

340.56; 340.57; 340.58; 340.59; 340.60; 340.601; 340.62; 340.621; 340.63;  
340.64; 340.65; 340.66; 340.70; 340.71; 340.73; 340.731; 340.732; 340.74;  
340.76; 340.77; 340.79; 340.80; 340.83; 340.85; 340.86; 340.87; 340.88;  
340.89; 340.90; 340.91; 340.92; 340.93; 340.94; 340.941; 340.942; 340.95;  
340.951; 340.961; 340.983; 340.987; and 340.988 are repealed.

Approved June 5, 1985

## CHAPTER 306 — S.F.No. 401

*An act relating to creditor's remedies; providing for an increase in the amount of farm machines and implements exemption; clarifying the garnishment limitation for the sale of farm products; extending the effective period of a garnishee summons; modifying and extending remedies for persons defaulting on homesteads; making technical changes related to persons buying farm products; requiring certain time limits and descriptions for crop financing statements; amending Minnesota Statutes 1984, sections 47.20, subdivision 15; 223A.01; 336.9-307, as amended; 336.9-402; 336.9-403; 550.37, subdivisions 5, 7, 13, 14, and 24; 559.21, subdivision 6; 565.25, subdivision 2; 571.41, subdivisions 6 and 7; 571.42; 571.495, subdivision 3; 571.55, subdivision 1; 580.031; 583.02; 583.03, subdivision 2; 583.04; and Laws 1983, chapter 215, section 16, as amended.*

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

Section 1. Minnesota Statutes 1984, section 47.20, subdivision 15, is amended to read:

Subd. 15. Notwithstanding the provisions of any other law to the contrary, any notice of default on homestead property as defined in section 583.02, mailed after May 24, 1983 and prior to May 1, 1985 or after the effective date of this section and prior to May 1, 1987, shall indicate that the borrower has 60 days from the date the notice is mailed in which to cure the default. The notice shall include a statement that the borrower may be eligible for an extension of the time prior to foreclosure and execution sale under sections 583.01 to 583.12.

Sec. 2. Minnesota Statutes 1984, section 550.37, subdivision 5, is amended to read:

Subd. 5. Farm machines and implements used in farming operations by a debtor engaged principally in farming, livestock, farm produce, and standing crops, not exceeding ~~\$5,000~~ \$10,000 in value.

Sec. 3. Minnesota Statutes 1984, section 550.37, subdivision 7, is amended to read:

Subd. 7. The total value of property selected by a debtor pursuant to subdivisions 5 and 6 shall not exceed ~~\$5,000~~ \$10,000.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1984, section 550.37, subdivision 13, is amended to read:

Subd. 13. **WAGES EARNINGS.** All wages earnings not subject to garnishment by the provisions of section 571.55. A subsequent attachment, garnishment or levy of execution shall impound only that pay period's nonexempt disposable earnings not subject to a prior attachment, garnishment or levy of execution, but in no instance shall more than an individual's total nonexempt disposable earnings in that pay period be subject to attachment, garnishment or levy of execution. Garnishments shall impound the nonexempt disposable earnings in the order of their service upon the employer. The disposable earnings exempt from garnishment are exempt as a matter of right, whether claimed or not by the person to whom due. The exemptions may not be waived. The exempt disposable earnings are payable by the employer when due. The exempt disposable earnings shall also be exempt for 20 days after deposit in any financial institution, whether in a single or joint account. This 20-day exemption also applies to any contractual set-off or security interest asserted by a financial institution in which the earnings are deposited by the individual. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. As used in this section, the term "financial institution" includes credit unions. Nothing in this paragraph shall void or supersede any valid assignment of wages earnings or transfer of funds held on account made prior to the attachment, garnishment, or levy of execution.

Sec. 5. Minnesota Statutes 1984, section 550.37, subdivision 14, is amended to read:

Subd. 14. **PUBLIC ASSISTANCE.** All relief based on need, and the wages earnings or salary of a person who is a recipient of relief based on need, shall be exempt from all claims of creditors including any contractual set-off or security interest asserted by a financial institution. For the purposes of this chapter, relief based on need includes AFDC, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance. The salary or wages earnings of any debtor who is or has been a recipient of relief based on need, or an inmate of a correctional institution shall, upon his return to private employment or farming after having been a recipient of relief based on need, or an inmate of a correctional institution, be exempt from attachment, garnishment, or levy of execution for a period of six months after his return to employment or farming and after all public assistance has been terminated. The exemption provisions contained in this subdivision also apply for 60 days after deposit in any financial institution, whether in a single or joint account. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. Agencies distributing relief and the correctional institutions shall, at the request of creditors, inform them whether or not any debtor has been a recipient

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of relief based on need, or an inmate of a correctional institution, within the preceding six months.

Sec. 6. Minnesota Statutes 1984, section 550.37, subdivision 24, is amended to read:

Subd. 24. **EMPLOYEE BENEFITS.** The debtor's right to receive a payment present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

Sec. 7. Minnesota Statutes 1984, section 559.21, subdivision 6, is amended to read:

Subd. 6. **TEMPORARY MINIMUM NOTICE.** (a) Notwithstanding the provisions of any other law to the contrary, no contract for conveyance of homestead property, as defined in section 583.02, shall terminate until 60 days after service of notice if the notice is served after May 24, 1983, and prior to May 1, 1985 or after the effective date of this section and prior to May 1, 1987, or 90 days after service of notice if the contract was entered into after May 1, 1980 and the contract vendee has paid 25 percent or more of the purchase price. The notice shall specify this 60- or 90-day period. The notice shall include a statement that the borrower may be eligible for an extension of the time prior to foreclosure and execution sale under sections 583.01 to 583.12.

(b) The notice must be in bold type, capitalized letters, or other form sufficient for the reader to quickly and easily distinguish the notice from the rest of the writing; violation of this requirement is a petty misdemeanor.

(c) This section does not apply to earnest money contracts, purchase agreements or exercised options.

Sec. 8. Minnesota Statutes 1984, section 565.25, subdivision 2, is amended to read:

Subd. 2. (a) Except as otherwise provided in clause (b) and section 9, the respondent may retain or regain possession of the property by filing of a bond approved by the court conditioned that the property shall be delivered to the claimant, if delivery be adjudged, and for the payment to the claimant of any sum adjudged against the respondent. The bond shall be in an amount 1-1/4 times the fair market value of the property or 1-1/2 times the amount of the claimant's claim, whichever is less. An order for seizure may specify a time limitation within which the bond must be filed. For the purpose of protecting or preserving the property pending final hearing on the merits, the court may in extraordinary circumstances, which shall be specified in its order, provide that the respondent

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



The State of Minnesota

To the above named Judgment Debtor:

Please take notice that a Garnishment Summons may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Your wages earnings are completely exempt from garnishment if you are now a recipient of relief based on need, if you have been a recipient of relief within the last six months, or if you have been an inmate of a correctional institution in the last six months. Relief based on need includes, only AFDC, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the judgment creditor's attorney and the garnishee.

You may wish to contact the attorney for the Judgment Creditor in order to arrange for a settlement of the debt.

PENALTIES

1. Be advised that even if you claim an exemption, a Garnishment Summons may still be served on your employer. If your wages earnings are garnished after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100.

2. HOWEVER, BE WARNED if you claim an exemption, the creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed \$100.

3. If after receipt of this notice, you in bad faith take action to frustrate the garnishment, thus requiring the creditor to petition the court to resolve the problem, you will be liable to the creditor for costs and reasonable attorney fees plus an amount not to exceed \$100.

Dated: .....  
(Attorney for) Judgment Creditor  
Address  
Telephone

I hereby claim under penalty of perjury that my wages earnings are exempt from garnishment because:

(1) ..... I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

.....  
 Program Case Number (if known) County

(2) ..... I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

.....  
 Program Case Number (if known) County

(3) ..... I have been an inmate of a correctional institution within the last six months. (Specify the correctional institution and location.)

.....  
 Correctional Institution Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named creditor or his attorney whether or not I was a recipient of relief based on need or an inmate of a correctional institution within the last six months.

.....  
 Judgment Debtor  
 Address

Sec. 11. Minnesota Statutes 1984, section 571.41, subdivision 7, is amended to read:

Subd. 7. **FORM OF EXEMPTION NOTICE.** The notice informing a judgment debtor that a writ of attachment, garnishee summons, or levy of execution has been used to attach and bind funds of the judgment debtor to satisfy a claim shall be substantially in the following form:

**EXEMPTION NOTICE**

STATE OF MINNESOTA  
 COUNTY OF

.....Court

.....(Judgment Creditor)

.....(Judgment Debtor)

To.....(Judgment Debtor):

A writ of attachment, garnishee summons, or levy of execution (strike inapplicable language) has been served on .....(Bank or other Financial Institution).....where you have an account.

Your account balance is \$..... .

The amount being held is \$..... .

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

However, the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) Relief based on need. This includes AFDC, Medical Assistance, Supplemental Security Income (SSI), Minnesota Supplemental Assistance, General Assistance, and General Assistance Medical Care.

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance).

(3) Unemployment compensation, workers' compensation, or veteran's benefits.

(4) An accident, disability, or retirement pension or annuity.

(5) Life insurance proceeds, or the earnings of your minor child.

(6) Money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).

The following funds are also exempt:

(7) All ~~wages~~ earnings of a person in category (1).

(8) All ~~wages~~ earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months.

(9) Seventy-five percent of every ~~wage earner's~~ debtor's after tax earnings.

(10) All of a ~~wage earner's~~ debtor's after tax earnings below 40 times the federal minimum wage (this equals \$134 for a 40-hour week).

#### TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (9) and (10): 20 days.

Categories (7) and (8): 60 days.

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means money deposited first is spent first.) The money being sought by the creditor is being held in your account to give you a chance to claim an exemption.

#### TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of this exemption claim form to the institution which sent you this notice, and one copy to the judgment creditor. Both copies must be mailed or delivered on the same day.

If they don't get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the

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sheriff or the creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be frozen until it is decided.

**IF YOU CLAIM AN EXEMPTION:**

- (1) Nonexempt money can be turned over to the creditor or sheriff;
- (2) The financial institution will keep holding the money claimed to be exempt; and
- (3) Seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

**IF THE CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:**

- (1) The institution will hold the money until a court decides if your exemption claim is valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the exemption WITHIN 10 DAYS after the objection is mailed or given to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.

**MOTION TO DETERMINE EXEMPTION:**

At any time after your funds have been frozen, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the clerk of the above court.

**PENALTIES:**

If you claim an exemption in bad faith, or if the creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

.....  
Date

.....  
(Attorney for) Judgment Creditor  
Address

**EXEMPTION:**

- (a) Amount of exemption claim.

// I claim ALL the funds being held are exempt.

// I claim SOME of the funds being held are exempt. The exempt amount is \$.....

- (b) Basis for exemption.

Of the ten categories listed above, I am in category number ..... (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



.....  
.....

(If the source is a type of relief based on need, list the case number and county:

case number: .....

county: ..... )

Dated: ..... Judgment Debtor

Address

Sec. 12. Minnesota Statutes 1984, section 571.42, is amended to read:

**571.42 EFFECT OF SERVICE OF SUMMONS.**

Subdivision 1. **ATTACH FOR JUDGMENT.** Except as provided in sections 571.43 and 571.50, service of the garnishee summons upon the garnishee shall attach and bind, to respond to final judgment in the action, all personal property of the judgment debtor in his possession or under his control and all indebtedness owing by him to the judgment debtor at the time of service and all nonexempt disposable earnings earned or to be earned within that pay period and within 30 60 days thereafter.

Subd. 2. **PROPERTY ATTACHED.** Subject to the provisions of sections 550.37 and 571.55 all moneys, all nonexempt disposable earnings earned or to be earned within that pay period and within 30 60 days thereafter and other personal property including property of any kind due from or in the hands of an executor, administrator, receiver or trustee and all written evidences of indebtedness whether negotiable or not or under or overdue may be attached by garnishment, and money or any other thing due or belonging to the judgment debtor may be attached by this process before it has become payable if its payment or delivery does not depend upon any contingency, but the garnishee shall not be compelled to pay or deliver it before the time appointed by the contract.

Sec. 13. Minnesota Statutes 1984, section 571.495, subdivision 3, is amended to read:

Subd. 3. **FORM OF DISCLOSURE.** A garnishment disclosure form must be served upon the garnishee. The disclosure shall be substantially in the following form:

STATE OF MINNESOTA )  
 ) ss  
County of..... ) .....Court

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

.....  
Judgment Creditor

vs.

.....  
Judgment Debtor  
and

.....  
Garnishee

I am the ..... of the garnishee herein, and duly authorized to disclose for said garnishee.

On the .... day of ....., 19.., the time of service of garnishee summons herein on said garnishee, there was due and owing the judgment debtor above named from said garnishee the following:

(1) Earnings. For the purposes of garnishment, "earnings" means compensation paid or payable for personal service or compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. If the garnishee summons was served upon you at a time when earnings from a prior completed pay period were owing but not paid, complete the following disclosure for earnings from both that past pay period and the current pay period.

(a) Enter on the line below the amount of disposable earnings earned or to be earned by the judgment debtor within the judgment debtor's pay periods which may be subject to garnishment.

.....

(b) Enter on the line below 40 times the hourly federal minimum wage times the number of work weeks within the judgment debtor's pay periods which may be subject to garnishment. When such pay periods consists of other than a whole number of work weeks, each day of a pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of work days divided by the number of work days in the normal work week.

.....

(c) Enter on the line below the difference obtained (never less than zero) when line (b) is subtracted from line (a).

.....

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(d) Enter on the line below 25 percent of line (a).

.....

(e) Enter on the line below the lesser of line (c) and line (d).

.....

(2) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the garnishee.

.....

(3) Property. Describe on the line below any personal property, instruments or papers belonging to the judgment debtor and in the possession of the garnishee.

.....

(4) Set-off. Enter on the line below the amount of any set-off, defense, lien or claim which the garnishee claims against the amount set forth on lines (1)(e), (2) and (3) above. Allege the facts by which such set-off, defense, lien or claim is claimed. (Any indebtedness to a ~~garnishee-employer~~ garnishee incurred by the judgment debtor within 10 days prior to the receipt of the first garnishment on a debt is void and should be disregarded.)

.....

(5) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

.....

(6) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property. (Any assignment of wages made by the judgment debtor within 10 days prior to the receipt of the first garnishment on a debt is void and should be disregarded. State the names and addresses of such persons and the nature of their claim, if known.)

.....

(7) Enter on the line below the total of lines (4), (5) and (6).

.....

(8) Enter on the line below the difference obtained (never less than zero) when line (7) is subtracted from the sum of lines (1)(e), (2) and (3).

.....

(9) Enter on the line below 110 percent of the amount of the judgment creditor's judgment which remains unpaid.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

.....  
(10) Enter on the line below the lesser of line (8) and line (9). As garnishee, you are hereby instructed to retain this amount only if it is \$10 or more.  
.....

.....  
Authorized Representative of Garnishee  
.....

Title

Subscribed and sworn to before me  
This ..... day of ....., 19.....  
.....

Notary Public  
..... County, Minnesota.

Sec. 14. Minnesota Statutes 1984, section 571.55, subdivision 1, is amended to read:

Subdivision 1. For the purposes of this section, "earnings" means compensation paid or payable for personal service or compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commissions, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld.

Sec. 15. Minnesota Statutes 1984, section 580.031, is amended to read:

580.031 ~~TEMPORARY~~ MINIMUM NOTICE.

(a) Notwithstanding the provisions of any other law to the contrary, eight weeks' published notice must be given prior to the foreclosure sale of a home-  
stead, as defined in section 583.02, if the notice is published for the first time after May 24, 1983 and prior to May 1, 1985 or after the effective date of this section and prior to May 1, 1987. The notice must contain the information specified in section 580.04.

(b) The notice must be in bold type, capitalized letters, or other form sufficient for the reader to quickly and easily distinguish the notice from the rest of the writing; violation of this requirement is a petty misdemeanor.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(c) At least eight weeks before the appointed time of sale, a copy of the notice must be served upon the person in possession of the mortgaged premises, if the premises are actually occupied.

Sec. 16. Minnesota Statutes 1984, section 583.02, is amended to read:

**583.02 DEFINITIONS.**

As used in sections ~~583.01 to 583.12~~ this chapter, the term "homestead" means residential or agricultural real estate, a portion or all of which, at the time of the filing of the petition under section 583.04, is occupied by the owner and is entitled to receive homestead credit under section 273.13, subdivision 15a or would be entitled to receive the credit if it remained the residence of the owner on June 1 of the current year or January 2 of the next year.

Sec. 17. Minnesota Statutes 1984, section 583.03, subdivision 2, is amended to read:

Subd. 2. **GENERAL EXCLUSION.** The provisions of sections 47.20, subdivision 15, 559.21, subdivision 6, 580.031, and 583.01 to 583.12 do not apply to mortgages or contracts for deed made after ~~May 24, 1983~~ the effective date of this act, nor to mortgages or contracts for deed made before ~~May 24, 1983~~ the effective date of this act which are renewed or extended after ~~May 24, 1983~~ the effective date of this act, for a period longer than one year, nor to mortgages, judgments, or contracts for deed, regardless of when made, if a second or subsequent mortgage is made against the property after ~~May 24, 1983~~ the effective date of this act.

No court shall allow a stay, or postponement, or extension of time that would cause any right to be lost or adversely affected by any statute of limitation.

Sec. 18. Minnesota Statutes 1984, section 583.04, is amended to read:

**583.04 MORTGAGOR MAY APPLY TO DISTRICT COURT FOR RELIEF.**

Any mortgagor, or owner in possession of the mortgaged premises including farm homestead premises, or anyone claiming under the mortgage, or anyone liable for the mortgage debt, may at any time after the issuance of the notice of the foreclosure proceedings default and prior to the sale, petition the district court of the county where the foreclosure proceedings are pending, serving a summons and verified complaint petition requesting that the sale in foreclosure be postponed for up to six months or, in the case of a farm homestead located on more than ten acres, for up to 12 months. A contract for deed vendee or anyone claiming under the contract or liable for the contract payment, in any case where the contract has not yet been terminated as of May 24, 1983, may petition the district court in the same manner, requesting that the contract termination be delayed postponed for up to 90 days. Upon receiving the petition, the court shall order a stay in the foreclosure proceedings or contract termination until after the

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hearing on the petition. As a condition precedent to the postponement of the foreclosure sale, the party serving the verified complaint shall file it and pay to the clerk for the person foreclosing the mortgage the actual costs incurred, including attorney's fees, in the foreclosure proceeding before postponement. As a condition precedent to delay of the contract termination, the party seeking relief shall file the verified complaint and pay to the clerk for the person canceling the contract, the actual costs, including attorney's fees incurred in the cancellation. If payment is made by other than cash or certified check, the order postponing the sale or termination is not final until after the check or other negotiable instrument has been paid. The court may order costs and attorney fees to be paid by the person applying for relief. If the court orders attorney fees to be paid, the amount may not exceed \$150 or one-half of the attorney fees allowed in section 582.01, whichever is less. The court may order the attorney fees to be prorated and combined with payments ordered under section 583.08. The court may not order attorney fees to be paid by the person applying for relief, if the person is receiving public assistance or legal aid for their own legal representation.

Sec. 19. Minnesota Statutes 1984, section 583.05, is amended to read:

**583.05 COURT MAY ORDER ~~DELAY IN~~ POSTPONEMENT OF SALE; FINDINGS,**

The court may consider the following criteria in determining whether or not to order a ~~delay in~~ postponement of the sale or contract termination:

(1) that the petitioner is unemployed, underemployed, facing catastrophic medical expenses, or facing economic problems due to low farm commodity prices; and

(2) that the petitioner has an inability to make payments on the mortgage or contract for deed.

If the court ~~grants or denies a delay in~~ postponement of the sale, the mortgagee shall publish notice of the new sale date as provided in section 580.03. If the court grants a postponement of the sale, the mortgagee shall not publish notice of a new sale date as provided in section 580.03 until the postponement period has expired, except as provided in section 583.08. Section 580.07 does not apply to foreclosure sales postponed by a court pursuant to sections 583.01 to 583.12.

Sec. 20. Minnesota Statutes 1984, section 583.07, is amended to read:

**583.07 REDUCTION OF REDEMPTION PERIOD.**

If the court grants a ~~delay in~~ postponement of the foreclosure sale pursuant to sections 583.01 to 583.12, the redemption period pursuant to section 580.23 ~~shall~~ may be reduced by an equivalent period of time provided, that in no event shall the redemption period be less than 30 days. If the court does not

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grant a ~~delay in~~ postponement of the foreclosure sale, the redemption period shall be as provided in section 580.23.

Sec. 21. Minnesota Statutes 1984, section 583.10, is amended to read:  
583.10 HEARING.

The court shall schedule and hold a hearing on the petition ~~must be held~~ within 30 days after the filing of the petition. The order therein must be made and filed within five days after the hearing. Review by the supreme court may be had by certiorari, if application for the writ is made within 15 days after notice of the order. The writ is returnable within 30 days after the filing of the order.

Sec. 22. Minnesota Statutes 1984, section 223A.01, as added by S.F. No. 919, section 6, if enacted by the 1985 regular session, is amended to read:

**223A.01 FARM PRODUCTS THAT ARE BOUGHT SUBJECT TO A SECURITY INTEREST.**

Subdivision 1. **REGISTERED BUYER TAKES FREE OF SECURITY INTEREST UNLESS NOTIFIED.** A buyer in the ordinary course of business who is a registered buyer in the county of the seller's residence under section 386.42, and who purchases farm products from a person engaged in farming operations takes free of a security interest created by the seller even though the security interest is perfected and the buyer knows of its existence, unless the buyer is notified of the security interest as provided in subdivision 4 3.

Subd. 2. **BUYERS THAT PURCHASE SUBJECT TO A SECURITY INTEREST.** A buyer in the ordinary course of business that is registered under section 386.42 in the seller's county of residence who is notified by a secured party as provided under subdivision 3, purchases farm products from a person engaged in farming operations subject to the perfected security interest. A buyer who is not registered under section 386.42 in the seller's county of residence purchases farm products from a person engaged in farming operations subject to perfected security interests.

A buyer who purchases farm products subject to a security interest under this ~~section~~ subdivision shall include the name of the secured party as joint payee on any check or other instrument issued in payment for the farm products, unless the secured party gives the buyer written notice of waiver of this requirement. Issuance of joint payment as herein required relieves the buyer of any further liability to the secured party.

Subd. 3. **NOTIFICATION OF SECURITY INTEREST.** A secured party may, by certified mail or another method by which receipt can be verified, notify a buyer that a debtor has farm products subject to a security interest.

The notification is effective upon receipt until September 1 after the notification is made; or for a notification made after August 20 but before

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September 1, the notification is effective for one year beginning September 1. A buyer who receives notification from a secured party under this subdivision shall not publicly post or disseminate to any person, other than its agents and employees who reasonably require the information for purposes related to this act section, any information contained in the notification.

A secured party that furnishes to a buyer a list of debtors who have farm products subject to a security interest is not liable to a debtor whose name is on the list for furnishing the list.

Subd. 4. COMMISSION MERCHANT. Notwithstanding section 336.1-201, subsection (9), a commission merchant or selling agent who sells farm products for another for a fee, that is a registered buyer under section 386.42, is a buyer in the ordinary course of business under this chapter and section 336.9-307, subsection (1), for transactions involving farm products.

Sec. 23. Minnesota Statutes 1984, section 336.9-307, as amended by S.F. No. 919, section 7, if enacted by the 1985 regular session, is amended to read:

#### 336.9-307 PROTECTION OF BUYERS OF GOODS.

(1) A buyer in ordinary course of business (subsection (9) of section 336.1-201) takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence, except that a buyer in the ordinary course of business who purchases farm products from a person engaged in farming operations is subject to section ~~386.42~~ 223A.01.

(2) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(3) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than 45 days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the 45 day period.

Sec. 24. Minnesota Statutes 1984, section 336.9-402, is amended to read:

#### 336.9-402 FORMAL REQUISITES OF FINANCING STATEMENT; AMENDMENTS; MORTGAGE AS FINANCING STATEMENT.

(1) A financing statement is sufficient if it gives the name of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the

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types or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned and the name of the record owner thereof. The financing statement may only cover the crops grown by a debtor in a single growing season and may not cover other collateral. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or when the financing statement is filed as a fixture filing (section 336.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under section 336.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed within one year; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)); or

(e) a lien filed pursuant to Minnesota Statutes, chapter 514; or

(f) collateral which is subject to a filed judgment.

(2a) Except for documents filed under clauses (e) and (f), the reason for the omission of the debtor signature must be stated on the front of the financing statement.

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor)  
 .....

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Address

.....

Name of secured party (or assignee)

.....

Address

.....

1. This financing statement covers the following types (or items) of property:

(Describe)

.....

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe real estate and the name of the record owner thereof) .....

.....

3. (If applicable) The above goods are to become fixtures on

(Describe real estate)..... and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is .....

4. (If products of collateral are claimed)

Products of the collateral are also covered.

Use whichever signature line is applicable.

Signature of debtor (or assignor)

.....

Signature of secured party (or assignee)

.....

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. If the sole purpose of the amendment is to change the name or address of the secured party, only the secured party need sign the amendment. A writing is sufficient if it sets forth the name and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, the file number and date of filing of the financing statement. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is

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effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or a financing statement filed as a fixture filing (section 336.9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner. No description of the real estate or the name of the record owner thereof is required for a fixture filing where the debtor is a transmitting utility. Notwithstanding the foregoing a general description of the real estate is sufficient for a fixture filing where a railroad is the record owner of the real estate on which the fixtures are or are to be located; and for the purposes of this subsection, the requirement of a general description is satisfied if the fixture filing (1) identifies the section, township and range numbers of the county in which the land is located; (2) identifies the quarter-quarter of the section that the land is located in; (3) indicates the name of the record owner of the real estate; and (4) states the street address of the real estate if one exists.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement, amendment, continuation, assignment, release, or termination substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Sec. 25. Minnesota Statutes 1984, section 336.9-403, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**336.9-403 WHAT CONSTITUTES FILING; DURATION OF FILING; EFFECT OF LAPSED FILING; DUTIES OF FILING OFFICER.**

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in ~~subsection~~ subsections (6) and (9) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five year period, whichever occurs later regardless of whether the financing statement filed as to that security interest is destroyed by the filing officer pursuant to subsection (3). Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, set forth the name and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, identify the original statement by file number and filing date, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 336.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained. If insolvency proceedings are commenced by or against the debtor, the secured party shall notify the filing

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officer both upon commencement and termination of the proceedings, and the filing officer shall not destroy any financing statements filed with respect to the debtor until termination of the insolvency proceedings. The security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five year period, whichever occurs later.

(4) Except as provided in subsection (7) a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The secretary of state shall prescribe uniform forms for statements and samples thereof shall be furnished to all filing officers in the state. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be \$5 if the statement is in the standard form prescribed by the secretary of state and otherwise shall be \$10, plus in each case, if the financing statement is subject to subsection (5) of section 336.9-402, \$5. An additional fee of \$5 shall be collected if more than one name is required to be indexed or if the secured party, at his option, shows a trade name for any debtor listed. There shall be no fee collected for the filing of an amendment to a financing statement if the amendment is in the standard form prescribed by the secretary of state and does not add additional debtor names to the financing statement. The fee for an amendment adding additional debtor names shall be \$5 if the amendment is in the form prescribed by the secretary of state and, if otherwise, \$10. The fee for an amendment which is not in the form prescribed by the secretary of state but which does not add additional names shall be \$5.

The secretary of state shall adopt rules for filing, amendment, continuation, termination, removal, and destruction of financing statements.

(6) If the debtor is a transmitting utility (subsection (5) of section 336.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 336.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the

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law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or, for filing offices other than the secretary of state, where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described. If requested of the filing officer on the financing statement, a financing statement filed for record as a fixture filing in the same office where nonfixture filings are made is effective, without a dual filing, as to collateral listed thereon for which filing is required in such office pursuant to section 336.9-401 (1) (a); in such case, the filing officer shall also index the recorded statement in accordance with subsection (4) using the recording data in lieu of a file number.

(8) The fees provided for in this article shall supersede the fees for similar services otherwise provided for by law except in the case of security interests filed in connection with a certificate of title on a motor vehicle.

(9) A financing statement that covers crops growing or to be grown is effective for a period of two years. A continuation statement may be filed for the products of the crop covered in the original financing statement. A continuation statement is effective for a period of two years and may be filed within six months prior to the expiration of the two-year period for the financing statement.

Sec. 26. Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, is amended to read:

**Sec. 16. REPEALER.**

Sections 1 to 15 are repealed effective July 1, 1985 1987, but any postponement or other relief ordered by a court continues to be valid for the period ordered by the court.

**Sec. 27. EFFECTIVE DATE.**

Sections 4 to 6, and 8 to 14 are effective July 1, 1985. Sections 24 and 25 are effective for crops planted after September 1, 1985. The remaining sections of this act are effective the day following final enactment.

Approved June 7, 1985

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**CHAPTER 307 — S.F.No. 676**

*An act relating to local government; authorizing the conduct of town business and elections outside the town; renewal of certain town off-sale liquor licenses; exempting town boards from liability arising from use of certain roads; authorizing the town board of Cannon Falls and the county boards of Pine and Kanabec counties to issue one off-sale liquor license each; permitting the establishment of special service districts in the city of Mora; amending Minnesota Statutes 1984, sections 204B.16, subdivision 1; and 365.51; proposing coding for new law in Minnesota Statutes, chapter 164.*

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