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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3533

02/19/2020 Authored by Poppe

The bill was read for the first time and referred to the Agriculture and Food Finance and Policy Division

03/11/2020 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act

1.2 relating to agriculture; modifying and updating certain provisions relating to real

1.3 property; repealing obsolete provisions; making clarifying and technical changes;

1.4 amending Minnesota Statutes 2018, sections 336.9-601; 550.365, subdivision 2;

1.5 559.209; 582.039, subdivision 2; 583.25; 583.26, subdivision 2; repealing

1.6 Minnesota Statutes 2018, section 346.02.

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

1.8 Section 1. Minnesota Statutes 2018, section 336.9-601, is amended to read:

1.9 **336.9-601 RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT;**

1.10 **CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT**

1.11 **INTANGIBLES, OR PROMISSORY NOTES.**

1.12 (a) **Rights of secured party after default.** After default, a secured party has the rights

1.13 provided in this part and, except as otherwise provided in section 336.9-602, those provided

1.14 by agreement of the parties. A secured party:

1.15 (1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security

1.16 interest, or agricultural lien by any available judicial procedure; and

1.17 (2) if the collateral is documents, may proceed either as to the documents or as to the

1.18 goods they cover.

1.19 (b) **Rights and duties of secured party in possession or control.** A secured party in

1.20 possession of collateral or control of collateral under section 336.7-106, 336.9-104,

1.21 336.9-105, 336.9-106, or 336.9-107 has the rights and duties provided in section 336.9-207.

1.22 (c) **Rights cumulative; simultaneous exercise.** The rights under subsections (a) and

1.23 (b) are cumulative and may be exercised simultaneously.

(d) **Rights of debtor and obligor.** Except as otherwise provided in subsection (g) and section 336.9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) **Lien of levy after judgment.** If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) the date of perfection of the security interest or agricultural lien in the collateral;

(2) the date of filing a financing statement covering the collateral; or

(3) any date specified in a statute under which the agricultural lien was created.

(f) **Execution sale.** A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(g) **Consignor or buyer of certain rights to payment.** Except as otherwise provided in section 336.9-607 (c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(h) **Security interest in collateral that is agricultural property; enforcement.** A person may not begin to enforce a security interest in collateral that is agricultural property subject to sections 583.20 to 583.32 that has secured a debt of more than the amount provided in section 583.24, subdivision 5, unless: a mediation notice under subsection (i) is served on the debtor after a condition of default has occurred in the security agreement and a copy served on the director of the ~~agricultural~~ Minnesota extension service; and the debtor and creditor have completed mediation under sections 583.20 to 583.32; or as otherwise allowed under sections 583.20 to 583.32.

(i) **Mediation notice.** A mediation notice under subsection (h) must contain the following notice with the blanks properly filled in.

"TO: ...(Name of Debtor)...

YOU HAVE DEFAULTED ON THE ...(Debt in Default)... SECURED BY AGRICULTURAL PROPERTY DESCRIBED AS ...(Reasonable Description of Agricultural Property Collateral). THE AMOUNT OF THE OUTSTANDING DEBT IS ...(Amount of Debt)...

AS A SECURED PARTY, ...(Name of Secured Party)... INTENDS TO ENFORCE THE SECURITY AGREEMENT AGAINST THE AGRICULTURAL PROPERTY DESCRIBED ABOVE BY REPOSSESSING, FORECLOSING ON, OR OBTAINING A COURT JUDGMENT AGAINST THE PROPERTY.

YOU HAVE THE RIGHT TO HAVE THE DEBT REVIEWED FOR MEDIATION. IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL BE MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE SECURED PARTY ENFORCES THE DEBT.

IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE ~~AGRICULTURAL~~ MINNESOTA EXTENSION SERVICE WILL PROVIDE AN ORIENTATION MEETING AND A FINANCIAL ANALYST TO HELP YOU TO PREPARE FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION, IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION OFFICE AS SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT AN AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

TO HAVE THE DEBT REVIEWED FOR MEDIATION YOU MUST FILE A MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU RECEIVE THIS NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE ~~AT ANY COUNTY RECORDER'S OR COUNTY EXTENSION OFFICE~~ FROM THE DIRECTOR OF THE MINNESOTA EXTENSION SERVICE.

FROM: ...(Name and Address of Secured Party)..."

Sec. 2. Minnesota Statutes 2018, section 550.365, subdivision 2, is amended to read:

Subd. 2. **Contents.** A mediation notice must contain the following notice with the blanks properly filled in.

"TO:(Name of Judgment Debtor)....

A JUDGMENT WAS ORDERED AGAINST YOU BY(Name of Court).... ON(Date of Judgment).

AS A JUDGMENT CREDITOR,(Name of Judgment Creditor).... INTENDS TO TAKE ACTION AGAINST THE AGRICULTURAL PROPERTY DESCRIBED AS....(Description of Agricultural Property).... TO SATISFY THE JUDGMENT IN THE AMOUNT OF(Amount of Debt)....

4.1 YOU HAVE THE RIGHT TO HAVE THE DEBT REVIEWED FOR MEDIATION.
4.2 IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL BE
4.3 MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT
4.4 WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE SECURED PARTY
4.5 ENFORCES THE DEBT.

4.6 IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE
4.7 ~~AGRICULTURAL~~ MINNESOTA EXTENSION SERVICE WILL PROVIDE AN
4.8 ORIENTATION MEETING AND A FINANCIAL ANALYST TO HELP YOU PREPARE
4.9 FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION,
4.10 IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND
4.11 OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION OFFICE AS
4.12 SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT AN
4.13 AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

4.14 TO HAVE THE DEBT REVIEWED FOR MEDIATION YOU MUST FILE A
4.15 MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU
4.16 RECEIVE THIS NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE ~~AT~~
4.17 ~~ANY COUNTY RECORDER'S OR COUNTY EXTENSION OFFICE~~ FROM THE
4.18 DIRECTOR OF THE MINNESOTA EXTENSION SERVICE.

4.19 FROM:(Name and Address of Judgment Creditor)...."

4.20 Sec. 3. Minnesota Statutes 2018, section 559.209, is amended to read:

4.21 **559.209 MEDIATION NOTICE AND CONDITIONS FOR AGRICULTURAL**
4.22 **PROPERTY.**

4.23 Subdivision 1. **Requirement.** A person may not begin to terminate a contract for deed
4.24 under section 559.21 to purchase agricultural property subject to sections 583.20 to 583.32
4.25 for a remaining balance on the contract of more than the amount provided in section 583.24,
4.26 subdivision 5, unless: (1) a mediation notice is served on the contract for deed purchaser
4.27 after a default has occurred under the contract and a copy served on the director and the
4.28 contract for deed vendor and purchaser have completed mediation under sections 583.20
4.29 to 583.32; or (2) as otherwise allowed under sections 583.20 to 583.32.

4.30 Subd. 2. **Contents.** A mediation notice must contain the following notice with the blanks
4.31 properly filled in.

4.32 "TO:(Name of Contract for Deed Purchaser)...."

YOU HAVE DEFAULTED ON THE CONTRACT FOR DEED OF THE AGRICULTURAL PROPERTY DESCRIBED AS(Size and Reasonable Location of Property, Not Legal Description). THE AMOUNT OF THE OUTSTANDING DEBT IS(Amount of Debt)....

AS THE CONTRACT FOR DEED VENDOR,(Contract for Deed Vendor).... INTENDS TO TERMINATE THE CONTRACT AND TAKE BACK THE PROPERTY.

YOU HAVE THE RIGHT TO HAVE THE CONTRACT FOR DEED DEBT REVIEWED FOR MEDIATION. IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL BE MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE CONTRACT FOR DEED VENDOR BEGINS REMEDIES TO ENFORCE THE DEBT.

IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE ~~AGRICULTURAL~~ MINNESOTA EXTENSION SERVICE WILL PROVIDE AN ORIENTATION MEETING AND A FINANCIAL ANALYST TO HELP YOU PREPARE FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION, IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION OFFICE AS SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT AN AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

TO HAVE THE CONTRACT FOR DEED DEBT REVIEWED FOR MEDIATION YOU MUST FILE A MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU RECEIVE THE NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE ~~AT ANY COUNTY EXTENSION OFFICE~~ FROM THE DIRECTOR OF THE MINNESOTA EXTENSION SERVICE.

FROM:(Name and Address of Contract for Deed Vendor)...."

Sec. 4. Minnesota Statutes 2018, section 582.039, subdivision 2, is amended to read:

Subd. 2. **Contents.** A mediation notice must contain the following notice with the blanks properly filled in.

"TO:(Name of Record Owner)....

YOU HAVE DEFAULTED ON THE MORTGAGE OF THE AGRICULTURAL PROPERTY DESCRIBED AS(Size and Reasonable Location, Not Legal Description).

6.1 THE AMOUNT OF THE OUTSTANDING DEBT ON THIS PROPERTY IS(Amount
6.2 of Debt)....

6.3 AS HOLDER OF THE MORTGAGE,(Name of Holder of Mortgage).... INTENDS
6.4 TO FORECLOSE ON THE PROPERTY DESCRIBED ABOVE.

6.5 YOU HAVE THE RIGHT TO HAVE THE MORTGAGE DEBT REVIEWED FOR
6.6 MEDIATION. IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL
6.7 BE MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT
6.8 WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE SECURED PARTY
6.9 ENFORCES THE DEBT.

6.10 IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE
6.11 ~~AGRICULTURAL~~ MINNESOTA EXTENSION SERVICE WILL PROVIDE AN
6.12 ORIENTATION MEETING AND A FINANCIAL ANALYST TO HELP YOU PREPARE
6.13 FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION,
6.14 IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND
6.15 OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION OFFICE AS
6.16 SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT AN
6.17 AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

6.18 TO HAVE THE MORTGAGE DEBT REVIEWED FOR MEDIATION YOU MUST
6.19 FILE A MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER
6.20 YOU RECEIVE THIS NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE
6.21 ~~AT ANY COUNTY RECORDER'S OR COUNTY EXTENSION OFFICE~~ FROM THE
6.22 DIRECTOR OF THE MINNESOTA EXTENSION SERVICE.

6.23 FROM:(Name and Address of Holder of Mortgage)...."

6.24 Sec. 5. Minnesota Statutes 2018, section 583.25, is amended to read:

6.25 **583.25 VOLUNTARY MEDIATION PROCEEDINGS.**

6.26 A debtor that owns agricultural property or a creditor of the debtor may request mediation
6.27 of the indebtedness by a farm mediator by applying to the director. The director shall ~~make~~
6.28 provide voluntary mediation application forms ~~available at the county recorder's and county~~
6.29 ~~extension office in each county~~ when requested. The director must evaluate each request
6.30 and may direct a mediator to meet with the debtor and creditor to assist in mediation.

7.1 Sec. 6. Minnesota Statutes 2018, section 583.26, subdivision 2, is amended to read:

7.2 Subd. 2. **Mediation request.** (a) A debtor must file a mediation request form with the
7.3 director by 14 days after receiving a mediation notice. The debtor must state all known
7.4 creditors with debts secured for agricultural property and must authorize the director to
7.5 obtain the debtor's credit report from one or more credit reporting agencies. The mediation
7.6 request form must include an instruction that the debtor must state all known creditors with
7.7 debts secured by agricultural property and unsecured creditors that are necessary for the
7.8 farm operation of the debtor. It is the debtor's discretion as to which unsecured creditors
7.9 are necessary for the farm operation but the mediation request form must notify the debtor
7.10 that omission of a significant unsecured creditor could result in a bad-faith determination
7.11 pursuant to section 583.27, subdivisions 1, paragraph (a), clause (2), and 2. The mediation
7.12 request must state the date that the notice was served on the debtor. The director shall ~~make~~
7.13 provide mediation request forms ~~available in the county recorder's and county extension~~
7.14 office of each county when requested.

7.15 (b) Except as provided in section 583.24, subdivision 4, paragraph (a), clause (3), a
7.16 debtor who fails to file a timely mediation request waives the right to mediation for that
7.17 debt under the Farmer-Lender Mediation Act. The director shall notify the creditor who
7.18 served the mediation notice stating that the creditor may proceed against the agricultural
7.19 property because the debtor has failed to file a mediation request.

7.20 (c) If a debtor has not received a mediation notice and is subject to a proceeding of a
7.21 creditor enforcing a debt against agricultural property under chapter 580 or 581 or sections
7.22 336.9-601 to 336.9-628, terminating a contract for deed to purchase agricultural property
7.23 under section 559.21, or garnishing, levying on, executing on, seizing, or attaching
7.24 agricultural property, the debtor may file a mediation request with the director. The mediation
7.25 request form must indicate that the debtor has not received a mediation notice.

7.26 Sec. 7. **REPEALER.**

7.27 Minnesota Statutes 2018, section 346.02, is repealed.

346.02 FINDER TO GIVE NOTICE; PENALTY.

A person who finds an estray and knows who owns it shall notify the owner within seven days after finding the estray and request the owner to pay all reasonable charges and take such estray away. A finder who does not know who owns the estray shall within ten days file a notice with the town clerk. The clerk shall transmit a copy thereof to the county recorder, who shall record the same in a book designated "estrays book." The finder shall give posted notice of the finding of the estray in said town. The notice shall briefly describe the estray, giving its marks, natural and artificial, as nearly as practicable, naming the residence of the finder, and specifying the town, section, and time when taken up. For failure to give such notice, the finder shall be liable to the owner of the estray in double the amount of damages sustained by the owner thereby.