

Presented to the governor April 21, 1993

Signed by the governor April 21, 1993, 3:42 p.m.

CHAPTER 39—H.F.No. 111

An act relating to highways; designating the B. E. Grottum memorial highway in Jackson county and the Wally Nelson highway; amending Minnesota Statutes 1992, section 161.14, by adding subdivisions.

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

Section 1. Minnesota Statutes 1992, section 161.14, is amended by adding a subdivision to read:

Subd. 27. B. E. GROTTUM MEMORIAL HIGHWAY. That segment of Constitutional Route No. 4 from its intersection with marked county state-aid highway 34 in Jackson county to its intersection with North Highway in the city of Jackson, is designated the "B. E. Grottum Memorial Highway." The commissioner of transportation shall adopt a suitable marking design to mark this highway and shall erect appropriate signs.

Sec. 2. Minnesota Statutes 1992, section 161.14, is amended by adding a subdivision to read:

Subd. 28. WALLY NELSON HIGHWAY. Legislative route No. 330, as described in section 161.115, is named and designated "Wally Nelson Highway." The commissioner shall adopt a suitable marking design to mark this highway and shall erect appropriate signs.

Presented to the governor April 21, 1993

Signed by the governor April 21, 1993, 3:52 p.m.

CHAPTER 40—H.F.No. 552

An act relating to real estate; modifying provisions for voluntary foreclosure of mortgages; modifying criminal liability for defeating security on realty; amending Minnesota Statutes 1992, sections 580.032, subdivision 1, as amended; 580.23, subdivision 1; 582.32, subdivisions 1, 2, 3, 5, 6, 9, and by adding a subdivision; and 609.615; repealing Minnesota Statutes 1992, section 582.32, subdivisions 4, 7, and 8.

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

New language is indicated by underline, deletions by ~~strikeout~~.

Section 1. Minnesota Statutes 1992, section 580.032, subdivision 1, as amended by Laws 1993, chapter 6, section 3, is amended to read:

Subdivision 1. **FILING REQUEST FOR NOTICE.** A person having a redeemable interest in real property under section 580.23 or 580.24, may file for record a request for notice of a mortgage foreclosure by advertisement with the county recorder or registrar of titles of the county where the property is located. To be effective for purposes of this section, a request for notice must be filed for record as a separate and distinct document, ~~or may be incorporated in~~ except a mechanic's lien statement filed for record pursuant to section 514.08; also constitutes a request for notice if the mechanic's lien statement includes a request for notice and includes legal description of the real property and the name and mailing address of the ~~person requesting notice~~ mechanic's lien claimant.

Sec. 2. Minnesota Statutes 1992, section 580.23, subdivision 1, is amended to read:

Subdivision 1. **SIX-MONTH REDEMPTION PERIOD.** When lands have been sold in conformity with the preceding sections of this chapter the mortgagor, the mortgagor's personal representatives or assigns, within six months after such sale, except as otherwise provided in subdivision 2 or section 582.032 or 582.32, may redeem such lands, as hereinafter provided, by paying the sum of money for which the same were sold, with interest from the time of sale at the rate provided to be paid on the mortgage debt and, if no rate be provided in the mortgage note, at the rate of six percent per annum, together with any further sums which may be payable as provided in sections 582.03 and 582.031.

Sec. 3. Minnesota Statutes 1992, section 582.32, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** This section applies to mortgages executed on or after August 1, 1993, under which there ~~has been~~ is a default and ~~where~~ the mortgagor and mortgagee enter into a ~~written~~ an agreement for voluntary foreclosure of the ~~mortgaged real estate~~ mortgage under this section. This section applies only to mortgages on real estate no part of which is classified as a homestead under section 273.124 or in agricultural property use as defined in section 40A.02, subdivision 3, as of the date of agreement.

Sec. 4. Minnesota Statutes 1992, section 582.32, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** (a) As used in this section, the following terms have the meanings given:

(b) "Agreement" means the agreement for voluntary foreclosure described in subdivision 3.

(c) "Date of agreement" means the effective date of the agreement which shall not be sooner than the date on which the agreement is executed and acknowledged by both the mortgagor and mortgagee.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) "Junior lien" means a lien ~~with a redeemable interest in the real estate under section 580.23 or 580.24~~ subordinate to the lien of the mortgage foreclosed under this section, the holder of which has a redeemable interest in the real estate under section 580.24.

(e) "Mortgage" means a recorded mortgage on real estate no part of which is classified as a homestead as defined in section 510.01 under section 273.124 or is in agricultural use as defined in section 40A.02, subdivision 3, as of the date of agreement.

(f) "Mortgagee" means the record holders of the mortgage, whether one or more.

(g) "Mortgagor" means the record holders, whether one or more, of the legal and equitable interest in the real estate encumbered by the mortgage.

(h) "Real estate" means the real property encumbered by the mortgage ~~and, where applicable, fixtures, equipment, furnishings, and other personalty related to the real property and encumbered by the mortgage.~~

Sec. 5. Minnesota Statutes 1992, section 582.32, subdivision 3, is amended to read:

Subd. 3. **PROCEDURE.** (a) Voluntary foreclosure may occur only in accordance with this section.

(b) The mortgagor and mortgagee shall enter into a written agreement for voluntary foreclosure under this section only ~~after~~ during the existence of a default under the mortgage. At least one of the items constituting the default must have been in existence for at least one month on the date of agreement. The agreement shall identify the mortgage by recording data and the real estate by legal description, specify the date of the agreement and provide that:

(1) The mortgagor and mortgagee have agreed that the mortgage shall be voluntarily foreclosed with a ~~shortened the mortgagor's~~ redemption period under reduced to two months as provided in this section.

(2) The mortgagee waives any rights to a deficiency or other claim for personal liability against the mortgagor arising from the mortgage or the debt secured by the mortgage. This does not preclude an agreement between the mortgagor and mortgagee to a ~~stipulated~~ payment to the mortgagee as part of the voluntary foreclosure, or collection from a guarantor.

(3) The mortgagor waives its right ~~of reinstatement,~~ to ~~excess surplus~~ sale proceeds, to contest foreclosure, and to rents and occupancy during the period ~~before sale and during~~ from the date of agreement through the redemption period.

(4) The mortgagor consents to the appointment of a receiver for, or grants mortgagee possession of, the real estate ~~as of the date of agreement, for the pur-~~

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~~poses of and all rights of possession of the real estate, including, but not limited to~~ operating, maintaining, and protecting the real estate, and the making of any additions or betterments to the real estate.

(5) A default exists under the mortgage and on the date of agreement at least one of the items constituting the default has been in existence for at least one month.

(c) Within seven days after the date of agreement, the mortgagee must record or file the agreement with the county recorder or registrar of titles, as appropriate, in ~~the each~~ county where any part of the real estate is located. Filing or recording of a short form agreement signed by the mortgagor and mortgagee containing the following information satisfies this requirement:

(1) the identity and mailing address of the mortgagor and mortgagee;

(2) the legal description of the real estate;

(3) the mortgage identified by recording data;

(4) a statement that an event of default under the mortgage has existed for at least one month as of the date of agreement and foreclosure under this section has been agreed to by the parties; and

(5) the date of agreement.

(d) A certificate signed by the county or city assessor where the real estate is located, stating that, as of the date of agreement, the real estate is ~~is~~ was not in agricultural use as defined in section 40A.02, subdivision 3, and ~~is~~ was not a homestead as defined in section 510.01, as the date of agreement, for property tax purposes under section 273.124, must be recorded before or with the certificate of sale in the office of the county recorder or registrar of titles where the real estate is located, and shall be prima facie evidence of the facts contained in the certificate.

(e) Within ten days of receipt of a written request for information from a holder of a junior lien, the mortgagee, without charge, shall deliver or mail by first class mail postage prepaid, to the address of the holder set forth in the request, either the agreement or a written statement of the amount of money and the value or a detailed description of any property paid or transferred, or to be paid or transferred, by the parties to the agreement under the terms of the agreement. Failure to provide this information does not invalidate the foreclosure.

Sec. 6. Minnesota Statutes 1992, section 582.32, is amended by adding a subdivision to read:

Subd. 4a. NO RIGHT OF REINSTATEMENT. There is no right of reinstatement pursuant to section 580.30, of the mortgage after the date of agreement.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 7. Minnesota Statutes 1992, section 582.32, subdivision 5, is amended to read:

Subd. 5. **FORECLOSURE PROCEDURE; NOTICE TO CREDITORS.** (a) After the date of agreement, the mortgagee may proceed to foreclose the mortgage in accordance with the laws generally applicable to foreclosure by advertisement including chapters 580 and 582, except as otherwise provided in this section.

(b) At least 14 days before the date of sale, the mortgagee shall:

(1) serve the ~~person~~ persons in possession of the ~~mortgaged~~ real estate with notice of the voluntary foreclosure sale under this section in the same manner as in a foreclosure by advertisement as provided in section 580.03; and

(2) ~~send by certified mail a notice of the voluntary foreclosure sale under this section to all each holder of a junior lien holders of record upon the real estate or some part of the real estate who have~~ has filed or recorded a request for this notice under ~~subdivision 3~~ section 580.032.

(c) The mortgagee shall publish notice of the voluntary foreclosure sale under this section in the same manner as in a foreclosure by advertisement as provided in section 580.03 for four consecutive weeks. The notice must include all information required under section 580.04, clauses (1) to (6), the date of the agreement, and shall state that each holder of a junior lien may redeem in the order and manner provided in subdivision 9, beginning ~~one month~~ after the foreclosure sale expiration of the mortgagor's two-month redemption period under this section. Provided, if the real estate is subject to a federal tax lien entitled to the preemptive 120-day redemption period under section 7425(d)(1) of the Internal Revenue Code, as amended, the notice shall provide that the date of redemption for the first federal tax lien and all other liens junior thereto shall begin four months after the date of the foreclosure sale. Affidavits of service, mailing, publication, and other affidavits or certificates permitted by chapter 580, must be recorded with the certificate of sale, or within five days after the sale, in the office of the county recorder or registrar of titles where the real estate is located. These affidavits and certificates are prima facie evidence of the facts contained in them.

(d) The mortgagor's redemption period is two months from the date of sale, except that if the real estate is subject to a federal tax lien under which the United States is entitled to a 120-day redemption period under section 7425(d)(1) of the Internal Revenue Code, as amended, the mortgagor's redemption period is 120 days from the date of sale. The certificate of sale must indicate the redemption period applicable under this paragraph.

Sec. 8. Minnesota Statutes 1992, section 582.32, subdivision 6, is amended to read:

Subd. 6. **SALE, HOW AND BY WHOM MADE.** Except as provided in

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this section, the foreclosure sale must be conducted and the certificate of sale shall be made in the same manner as and recorded in accordance with a foreclosure by advertisement as provided in chapter 580. The certificate of sale must be filed or recorded within five days after the sale. Affidavits of service, mailing, publication, and other affidavits or certificates permitted by chapter 580, must be recorded with the certificate of sale, or within five days after the sale, in the office of the county recorder or registrar of titles where the real estate is located, and when so recorded are prima facie evidence of the facts contained in them.

Sec. 9. Minnesota Statutes 1992, section 582.32, subdivision 9, is amended to read:

Subd. 9. **CREDITOR REDEMPTION.** A subsequent creditor having person holding a junior lien upon the real estate or some part of the real estate may redeem in the order and manner specified in sections 580.24 and 580.25, but only if before the end of the mortgagor's redemption period under this section the creditor files with the county recorder or registrar of titles of each county where the ~~mortgaged~~ real estate is located, a notice of intention to redeem. If a junior creditor fails to timely file a notice of intention to redeem as provided in this subdivision, or fails to redeem as ~~provided in this subdivision~~, its lien on the real estate is extinguished ~~on the real estate~~.

Sec. 10. Minnesota Statutes 1992, section 609.615, is amended to read:

609.615 DEFEATING SECURITY ON REALTY.

Whoever removes or damages real property which is subject to a mortgage, mechanic's lien, or contract for deed, including during the period of time allowed for redemption, with intent to impair the value of the security property, without the consent of the security holder, may be sentenced as follows:

(1) If the value of the property is impaired by \$300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both; or

(2) If the value of the property is impaired by more than \$300, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 11. **REPEALER.**

Minnesota Statutes 1992, section 582.32, subdivisions 4, 7, and 8, are repealed.

Sec. 12. **EFFECTIVE DATE.**

Section 10 is effective August 1, 1993, and applies to crimes committed on or after that date.

Presented to the governor April 21, 1993

New language is indicated by underline, deletions by ~~strikeout~~.

Signed by the governor April 21, 1993, 3:56 p.m.

CHAPTER 41—H.F.No. 566

An act relating to telecommunications; extending authority of public utilities commission to approve incentive regulation plans for certain telephone companies; amending Laws 1989, chapter 74, section 27.

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

Section 1. Laws 1989, chapter 74, section 27, is amended to read:

Sections 1 to 26 are effective July 1, 1989. Sections 8 to ~~18~~ 17 are repealed, effective August 1, 1994. Section 18 is repealed effective August 1, 1995.

Sec. 2. **EFFECTIVE DATE; APPLICATION.**

Section 1 is effective the day following final enactment and an incentive regulation plan in existence on that date that was approved by the public utilities commission under Minnesota Statutes 1992, section 237.625, remains in effect through August 1, 1995. Accounting required under an existing plan must continue through December 31, 1995.

Presented to the governor April 22, 1993

Signed by the governor April 23, 1993, 11:40 a.m.

CHAPTER 42—H.F.No. 976

An act relating to counties; authorizing a county to transfer funds to and enter into contracts with community action agencies; amending Minnesota Statutes 1992, section 375.18, by adding a subdivision.

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

Section 1. Minnesota Statutes 1992, section 375.18, is amended by adding a subdivision to read:

Subd. 15. COMMUNITY ACTION AGENCIES. Each county board may appropriate county funds to and contract with a community action agency designated under section 268.53, and located within the county. The money appropriated shall be spent for authorized purposes of the community action agency and as the county board may, by resolution, provide. A contract may be for the purchase, lease, sale or other acquisition or disposition of equipment, supplies,

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