in
 4.21 foreclosure or loan default if they do not contract for services with for-profit lenders or
 4.22 foreclosure purchasers, except that they shall comply with the provisions of section 325N.04,
 4.23 clause (1);

4.24 (10) a judgment creditor of the owner, to the extent that the judgment creditor's claim
 4.25 accrued prior to the personal service of the foreclosure notice required by section 580.03,
 4.26 but excluding a person who purchased the claim after such personal service; and

4.27 (11) a foreclosure purchaser as defined in section 325N.10.

4.28 (c) "Foreclosure reconveyance" means a transaction involving:

4.29 (1) the transfer of title to real property by a ~~foreclosed homeowner during a foreclosure~~
 4.30 ~~proceeding~~ an owner, either by transfer of interest from the ~~foreclosed homeowner~~ owner
 4.31 or by creation of a mortgage or other lien or encumbrance ~~during the foreclosure process~~
 4.32 that allows the acquirer to obtain title to the property by redeeming the property as a junior
 4.33 lienholder; and

5.1 (2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest
5.2 back to the ~~foreclosed homeowner~~ owner by the acquirer or a person acting in participation
5.3 with the acquirer that allows the ~~foreclosed homeowner~~ owner to possess either the residence
5.4 in foreclosure or any other real property, which interest includes, but is not limited to, an
5.5 interest in a contract for deed, purchase agreement, option to purchase, or lease.

5.6 (d) "Person" means any individual, partnership, corporation, limited liability company,
5.7 association, or other group, however organized.

5.8 (e) "Service" means and includes, but is not limited to, any of the following:

5.9 (1) debt, budget, or financial counseling of any type;

5.10 (2) receiving money for the purpose of distributing it to creditors in payment or partial
5.11 payment of any obligation secured by a lien on a residence in foreclosure;

5.12 (3) contacting creditors or servicers to negotiate or offer to negotiate the terms or
5.13 conditions of an existing residential mortgage loan;

5.14 (4) arranging or attempting to arrange for an extension of the period within which the
5.15 owner of a residence in foreclosure may cure the owner's default and reinstate the owner's
5.16 obligation pursuant to section 580.30;

5.17 (5) arranging or attempting to arrange for any delay or postponement of the time of sale
5.18 of the residence in foreclosure;

5.19 (6) advising the filing of any document or assisting in any manner in the preparation of
5.20 any document for filing with any bankruptcy court; or

5.21 (7) giving any advice, explanation, or instruction to an owner of a residence in foreclosure,
5.22 which in any manner relates to the cure of a default in or the reinstatement of an obligation
5.23 secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or
5.24 the postponement or avoidance of a sale of a residence in foreclosure, pursuant to a power
5.25 of sale contained in any mortgage.

5.26 (f) "Residence in foreclosure" means residential real property consisting of one to four
5.27 family dwelling units, one of which the owner occupies as the owner's principal place of
5.28 residence, or real property that is principally used for farming, as defined in section 500.24,
5.29 subdivision 2, whether or not parcels are contiguous, so long as the owner occupies one of
5.30 the parcels as the owner's principal place of residence, where there is a delinquency or
5.31 default on any loan payment or debt secured by or attached to the residential real property
5.32 including, but not limited to, contract for deed payments.

6.1 (g) "Owner" means the record owner of ~~the residential real property in foreclosure at~~
 6.2 ~~the time the notice of pendency was recorded, or the summons and complaint served a~~
 6.3 residence in foreclosure.

6.4 (h) "Contract" means any agreement, or any term in any agreement, between a foreclosure
 6.5 consultant and an owner for the rendition of any service as defined in paragraph (e).

6.6 **EFFECTIVE DATE.** This section is effective July 1, 2020.

6.7 Sec. 6. Minnesota Statutes 2018, section 325N.10, subdivision 2, is amended to read:

6.8 Subd. 2. **Foreclosed homeowner.** "Foreclosed homeowner" means ~~an~~ a record owner
 6.9 of ~~residential real property, including a condominium, or an owner of real property that is~~
 6.10 ~~principally used for farming as defined in section 500.24, subdivision 2, that is the primary~~
 6.11 ~~residence of the owner and whose mortgage on the real property is or was a residence in~~
 6.12 foreclosure.

6.13 **EFFECTIVE DATE.** This section is effective July 1, 2020.

6.14 Sec. 7. Minnesota Statutes 2018, section 325N.10, subdivision 3, is amended to read:

6.15 Subd. 3. **Foreclosure reconveyance.** "Foreclosure reconveyance" means a transaction
 6.16 involving:

6.17 (1) the transfer of title to real property by a foreclosed homeowner ~~during a foreclosure~~
 6.18 ~~proceeding~~, either by transfer of interest from the foreclosed homeowner or by creation of
 6.19 a mortgage or other lien or encumbrance ~~during the foreclosure process~~ that allows the
 6.20 acquirer to obtain title to the property by redeeming the property as a junior lienholder; and

6.21 (2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest
 6.22 back to the foreclosed homeowner by the acquirer or a person acting in participation with
 6.23 the acquirer that allows the foreclosed homeowner to possess either the residence in
 6.24 foreclosure or other real property, which interest includes, but is not limited to, an interest
 6.25 in a contract for deed, purchase agreement, option to purchase, or lease.

6.26 **EFFECTIVE DATE.** This section is effective July 1, 2020.