

CHAPTER 7--S.F.No. 440

An act relating to real property; clarifying ownership definitions; requiring the record owner to be listed as grantee in tax-forfeited land sales; amending Minnesota Statutes 2020, sections 282.301; 325N.01; 325N.02; 325N.03; 325N.04; 325N.06; 325N.10, subdivisions 2, 3, 4, 5, 7; proposing coding for new law in Minnesota Statutes, chapter 282.

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

Section 1. Minnesota Statutes 2020, section 282.301, is amended to read:

282.301 RECEIPTS FOR PAYMENTS; CERTIFICATION BY COUNTY AUDITOR.

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

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to repurchases approved on or after that date.

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

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

Subd. 2. **Sales to personal representatives, heirs, or devisees.** Notwithstanding subdivision 1, the state deed must name the record owner's estate as grantee if a sale conducted under section 282.01 is made to a personal representative, heir, or devisee of the record owner, and the record owner is either deceased at the time of the expiration of redemption period established under section 281.23 or is deceased at the time the certification of payment under section 282.301 is made. If the record owner's estate has not been opened in a probate court of this state at the time of execution of the state deed, the state deed to the record owner's estate is deemed an effective conveyance to the estate upon opening of the estate.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to repurchases approved on or after that date.

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

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

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to repurchases approved on or after that date.

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to repurchases approved on or after that date.

Sec. 5. Minnesota Statutes 2020, section 325N.01, is amended to read:

325N.01 DEFINITIONS.

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

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

(1) stop or postpone the a foreclosure sale, a tax forfeiture sale, or a contract for deed termination;

(2) obtain any forbearance from any beneficiary, local unit of government, association of apartment owners, contract for deed seller, or mortgagee regarding:

(i) taxes;

(ii) dues owed to an association of apartment owners; or

(iii) contract for deed, mortgage, or any other payments;

(3) assist the owner to:

(i) exercise the right of reinstatement provided in section 580.30 or the right of redemption provided in section 580.25;

(ii) exercise the right of redemption under chapter 281 or the right to repurchase under sections 282.241 to 282.324;

(iii) cure a default that has resulted in a termination notice issued under section 559.21, subdivision 2a;
or

(iv) cure a default that resulted in a lien secured by a common interest community or a master association;

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

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

(6) assist the owner in foreclosure, tax forfeiture, or loan default on a loan, contract for deed payments, or dues owed to an association of apartment owners, to obtain a loan or advance of funds;

(7) avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default on taxes or any debt secured by the covered residence or the conduct of a foreclosure or tax forfeiture sale;

(8) save the owner's residence from foreclosure, tax forfeiture, or contract for deed termination; or

(9) negotiate or modify the terms or conditions of an existing residential mortgage loan, a repayment agreement on taxes owed, a repurchase agreement of tax-forfeited real property, or a contract for deed.

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

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

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

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

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

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

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

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

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

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

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

(11) ~~a foreclosure~~ an equity purchaser as defined in section 325N.10; and

(12) any common interest community association or master association that holds or is owed an obligation secured by a lien on any residence in foreclosure and any employee or agent of either while performing services within the scope of the employment or agency.

(c) "~~Foreclosure~~ Property reconveyance" means a transaction involving:

(1) the transfer of title to real property by ~~a foreclosed homeowner during a foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the foreclosure process~~ an owner, either by transfer of interest from the owner or by creation of a mortgage or other lien or encumbrance that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder or by other legal process, prior to the expiration of:

(i) the right of reinstatement provided in section 580.30 or the right of redemption of a property provided in section 580.25;

(ii) the right of redemption under chapter 281 or the right to repurchase under sections 282.241 to 282.324;

(iii) the period to cure a default that has resulted in a termination notice issued under section 559.21, subdivision 2a; or

(iv) the period to cure a default that resulted in a lien assessed by a common interest community or a master association; and

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

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

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

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

(2) receiving money for the purpose of distributing it to creditors, vendors, or association of apartment owners in payment or partial payment of any obligation secured by ~~a lien on a~~ covered residence ~~in foreclosure;~~

(3) contacting creditors, vendors, association of apartment owners, or servicers to negotiate or offer to negotiate the terms or conditions of an existing residential mortgage loan, a tax forfeiture redemption or repurchase agreement, or a contract for deed;

(4) arranging or attempting to arrange for an extension of the period within which the owner of a covered residence in foreclosure may:

(i) cure the owner's default and reinstate the owner's obligation pursuant to section 580.30;

(ii) cure the owner's property tax default and redeem the property;

(iii) cure the owner's default on dues owed to an association of apartment owners and release the common interest community or master association's lien; or

(iv) cure the default on a contract for deed and void the purchaser's ability to terminate the contract;

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

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

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

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

(i) consists of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residence;

(ii) is an apartment, as that term is defined in section 515.02, subdivision 2;

(iii) is the subject of a contract for deed; or

(iv) is real property that is principally used for farming, as defined in section 500.24, subdivision 2, whether or not parcels are contiguous, so long as the owner occupies one of the parcels as the owner's principal place of residence.

(g) "Owner" means the record owner of the residential real property in foreclosure a covered residence. For the purposes of this chapter, if the residence in foreclosure is subject to a mortgage foreclosure, an owner is the record owner at the time the notice of pendency was recorded, or the summons and complaint served.

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

(i) "Association of apartment owners" has the meaning given in section 515.02, subdivision 5.

(j) "Common interest community" has the meaning given in section 515B.1-103, clause (10).

(k) "Master association" has the meaning given in section 515B.1-103, clause (21).

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 6. Minnesota Statutes 2020, section 325N.02, is amended to read:

325N.02 RESCISSION OF ~~FORECLOSURE CONSULTANT~~ SOLICITOR CONTRACT.

(a) In addition to any other right under law to rescind a contract, an owner has the right to cancel ~~such~~ a solicitor contract until midnight of the third business day after the day on which the owner signs a contract which complies with section 325N.03.

(b) Cancellation occurs when the owner gives written notice of cancellation to the ~~foreclosure consultant~~ solicitor at the address specified in the contract.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) Notice of cancellation given by the owner need not take the particular form as provided with the contract and, however expressed, is effective if it indicates the intention of the owner not to be bound by the contract.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to contracts executed on or after that date.

Sec. 7. Minnesota Statutes 2020, section 325N.03, is amended to read:

325N.03 CONTRACT.

(a) Every contract must be in writing and must fully disclose the exact nature of the ~~foreclosure consultant's~~ solicitor's services and the total amount and terms of compensation.

(b) The following notice, printed in at least 14-point boldface type and completed with the name of the ~~foreclosure consultant~~ solicitor, must be printed immediately above the statement required by paragraph (c):

"NOTICE REQUIRED BY MINNESOTA LAW

..... (Name) or anyone working for him or her
CANNOT:

(1) Take any money from you or ask you for money until
..... (Name) has completely finished doing everything
he or she said he or she would do; and

(2) Ask you to sign or have you sign any lien, mortgage, or deed."

(c) The contract must be written in the same language as principally used by the ~~foreclosure consultant~~ solicitor to describe his or her services or to negotiate the contract, must be dated and signed by the owner, and must contain in immediate proximity to the space reserved for the owner's signature a conspicuous statement in a size equal to at least 10-point boldface type, as follows:

"You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(d) The notice of cancellation must contain, and the contract must contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:

(1) the name and physical address of the ~~foreclosure consultant~~ solicitor to which the notice of cancellation is to be mailed or otherwise delivered. A post office box does not constitute a physical address. A post office box may be designated for delivery by mail only if it is accompanied by a physical address at which the notice could be delivered by a method other than mail. An e-mail address may be included, in addition to the physical address; and

(2) the date the owner signed the contract.

(e) Cancellation occurs when the ~~foreclosed homeowner~~ owner delivers, by any means, written notice of cancellation to the address specified in the contract. If cancellation is mailed, delivery is effective upon mailing. If e-mailed, cancellation is effective upon transmission. The contract must be accompanied by a completed form in duplicate, captioned "notice of cancellation," which must be attached to the contract, must be easily detachable, and must contain in at least 10-point type the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

.....

(Enter date of transaction) (Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, you may use any of the following methods: (1) mail or otherwise deliver a signed and dated copy of this cancellation notice, or any other written notice of cancellation; or (2) e-mail a notice of cancellation

to

(Name of ~~foreclosure consultant~~ solicitor)

at

(Physical address of ~~foreclosure consultant's~~ solicitor's place of business)

.....

(E-mail address of ~~foreclosure consultant's~~ solicitor's place of business)

NOT LATER THAN MIDNIGHT OF
(Date)

I hereby cancel this transaction
(Date)

.....
(Owner's signature)"

(f) The ~~foreclosure consultant~~ solicitor shall provide the owner with a copy of the contract and the attached notice of cancellation immediately upon execution of the contract.

(g) The three business days during which the owner may cancel the contract shall not begin to run until the ~~foreclosure consultant~~ solicitor has complied with this section.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to contracts executed on or after that date.

Sec. 8. Minnesota Statutes 2020, section 325N.04, is amended to read:

325N.04 VIOLATIONS.

It is a violation for a ~~foreclosure consultant~~ solicitor to:

(1) claim, demand, charge, collect, or receive any compensation until after the ~~foreclosure consultant~~ solicitor has fully performed each and every service the ~~foreclosure consultant~~ solicitor contracted to perform or represented he or she would perform;

(2) claim, demand, charge, collect, or receive any fee, interest, or any other compensation for any reason which exceeds eight percent per annum of the amount of any loan which the ~~foreclosure consultant~~ solicitor may make to the owner. Such a loan must not, as provided in clause (3), be secured by the covered residence in foreclosure or any other real or personal property;

(3) take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation. Any such security is void and unenforceable;

(4) receive any consideration from any third party in connection with services rendered to an owner unless the consideration is first fully disclosed to the owner;

(5) acquire any interest, directly or indirectly, or by means of a subsidiary or affiliate in a covered residence in foreclosure from an owner with whom the ~~foreclosure consultant~~ solicitor has contracted;

(6) take any power of attorney from an owner for any purpose, except to inspect documents as provided by law; or

(7) induce or attempt to induce any owner to enter a contract which does not comply in all respects with sections 325N.02 and 325N.03.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 9. Minnesota Statutes 2020, section 325N.05, is amended to read:

325N.05 WAIVER NOT ALLOWED.

Any waiver by an owner of the provisions of sections 325N.01 to 325N.09 is void and unenforceable as contrary to public policy. Any attempt by a ~~foreclosure consultant~~ solicitor to induce an owner to waive the owner's rights is a violation of sections 325N.01 to 325N.09.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 10. Minnesota Statutes 2020, section 325N.06, is amended to read:

325N.06 REMEDIES.

(a) A violation of sections 325N.01 to 325N.09 is considered to be a violation of section 325F.69, and all remedies of section 8.31 are available for such an action. A private cause of action under section 8.31 by a ~~foreclosed homeowner~~ an owner is in the public interest. An owner may bring an action against a ~~foreclosure consultant~~ solicitor for any violation of sections 325N.01 to 325N.09. Judgment must be entered for actual damages, reasonable attorney fees and costs, and appropriate equitable relief.

(b) The rights and remedies provided in paragraph (a) are cumulative to, and not a limitation of, any other rights and remedies provided by law. Any action brought pursuant to this section must be commenced within ~~four~~ six years from the date of the alleged violation.

(c) The court may award exemplary damages up to 1-1/2 times the compensation charged by the ~~foreclosure consultant~~ solicitor if the court finds that the ~~foreclosure consultant~~ solicitor violated the provisions of section 325N.04, clause (1), (2), or (4), and the ~~foreclosure consultant's~~ solicitor's conduct was in bad faith.

(d) Notwithstanding any other provision of this section, no action may be brought on the basis of a violation of sections 325N.01 to 325N.09, except by an owner against whom the violation was committed or by the attorney general. This limitation does not apply to administrative action by the commissioner of commerce.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 11. Minnesota Statutes 2020, section 325N.10, subdivision 2, is amended to read:

Subd. 2. ~~**Foreclosed homeowner Owner.**~~ "~~Foreclosed homeowner~~" means ~~an owner of residential real property, including a condominium, or an owner of real property that is principally used for farming as defined in section 500.24, subdivision 2, that is the primary residence of the owner and whose mortgage on the real property is or was in foreclosure~~ "Owner" has the meaning given in section 325N.01, paragraph (g).

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 12. Minnesota Statutes 2020, section 325N.10, subdivision 3, is amended to read:

Subd. 3. ~~**Foreclosure Property reconveyance.**~~ "~~Foreclosure~~ "Property reconveyance" means ~~a transaction involving:~~

(1) the transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or

~~encumbrance during the foreclosure process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder; and~~

~~(2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess either the residence in foreclosure or other real property, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase, or lease has the meaning given in section 325N.01, paragraph (c).~~

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 13. Minnesota Statutes 2020, section 325N.10, subdivision 4, is amended to read:

Subd. 4. **Foreclosure Equity purchaser.** ~~"Foreclosure Equity purchaser"~~ means a person that has acted as the acquirer in a ~~foreclosure property~~ reconveyance. ~~Foreclosure Equity purchaser~~ also includes a person that has acted in joint venture or joint enterprise with one or more acquirers in a ~~foreclosure property~~ reconveyance. ~~A foreclosure~~ An equity purchaser does not include: (i) a natural person who shows that the natural person is not in the business of ~~foreclosure equity~~ purchasing and has a prior personal relationship with the ~~foreclosed homeowner of the covered residence, unless a showing of fraud under section 325F.69, subdivision 1, has been made, or~~ (ii) a federal or state chartered bank, savings bank, thrift, or credit union.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 14. Minnesota Statutes 2020, section 325N.10, subdivision 5, is amended to read:

Subd. 5. **Resale.** "Resale" means a bona fide market sale of the property subject to the ~~foreclosure property~~ reconveyance by the ~~foreclosure equity~~ purchaser to an unaffiliated third party.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 15. Minnesota Statutes 2020, section 325N.10, subdivision 7, is amended to read:

Subd. 7. **Covered residence in foreclosure.** ~~"Residence in foreclosure"~~ means residential real property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residence, or real property that is principally used for farming, as defined in section 500.24, subdivision 2, whether or not parcels are contiguous, so long as the owner occupies one of the parcels as the owner's principal place of residence, where there is a delinquency or default on any loan payment or debt secured by or attached to the real property, including, but not limited to, contract for deed payments "Covered residence" has the meaning given in section 325N.01, paragraph (f).

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 16. Minnesota Statutes 2020, section 325N.11, is amended to read:

325N.11 CONTRACT REQUIREMENT; FORM AND LANGUAGE.

~~A foreclosure~~ An equity purchaser shall enter into every ~~foreclosure property~~ reconveyance in the form of a written contract. Every contract must be written in letters of a size equal to at least 12-point boldface type, in the same language principally used by the ~~foreclosure equity~~ purchaser and ~~foreclosed homeowner~~ owner to negotiate the sale of the covered residence in foreclosure and must be fully completed and signed

and dated by the ~~foreclosed homeowner~~ owner and foreclosure equity purchaser before the execution of any instrument of conveyance of the covered residence ~~in foreclosure~~.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to contracts executed on or after that date.

Sec. 17. Minnesota Statutes 2020, section 325N.12, is amended to read:

325N.12 CONTRACT TERMS.

Every contract required by section 325N.11 must contain the entire agreement of the parties and must include the following terms:

- (1) the name, business address, and the telephone number of the foreclosure equity purchaser;
- (2) the address of the covered residence ~~in foreclosure~~;
- (3) the total consideration to be given by the foreclosure equity purchaser in connection with or incident to the sale;
- (4) a complete description of the terms of payment or other consideration including, but not limited to, any services of any nature that the foreclosure equity purchaser represents he or she will perform for the ~~foreclosed homeowner~~ owner before or after the sale;
- (5) the time at which possession is to be transferred to the foreclosure equity purchaser;
- (6) a complete description of the terms of any related agreement designed to allow the ~~foreclosed homeowner~~ owner to remain in the home, such as a rental agreement, repurchase agreement, contract for deed, or lease with option to buy;
- (7) a notice of cancellation as provided in section 325N.14, paragraph (b); and
- (8) the following notice in at least 14-point boldface type, if the contract is printed or in capital letters if the contract is typed, and completed with the name of the foreclosure equity purchaser, immediately above the statement required by section 325N.14, paragraph (a):

"NOTICE REQUIRED BY MINNESOTA LAW

Until your right to cancel this contract has ended, (Name) or anyone working for (Name) CANNOT ask you to sign or have you sign any deed or any other document."

The contract required by this section survives delivery of any instrument of conveyance of the covered residence ~~in foreclosure~~, and has no effect on persons other than the parties to the contract.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to contracts executed on or after that date.

Sec. 18. Minnesota Statutes 2020, section 325N.13, is amended to read:

325N.13 CONTRACT CANCELLATION.

(a) In addition to any other right of rescission, the ~~foreclosed homeowner~~ owner has the right to cancel any contract with a ~~foreclosure~~ an equity purchaser until midnight of the fifth business day following the day on which the ~~foreclosed homeowner~~ owner signs a contract that complies with sections 325N.10 to

325N.15 or until 8:00 a.m. on the last day of the period during which the ~~foreclosed homeowner~~ owner has a right of redemption, whichever occurs first.

(b) Cancellation occurs when the ~~foreclosed homeowner~~ owner delivers, by any means, written notice of cancellation, provided that, at a minimum, the contract and the notice of cancellation must contain a physical address to which notice of cancellation may be mailed or otherwise delivered. A post office box does not constitute a physical address. A post office box may be designated for delivery by mail only if it is accompanied by a physical address at which the notice could be delivered by a method other than mail. An e-mail address may be provided in addition to the physical address. If cancellation is mailed, delivery is effective upon mailing. If e-mailed, cancellation is effective upon transmission.

(c) A notice of cancellation given by the ~~foreclosed homeowner~~ owner need not take the particular form as provided with the contract.

(d) Within ten days following receipt of a notice of cancellation given in accordance with this section, the ~~foreclosure equity~~ purchaser shall return without condition any original contract and any other documents signed by the ~~foreclosed homeowner~~ owner.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to contracts executed on or after that date.

Sec. 19. Minnesota Statutes 2020, section 325N.14, is amended to read:

325N.14 NOTICE OF CANCELLATION.

(a) The contract must contain in immediate proximity to the space reserved for the ~~foreclosed homeowner's~~ owner's signature a conspicuous statement in a size equal to at least 14-point boldface type, if the contract is printed, or in capital letters, if the contract is typed, as follows:

"You may cancel this contract for the sale of your house without any penalty or obligation at any time before

.....

(Date and time of day)

See the attached notice of cancellation form for an explanation of this right."

The ~~foreclosure equity~~ purchaser shall accurately enter the date and time of day on which the cancellation right ends.

(b) The contract must be accompanied by a completed form in duplicate, captioned "notice of cancellation" in a size equal to a 12-point boldface type if the contract is printed, or in capital letters, if the contract is typed, followed by a space in which the ~~foreclosure equity~~ purchaser shall enter the date on which the ~~foreclosed homeowner~~ owner executes the contract. This form must be attached to the contract, must be easily detachable, and must contain in type of at least 10 points, if the contract is printed or in capital letters if the contract is typed, the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

.....

(Enter date contract signed)

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before

.....

(Enter date and time of day)

To cancel this transaction, you may use any of the following methods: (1) mail or otherwise deliver a signed and dated copy of this cancellation notice; or (2) e-mail a notice of cancellation to

.....

(Name of purchaser)

at

(Physical address of purchaser's place of business)

.....

(E-mail address of foreclosure consultant's place of business)

NOT LATER THAN

(Enter date and time of day)

I hereby cancel this transaction

(Date)

.....

(Seller's signature)"

(c) The ~~foreclosure equity~~ purchaser shall provide the ~~foreclosed homeowner~~ owner with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties.

(d) The five business days during which the ~~foreclosed homeowner~~ owner may cancel the contract must not begin to run until all parties to the contract have executed the contract and the ~~foreclosure equity~~ purchaser has complied with this section.

EFFECTIVE DATE. This section is effective July 1, 2021, and applies to contracts executed on or after that date.

Sec. 20. Minnesota Statutes 2020, section 325N.15, is amended to read:

325N.15 WAIVER.

Any waiver of the provisions of sections 325N.10 to 325N.18 is void and unenforceable as contrary to public policy except a consumer may waive the five-day right to cancel provided in section 325N.13 if the property is subject to a foreclosure sale within the five business days, and the ~~foreclosed homeowner~~ owner

agrees to waive his or her right to cancel in a handwritten statement signed by all parties holding title to the foreclosed property.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 21. Minnesota Statutes 2020, section 325N.17, is amended to read:

325N.17 PROHIBITED PRACTICES.

~~A foreclosure~~ An equity purchaser shall not:

(a) enter into, or attempt to enter into, a ~~foreclosure~~ property reconveyance with a ~~foreclosed homeowner~~ an owner unless:

(1) the ~~foreclosure~~ equity purchaser verifies and can demonstrate that the ~~foreclosed homeowner~~ owner has a reasonable ability to pay for the subsequent conveyance of an interest back to the ~~foreclosed homeowner~~ owner. In the case of a lease with an option to purchase, payment ability also includes the reasonable ability to make the lease payments and purchase the property within the term of the option to purchase. There is a rebuttable presumption that a ~~homeowner~~ an owner is reasonably able to pay for the subsequent conveyance if the owner's payments for primary housing expenses and regular principal and interest payments on other personal debt, on a monthly basis, do not exceed 60 percent of the owner's monthly gross income. For the purposes of this section, "primary housing expenses" means the sum of payments for regular principal, interest, rent, utilities, hazard insurance, real estate taxes, and association dues. There is a rebuttable presumption that the ~~foreclosure~~ equity purchaser has not verified reasonable payment ability if the ~~foreclosure~~ equity purchaser has not obtained documents other than a statement by the ~~foreclosed homeowner~~ owner of assets, liabilities, and income;

(2) the ~~foreclosure~~ equity purchaser and the ~~foreclosed homeowner~~ owner complete a closing for any ~~foreclosure~~ property reconveyance in which the ~~foreclosure~~ equity purchaser obtains a deed or mortgage from a ~~foreclosed homeowner~~ an owner. For purposes of this section, "closing" means an in-person meeting to complete final documents incident to the sale of the real property or creation of a mortgage on the real property conducted by a closing agent, as defined in section 82.55, who is not employed by or an affiliate of the ~~foreclosure~~ equity purchaser, or employed by such an affiliate, and who does not have a business or personal relationship with the ~~foreclosure~~ equity purchaser other than the provision of real estate settlement services;

(3) the ~~foreclosure~~ equity purchaser obtains the written consent of the ~~foreclosed homeowner~~ owner to a grant by the ~~foreclosure~~ equity purchaser of any interest in the property during such times as the ~~foreclosed homeowner~~ owner maintains any interest in the property; and

(4) the ~~foreclosure~~ equity purchaser complies with the requirements for disclosure, loan terms, and conduct in the federal Home Ownership Equity Protection Act, United States Code, title 15, section 1639, or its implementing regulation, Code of Federal Regulations, title 12, sections 226.31, 226.32, and 226.34, for any ~~foreclosure~~ property reconveyance in which the ~~foreclosed homeowner~~ owner obtains a vendee interest in a contract for deed, regardless of whether the terms of the contract for deed meet the annual percentage rate or points and fees requirements for a covered loan in Code of Federal Regulations, title 12, sections 226.32 (a) and (b);

(b) fail to either:

(1) ensure that title to the subject dwelling has been reconveyed to the ~~foreclosed homeowner~~ owner;
or

(2) make a payment to the ~~foreclosed homeowner~~ owner such that the ~~foreclosed homeowner~~ owner has received consideration in an amount of at least 82 percent of the fair market value of the property within 150 days of either the eviction or voluntary relinquishment of possession of the dwelling by the ~~foreclosed homeowner~~ owner. The ~~foreclosure~~ equity purchaser shall make a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make a payment, including providing written documentation of expenses, within this 150-day period. The accounting shall be on a form prescribed by the attorney general, in consultation with the commissioner of commerce, without being subject to the rulemaking procedures of chapter 14. For purposes of this provision, the following applies:

(i) there is a rebuttable presumption that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the property;

(ii) the time for determining the fair market value amount shall be determined in the ~~foreclosure~~ property reconveyance contract as either at the time of the execution of the ~~foreclosure~~ property reconveyance contract or at resale. If the contract states that the fair market value shall be determined at the time of resale, the fair market value shall be the resale price if it is sold within 120 days of the eviction or voluntary relinquishment of the property by the ~~foreclosed homeowner~~ owner. If the contract states that the fair market value shall be determined at the time of resale, and the resale is not completed within 120 days of the eviction or voluntary relinquishment of the property by the ~~foreclosed homeowner~~ owner, the fair market value shall be determined by an appraisal conducted during this 120-day period and payment, if required, shall be made to the ~~homeowner~~ owner, but the fair market value shall be recalculated as the resale price on resale and an additional payment amount, if appropriate based on the resale price, shall be made to the ~~foreclosed homeowner~~ owner within 15 days of resale, and a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make additional payment, shall be made within 15 days of resale, including providing written documentation of expenses. The accounting shall be on a form prescribed by the attorney general, in consultation with the commissioner of commerce, without being subject to the rulemaking procedures of chapter 14;

(iii) "consideration" shall mean any payment or thing of value provided to the ~~foreclosed homeowner~~ owner, including unpaid rent or contract for deed payments owed by the ~~foreclosed homeowner~~ owner prior to the date of eviction or voluntary relinquishment of the property, reasonable costs paid to third parties necessary to complete the ~~foreclosure~~ property reconveyance transaction, payment of money to satisfy a debt or legal obligation of the ~~foreclosed homeowner~~ owner, or the reasonable cost of repairs for damage to the dwelling caused by the ~~foreclosed homeowner~~ owner; or a penalty imposed by a court for the filing of a frivolous claim under section 325N.18, subdivision 6, but

(iv) "consideration" shall not include amounts imputed as a down payment or fee to the ~~foreclosure~~ equity purchaser, or a person acting in participation with the ~~foreclosure~~ equity purchaser, incident to a contract for deed, lease, or option to purchase entered into as part of the ~~foreclosure~~ property reconveyance, except for reasonable costs paid to third parties necessary to complete the ~~foreclosure~~ property reconveyance;

(c) enter into repurchase or lease terms as part of the subsequent conveyance that are unfair or commercially unreasonable, or engage in any other unfair conduct;

(d) represent, directly or indirectly, that:

(1) the ~~foreclosure~~ equity purchaser is acting as an advisor or a consultant, or in any other manner represents that the ~~foreclosure~~ equity purchaser is acting on behalf of the ~~homeowner~~ owner;

(2) the ~~foreclosure equity~~ purchaser has certification or licensure that the ~~foreclosure equity~~ purchaser does not have, or that the ~~foreclosure equity~~ purchaser is not a member of a licensed profession if that is untrue;

(3) the ~~foreclosure equity~~ purchaser is assisting the ~~foreclosed homeowner~~ owner to "save the house" or substantially similar phrase; or

(4) the ~~foreclosure equity~~ purchaser is assisting the ~~foreclosed homeowner~~ owner in preventing a completed foreclosure or forfeiture if the result of the transaction is that the ~~foreclosed homeowner~~ owner will not complete a redemption of the property;

(e) make any other statements, directly or by implication, or engage in any other conduct that is false, deceptive, or misleading, or that has the likelihood to cause confusion or misunderstanding, including, but not limited to, statements regarding the value of the covered residence in foreclosure, the amount of proceeds the ~~foreclosed homeowner~~ owner will receive after a foreclosure sale of the covered residence, any contract term, or the ~~foreclosed homeowner's~~ owner's rights or obligations incident to or arising out of the foreclosure property reconveyance; or

(f) do any of the following until the time during which the ~~foreclosed homeowner~~ owner may cancel the transaction has fully elapsed:

(1) accept from any ~~foreclosed homeowner~~ owner an execution of, or induce any ~~foreclosed homeowner~~ owner to execute, any instrument of conveyance of any interest in the covered residence in foreclosure;

(2) record with the county recorder or file with the registrar of titles any document, including but not limited to, any instrument of conveyance, signed by the ~~foreclosed homeowner~~ owner;

(3) transfer or encumber or purport to transfer or encumber any interest in the covered residence in foreclosure to any third party, provided no grant of any interest or encumbrance is defeated or affected as against a bona fide purchaser or encumbrance for value and without notice of a violation of sections 325N.10 to 325N.18, and knowledge on the part of any such person or entity that the property was "real covered property in foreclosure" does not constitute notice of a violation of sections 325N.10 to 325N.18. This section does not abrogate any duty of inquiry which exists as to rights or interests of persons in possession of the real covered property in foreclosure; or

(4) pay the ~~foreclosed homeowner~~ owner any consideration.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 22. Minnesota Statutes 2020, section 325N.18, subdivision 1, is amended to read:

Subdivision 1. **Remedies.** A violation of sections 325N.10 to 325N.17 is considered to be a violation of section 325F.69, and all the remedies of section 8.31 are available for such an action. A private right of action under section 8.31 by a ~~foreclosed homeowner~~ owner is in the public interest.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 23. Minnesota Statutes 2020, section 325N.18, subdivision 2, is amended to read:

Subd. 2. **Exemplary damages.** In a private right of action under section 8.31 for a violation of section 325N.17, the court may award exemplary damages of any amount. In the event the court determines that an award of exemplary damages is appropriate, the amount of exemplary damages awarded shall not be less

than 1-1/2 times the ~~foreclosed homeowner's~~ owner's actual damages. Any claim for exemplary damages brought pursuant to this section must be commenced within four years after the date of the alleged violation.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 24. Minnesota Statutes 2020, section 325N.18, subdivision 4, is amended to read:

Subd. 4. **Criminal penalty.** Any ~~foreclosure~~ equity purchaser who engages in any practice which would operate as a fraud or deceit upon a ~~foreclosed homeowner~~ an owner may, upon conviction, be fined not more than \$50,000 or imprisoned not more than one year, or both. Prosecution or conviction for any one of the violations does not bar prosecution or conviction for any other offenses.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 25. Minnesota Statutes 2020, section 325N.18, subdivision 5, is amended to read:

Subd. 5. **Failure of transaction.** Failure of the parties to complete the reconveyance transaction, in the absence of additional misconduct, shall not subject a ~~foreclosure~~ an equity purchaser to the criminal penalties under this section or section 325N.07.

EFFECTIVE DATE. This section is effective July 1, 2021.

Sec. 26. Minnesota Statutes 2020, section 325N.18, subdivision 6, is amended to read:

Subd. 6. **Stay of eviction action.** (a) A court hearing an eviction action against a ~~foreclosed homeowner~~ an owner must issue an automatic stay, without imposition of a bond, if a defendant makes a prima facie showing that the defendant:

(1) has (i) commenced an action concerning a ~~foreclosure~~ property reconveyance; (ii) asserts a defense under section 504B.121 that the property that is the subject of the eviction action is also the subject of a ~~foreclosure~~ property reconveyance in violation of sections 325N.10 to 325N.17; or (iii) asserts a claim or affirmative defense of fraud, false pretense, false promise, misrepresentation, misleading statement, or deceptive practice, in connection with a ~~foreclosure~~ property reconveyance;

(2) owned the ~~foreclosed~~ covered residence;

(3) conveyed title to the ~~foreclosed~~ covered residence to a third party upon a promise that the defendant would be allowed to occupy the ~~foreclosed~~ covered residence or other real property in which the ~~foreclosure~~ equity purchaser or a person acting in participation with the ~~foreclosure~~ equity purchaser has an interest and that the ~~foreclosed~~ covered residence or other real property would be the subject of a ~~foreclosure~~ property reconveyance; and

(4) since the conveyance, has continuously occupied the ~~foreclosed~~ covered residence or other real property in which the ~~foreclosure~~ equity purchaser or a person acting in participation with the ~~foreclosure~~ equity purchaser has an interest.

For purposes of this subdivision, notarized affidavits are acceptable means of proof to meet the defendant's burden. Upon good cause shown, a defendant may request and the court may grant up to an additional two weeks to produce evidence required to make the prima facie showing.

(b) A court may award to a plaintiff a \$500 penalty upon a showing that the defendant filed a frivolous claim or asserted a frivolous defense.

(c) The automatic stay expires upon the later of:

(1) the failure of the ~~foreclosed homeowner~~ owner to commence an action in a court of competent jurisdiction in connection with a ~~foreclosed~~ property reconveyance transaction within 90 days after the issuance of the stay; or

(2) the issuance of an order lifting the stay by a court hearing claims related to the ~~foreclosure~~ property reconveyance.

(d) If, after the expiration of the stay or an order lifting the stay, a court finds that the defendant's claim or defense was asserted in bad faith and wholly without merit, the court may impose a sanction against the defendant of \$500 plus reasonable attorney fees.

EFFECTIVE DATE. This section is effective July 1, 2021.

Presented to the governor March 22, 2021

Signed by the governor March 23, 2021, 11:27 a.m.