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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 85

01/14/2013 Authored by Clark and Metsa

The bill was read for the first time and referred to the Committee on Housing Finance and Policy

1.1 A bill for an act
1.2 relating to housing; allowing a stay of mortgage foreclosure proceedings under
1.3 certain conditions; landlord and tenant; providing rights to tenants of foreclosed
1.4 property; amending Minnesota Statutes 2012, section 504B.151, subdivisions 1,
1.5 2, by adding subdivisions; proposing coding for new law in Minnesota Statutes,
1.6 chapter 582.

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

1.8 Section 1. Minnesota Statutes 2012, section 504B.151, subdivision 1, is amended to
1.9 read:

1.10 Subdivision 1. **Limitation on lease and notice to tenant.** (a) Once a landlord has
1.11 received notice of a contract for deed cancellation under section 559.21 or notice of a
1.12 mortgage foreclosure sale under chapter 580 or 582, or summons and complaint under
1.13 chapter 581, the landlord may only enter into (i) a periodic residential lease agreement
1.14 with a term of not more than two months or the time remaining in the contract cancellation
1.15 period or the mortgagor's redemption period, whichever is less or (ii) a fixed term
1.16 residential tenancy not extending beyond the cancellation period or the landlord's period
1.17 of redemption until:

- 1.18 (1) the contract for deed has been reinstated or paid in full;
- 1.19 (2) the mortgage default has been cured and the mortgage reinstated;
- 1.20 (3) the mortgage has been satisfied;
- 1.21 (4) the property has been redeemed from a foreclosure sale; or
- 1.22 (5) a receiver has been appointed.

1.23 (b) Before entering into a lease under this section and accepting any rent or security
1.24 deposit from a tenant, the landlord must notify the prospective tenant in writing that the
1.25 landlord has received notice of a contract for deed cancellation or notice of a mortgage

2.1 foreclosure sale as appropriate, and the date on which the contract cancellation period or
 2.2 the mortgagor's redemption period ends. The landlord must also inform the prospective
 2.3 tenant of the tenant's right to continued utility services if the landlord defaults on utility
 2.4 payments during the foreclosure process.

2.5 (c) This section does not apply to a manufactured home park as defined in section
 2.6 327C.01, subdivision 5.

2.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.8 Sec. 2. Minnesota Statutes 2012, section 504B.151, subdivision 2, is amended to read:

2.9 Subd. 2. **Exception allowing a longer term lease.** ~~This section~~ Subdivision
 2.10 1 does not apply if:

2.11 (1) the holder or the mortgagee agrees not to terminate the tenant's lease other than
 2.12 for lease violations for at least one year from the commencement of the tenancy; and

2.13 (2) the lease does not require the tenant to prepay rent for any month commencing
 2.14 after the end of the cancellation or redemption period, so that the rent payment would be
 2.15 due prior to the end of the cancellation or redemption period.

2.16 For the purposes of this section, a holder means a contract for deed vendor or a
 2.17 holder of the sheriff's certificate of sale or any assignee of the contract for deed vendor or
 2.18 of the holder of the sheriff's certificate of sale.

2.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.20 Sec. 3. Minnesota Statutes 2012, section 504B.151, is amended by adding a
 2.21 subdivision to read:

2.22 Subd. 5. **Rights of tenant of foreclosed property.** (a) When a new owner takes
 2.23 ownership of a rental property as the result of a foreclosure:

2.24 (1) a tenant is deemed by operation of law to become the tenant of the new owner; and

2.25 (2) all leases, verbal or written, and all terms and conditions of those agreements
 2.26 shall be transferred to the new owner and recorded in a new lease between the new owner
 2.27 and the tenant.

2.28 (b) A new owner shall:

2.29 (1) maintain as rental property, property that was used as rental property by the
 2.30 previous landlord;

2.31 (2) offer renewal leases to tenants of the foreclosed property; and

2.32 (3) offer a fair market rent.

2.33 (c) The requirements of paragraphs (a) and (b) must not apply to:

3.1 (1) a single family rental property that the new owner intends to occupy as a primary
 3.2 residence within 60 days of the purchase of the property; and

3.3 (2) any part of a multifamily rental property that the new owner intends to occupy
 3.4 as a primary residence within 60 days of the purchase of the property. In any action to
 3.5 recover possession of rental property in which a new owner claims to be exempt from
 3.6 the requirements of this subdivision, the new owner bears the burden to demonstrate
 3.7 such intent.

3.8 (d) For purposes of this section "new owner" means a holder of the sheriff's
 3.9 certificate of sale or the assignee or vendee of such holder.

3.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.11 Sec. 4. Minnesota Statutes 2012, section 504B.151, is amended by adding a
 3.12 subdivision to read:

3.13 Subd. 6. **Eviction.** Notwithstanding any other law to the contrary, the new owner
 3.14 must not begin an eviction action against a tenant without cause. For purposes of this
 3.15 subdivision, "cause" shall mean one or more of the following:

3.16 (1) the tenant has failed to pay a reasonable rent to the foreclosing owner, but only
 3.17 if the foreclosing owner notified the tenant in writing of the reasonable rent amount, to
 3.18 whom it was to be paid, and the due date;

3.19 (2) the tenant has violated an obligation or covenant of the tenancy or occupancy
 3.20 other than the obligation to surrender possession upon proper notice and has failed to
 3.21 cure the violation within a reasonable time after having received written notice from the
 3.22 foreclosing owner;

3.23 (3) the tenant is permitting a nuisance to exist in, or is causing substantial damage
 3.24 to, the unit, or is creating a substantial interference with the quiet enjoyment of other
 3.25 occupants;

3.26 (4) the tenant is convicted of using or permitting the unit to be used for any illegal
 3.27 purpose; or

3.28 (5) the tenant has refused the foreclosing owner reasonable access to the unit to make
 3.29 necessary repairs or improvements required by law, inspect the premises as permitted
 3.30 or required by agreement or by law, or show the rental housing unit to a prospective
 3.31 purchaser or mortgagee.

3.32 **EFFECTIVE DATE.** This section is effective the day following final enactment
 3.33 until June 30, 2014.

4.1 Sec. 5. Minnesota Statutes 2012, section 504B.151, is amended by adding a
4.2 subdivision to read:

4.3 Subd. 7. **Termination of tenancy.** A new owner must not terminate the tenancy of a
4.4 tenant of foreclosed property without cause as defined in subdivision 6.

4.5 **EFFECTIVE DATE.** This section is effective the day following final enactment
4.6 until June 30, 2014.

4.7 Sec. 6. Minnesota Statutes 2012, section 504B.151, is amended by adding a
4.8 subdivision to read:

4.9 Subd. 8. **Periodic leases.** A new owner must offer a fixed-term lease option to a
4.10 tenant with a periodic lease in place at the time the tenant becomes a tenant of the new
4.11 owner.

4.12 **EFFECTIVE DATE.** This section is effective the day following final enactment
4.13 until June 30, 2014.

4.14 Sec. 7. Minnesota Statutes 2012, section 504B.151, is amended by adding a
4.15 subdivision to read:

4.16 Subd. 9. **Applicability.** The provisions of subdivisions 5 to 8 apply to all tenants
4.17 regardless of when a tenant entered into a rental agreement with the property owner or at
4.18 what stage the foreclosure process was in when the rental agreement was entered.

4.19 **EFFECTIVE DATE.** This section is effective the day following final enactment
4.20 until June 30, 2014.

4.21 Sec. 8. **[582.33] FORECLOSURE MORATORIUM.**

4.22 Subdivision 1. **Emergency declared to exist.** The legislature declares that a public
4.23 economic emergency exists in the state due to the increase in foreclosure rates. The
4.24 legislature declares that these conditions have created a housing emergency that justifies
4.25 legislation creating a moratorium on mortgage foreclosures.

4.26 Subd. 2. **Stay of foreclosure process.** In any proceeding to foreclose a mortgage
4.27 upon residential property, whether by judicial process under this chapter and chapter 581
4.28 or by advertisement under this chapter and chapter 580, foreclosed borrowers residing in
4.29 their homesteaded property shall be entitled to stay the foreclosure process and remain in
4.30 possession of the mortgaged premises by serving a notice of right to stay upon the mortgage
4.31 holder or the holder of a certificate of sheriff's sale if different from the mortgage holder,
4.32 the court having jurisdiction over a judicial action to foreclose the mortgage, and the sheriff

5.1 in the jurisdiction where the mortgaged premises are located. The foreclosure process shall
5.2 be stayed effective as of the date of service of the notice of right to stay. The stay shall
5.3 continue in effect for a period ending two years from the effective date of this bill or on June
5.4 30, 2014, whichever is later, provided that the conditions set forth in subdivision 3 are met.

5.5 Subd. 3. **Maintenance of stay.** In order to maintain a stay obtained under
5.6 subdivision 2:

5.7 (1) the holder of the stay must maintain homestead status of the property;

5.8 (2) after receipt of written notice from the foreclosing lender or holder of a certificate
5.9 of sheriff's sale of the name and address to which the monthly payments are to be made,
5.10 the amount of the payment, the date that the first monthly payment is due, and the dates
5.11 of each subsequent payment, the holder of the stay shall make reasonable, affordable
5.12 monthly payments to the foreclosing lender or holder or holder of a certificate of sheriff's
5.13 sale. The monthly payment shall be equal to the monthly payment when the stay became
5.14 effective or 41 percent of the borrower's documented and verified monthly gross income,
5.15 whichever is less; and

5.16 (3) the holder of the stay must refrain from conduct that would constitute just cause
5.17 for dissolution of the stay, as defined in subdivision 4.

5.18 Subd. 4. **Dissolution of stay.** Upon 30 days' written notice to the holder of the stay
5.19 and any other party previously designated in writing to the new owner by the holder of the
5.20 stay, the foreclosing lender or holder of a certificate of sheriff's sale shall be entitled to
5.21 apply to a court in the jurisdiction where the property is located for an order dissolving
5.22 the stay. An order dissolving the stay and granting possession of the property to the
5.23 holder of the certificate of sheriff's sale may be granted if the court finds that the public
5.24 interest is served by granting the order and upon a showing that the foreclosed borrower
5.25 in possession or tenant in possession of foreclosed property has failed to comply with
5.26 the requirements of subdivision 3 or that other just cause exists. For purposes of this
5.27 subdivision, "other just cause" means one or more of the following:

5.28 (1) the holder of the stay is permitting a nuisance to exist in, or is causing substantial
5.29 damage to, the unit, or is creating a substantial interference with the quiet enjoyment
5.30 of other occupants;

5.31 (2) the holder of the stay is convicted of using or permitting the unit to be used
5.32 for any illegal purpose; or

5.33 (3) the holder of the stay has refused the foreclosing owner reasonable access to
5.34 the unit for the purpose of making necessary repairs or improvements required by law,
5.35 to inspect the premises as permitted or required by agreement or by law, or to show the
5.36 premises to a prospective purchaser or mortgagee.

6.1 Subd. 5. **Application.** This section applies only to mortgages executed before
6.2 the effective date of this section.

6.3 **EFFECTIVE DATE.** This section is effective the day following final enactment
6.4 until June 30, 2014.