

**SENATE  
STATE OF MINNESOTA  
NINETY-THIRD SESSION**

**S.F. No. 2933**

(SENATE AUTHORS: KREUN and Utker)

DATE  
03/15/2023

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Introduction and first reading  
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to real property; providing for mortgage foreclosure redemption and  
1.3 surpluses; amending Minnesota Statutes 2022, sections 272.45; 580.07, subdivision  
1.4 1; 580.10; 580.225; 580.24; 580.25; 580.26; 580.28; 582.03, subdivisions 1, 2;  
1.5 582.043, subdivision 6.

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

1.7 Section 1. Minnesota Statutes 2022, section 272.45, is amended to read:

1.8 **272.45 TAXES PAID BY TENANT, OCCUPANT, OR OTHER PERSON BECOME**  
1.9 **LIEN, UPON NOTICE FILED WITH COUNTY RECORDER OR REGISTRAR OF**  
1.10 **TITLES.**

1.11 When any past due or delinquent tax on land is paid by any occupant, tenant, or person  
1.12 with ~~an~~ a legal or equitable interest in the land other than a lien, or a person acting on that  
1.13 person's behalf, which, by agreement or otherwise, ought to have been paid by the owner,  
1.14 lessor, or other party in interest, such occupant, tenant, or person may recover by action the  
1.15 amount which such owner, lessor, or party in interest ought to have paid, with interest  
1.16 thereon at the rate of 12 percent per annum, or may retain the same from any rent due or  
1.17 accruing from the person to such owner or lessor for land on which such tax is so paid. A  
1.18 person making a payment under this section may file with the county recorder or registrar  
1.19 of titles of the proper county a ~~notice~~ sworn statement stating the amount and date of such  
1.20 payment, with a copy of the receipt attached, and stating the legal or equitable interest  
1.21 claimed in the land, with a description of the land against which the taxes were charged;  
1.22 and the same shall thereupon be a lien as of the date of recording of the sworn statement  
1.23 upon such land in favor of the person paying the same until the same is paid. The county  
1.24 recorder shall record such ~~notice~~ sworn statement in the indices maintained by the county

2.1 recorder. The registrar of titles shall record the ~~notice~~ sworn statement on the certificate of  
2.2 title for the land. Upon the payment of any such lien, the person filing such ~~notice~~ sworn  
2.3 statement shall satisfy the same of record.

2.4 Sec. 2. Minnesota Statutes 2022, section 580.07, subdivision 1, is amended to read:

2.5 Subdivision 1. **Postponement by mortgagee.** (a) The sale may be postponed with  
2.6 reasonable notice to the sheriff, from time to time, by the party conducting the foreclosure.  
2.7 The party requesting the postponement must, at the party's expense:

2.8 (1) publish, only once, a notice of the postponement and the rescheduled date of the sale,  
2.9 if known, as soon as practicable, in the newspaper in which the notice under section 580.03  
2.10 was published; and

2.11 (2) send by first class mail to the occupant, postmarked within three business days of  
2.12 the postponed sale, notice:

2.13 (i) of the postponement; and

2.14 (ii) if known, of the rescheduled date of the sale and the date on or before which the  
2.15 mortgagor must vacate the property if the sheriff's sale is not further postponed, the mortgage  
2.16 is not reinstated under section 580.30, the property is not redeemed under section 580.23,  
2.17 or the redemption period is not reduced under section 582.032. The notice must state that  
2.18 the time to vacate the property is 11:59 p.m. on the specified date.

2.19 (b) If the rescheduled date of the sale is not known at the time of the initial publication  
2.20 and notice to the occupant of postponement, the foreclosing party must, at its expense if  
2.21 and when a new date of sale is scheduled:

2.22 (1) publish, only once, notice of the rescheduled date of the sale, as soon as practicable,  
2.23 in the newspaper in which the notice under section 580.03 and the notice of postponement  
2.24 under paragraph (a) was published; and

2.25 (2) send by first class mail to the occupant, postmarked within ten days of the rescheduled  
2.26 sale, notice:

2.27 (i) of the date of the rescheduled sale; and

2.28 (ii) of the date on or before which the mortgagor must vacate the property if the mortgage  
2.29 is not reinstated under section 580.30 or the property redeemed under section 580.23. The  
2.30 notice must state that the time to vacate the property is 11:59 p.m. on the specified date.

3.1 (c) The sheriff may charge a fee of one-half the sheriff's regular fee for conducting a  
3.2 sheriff's sale for failure to notify the sheriff of a postponement, but the failure does not  
3.3 invalidate the sale. The fee shall not be an allowable cost under section 580.17.

3.4 **EFFECTIVE DATE.** This section is effective for sheriff's sales occurring after January  
3.5 1, 2024.

3.6 Sec. 3. Minnesota Statutes 2022, section 580.10, is amended to read:

3.7 **580.10 SURPLUS.**

3.8 Subdivision 1. **Demand for surplus.** In all cases not provided for in section 580.09, and  
3.9 except as required by subdivision 3, if, after sale of any real estate, made as herein prescribed,  
3.10 there remains in the hands of the officer making the sale any surplus money, after satisfying  
3.11 the mortgage, with interest, taxes paid, and costs of sale, the surplus shall be paid over by  
3.12 such officer, on demand, to the mortgagor, the mortgagor's legal representatives or assigns.  
3.13 A surplus of \$100 or greater shall be paid first to junior creditors with liens of record at the  
3.14 time of the sheriff's sale in order of priority, if demanded by a junior creditor within 120  
3.15 days of the sale, and thereafter to the owner of record at the time of the sheriff's sale, or as  
3.16 provided by court order under section 580.28. A demand by a party other than the owner  
3.17 shall be accompanied by an affidavit stating the amount remaining unpaid and the interest  
3.18 creating a right to the surplus.

3.19 Subd. 2. **Notice of surplus.** The sheriff may, at its discretion and with no obligation,  
3.20 notify the owner and potential creditors that a surplus exists. Upon the request of the sheriff,  
3.21 the party foreclosing the mortgage shall provide its most recent contact information for the  
3.22 owner.

3.23 Subd. 3. **Request by owner to have surplus held.** At any time during the redemption  
3.24 period, the owner of record at the time of the sheriff's sale may submit a written request to  
3.25 the sheriff for the surplus to be held for the benefit of that owner and applied to the  
3.26 redemption amount. If a request to hold is received by the sheriff, the owner of record may  
3.27 pay the difference between the full redemption amount and surplus amount in order to  
3.28 redeem. The right to submit a request to hold applies only to the owner at the time of the  
3.29 sheriff's sale and is not transferable to any subsequent owner.

3.30 Subd. 4. **Surplus less than \$100.** If a surplus remains under \$100, the sheriff may pay  
3.31 the surplus amount to the owner of record at the time of the sheriff's sale.

3.32 Subd. 5. **Resolution of competing claims.** If the sheriff determines there are competing  
3.33 claims or that any claim is not meritorious, the sheriff may apply to the court in the county

4.1 in which the sale was made and set forth by petition the facts then known to the sheriff, and  
 4.2 the names and addresses of all known claimants to the surplus, at no cost to the sheriff. The  
 4.3 sheriff shall retain the surplus until further order of the court under section 580.28. If a  
 4.4 hearing is scheduled, the sheriff may participate in an advisory capacity. The sheriff shall  
 4.5 be represented by the county attorney. The sheriff shall give notice of the opening of the  
 4.6 court file to the holders of the subject claims by service of the petition in the manner of a  
 4.7 summons under the Rules of Civil Procedure. Failure of a mortgagor or the mortgagor's  
 4.8 legal representative or assign to participate in the court action does not waive the right of  
 4.9 that mortgagor or the mortgagor's legal representative or assign to the surplus.

4.10 **EFFECTIVE DATE.** This section is effective for all surpluses held by sheriffs on or  
 4.11 after January 1, 2024.

4.12 Sec. 4. Minnesota Statutes 2022, section 580.225, is amended to read:

4.13 **580.225 SATISFACTION OF ~~JUDGMENT~~ MORTGAGE.**

4.14 The amount received from foreclosure sale under this chapter is full satisfaction of the  
 4.15 mortgage debt, except as provided in section 582.30.

4.16 Sec. 5. Minnesota Statutes 2022, section 580.24, is amended to read:

4.17 **580.24 REDEMPTION BY CREDITOR.**

4.18 (a) If no redemption is made by the mortgagor, the mortgagor's personal representatives  
 4.19 or assigns, the most senior creditor having a legal or equitable lien upon the mortgaged  
 4.20 premises, or some part of it, subsequent to the foreclosed mortgage, may redeem within  
 4.21 ~~seven~~ 14 days after the expiration of the redemption period determined under section 580.23  
 4.22 or 582.032, whichever is applicable; and each subsequent creditor having a lien may redeem,  
 4.23 in the order of priority of their respective liens, within ~~seven~~ 14 days after the time allowed  
 4.24 the prior lienholder by paying the amount required under this section. However, no creditor  
 4.25 is entitled to redeem unless, one week or more prior to the expiration of the period allowed  
 4.26 for redemption by the mortgagor, the creditor:

4.27 (1) records with each county recorder and registrar of titles where the foreclosed mortgage  
 4.28 is recorded a notice of the creditor's intention to redeem;

4.29 (2) records with each county recorder and registrar of titles where the notice of the  
 4.30 creditor's intention to redeem is recorded all documents necessary to create the lien on the  
 4.31 mortgaged premises and to evidence the creditor's ownership of the lien, including a copy  
 4.32 of any money judgment necessary to create the lien; and

5.1 (3) after complying with clauses (1) and (2), delivers to the sheriff who conducted the  
5.2 foreclosure sale or the sheriff's successor in office a copy of each of the documents required  
5.3 to be recorded under clauses (1) and (2), with the office, date and time of filing for record  
5.4 stated on the first page of each document.

5.5 The sheriff shall maintain for public inspection all documents delivered to the sheriff  
5.6 and shall note the date of delivery on each document. The sheriff may charge a fee of \$100  
5.7 for the documents delivered to the sheriff relating to each lien. The sheriff shall maintain  
5.8 copies of documents delivered to the sheriff for a period of six months after the end of the  
5.9 mortgagor's redemption period.

5.10 (b) Saturdays, Sundays, legal holidays, and the first day following the expiration of the  
5.11 prior redemption period must be included in computing the ~~seven-day~~ 14-day redemption  
5.12 period. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that  
5.13 day must be omitted from the computation. The order of redemption by judgment creditors  
5.14 subsequent to the foreclosed mortgage shall be determined by the order in which their  
5.15 judgments were entered as memorials on the certificate of title for the foreclosed premises  
5.16 or docketed in the office of the district court administrator if the property is not registered  
5.17 under chapter 508 or 508A, regardless of the homestead status of the property. All mechanic's  
5.18 lienholders who have coordinate liens shall have one combined ~~seven-day~~ 14-day period  
5.19 to redeem.

5.20 (c) The amount required to redeem from the holder of the sheriff's certificate of sale is  
5.21 the amount required under section 580.23. The amount required to redeem from a ~~person~~  
5.22 creditor holding a certificate of redemption is:

5.23 (1) the amount paid to redeem as shown on the certificate of redemption; plus

5.24 (2) interest on that amount to the date of redemption at the rates stated on the certificate  
5.25 of sale and the affidavit provided by section 580.25, clause (3), or six percent if no rate is  
5.26 otherwise stated; plus

5.27 (3) the amount claimed due on the ~~person's~~ creditor's lien, as shown on the affidavit  
5.28 under section 580.25, clause (3).

5.29 (d) If the sheriff determines there is a dispute or question of validity about a redemption,  
5.30 the sheriff may accept the amount required to redeem, together with documents in support  
5.31 of the redemption, from one or more creditors competing for or claiming a right to redeem,  
5.32 without executing and delivering a certificate of redemption, and the sheriff may commence  
5.33 an action under section 580.28 at no cost to the sheriff. A creditor subject to a dispute or  
5.34 question of validity about a redemption may submit the matter for adjudication of the court

6.1 under section 580.28. If the sheriff does not execute and deliver a certificate of redemption  
 6.2 under this section, all further junior creditor redemption periods are stayed until determined  
 6.3 by the court, and all junior creditors who have recorded notices of intent to redeem should  
 6.4 be included in the action under section 580.28.

6.5 The amount required to redeem may be paid to the holder of the sheriff's certificate of  
 6.6 sale or the certificate of redemption, as the case may be, or to the sheriff for the holder.

6.7 **EFFECTIVE DATE.** This section is effective for all sheriff's sales after January 1,  
 6.8 2024.

6.9 Sec. 6. Minnesota Statutes 2022, section 580.25, is amended to read:

6.10 **580.25 CREDITOR REDEMPTION, HOW MADE.**

6.11 Redemption shall be made as provided in this section.

6.12 The ~~person~~ creditor desiring to redeem shall pay the amount required by law for the  
 6.13 redemption, and shall produce to the person or officer receiving the redemption payment:

6.14 (1) a copy of the docket of the judgment, or of the recorded deed or mortgage, or of the  
 6.15 record or files evidencing any other lien under which the ~~person~~ creditor claims a right to  
 6.16 redeem;

6.17 (2) a copy of any recorded assignment necessary to evidence the ~~person's~~ creditor's  
 6.18 ownership of the lien. If the redemption is under an assignment of a judgment, the assignment  
 6.19 shall be filed in the court entering the judgment, as provided by law, and the ~~person~~ creditor  
 6.20 so redeeming shall produce a copy of it and of the record of its filing, and the copy of the  
 6.21 docket shall show that the proper entry was made upon the docket. No further evidence of  
 6.22 the assignment of the judgment is required unless the mortgaged premises or part of it is  
 6.23 registered property, in which case the judgment and all assignments of the judgment must  
 6.24 be entered as a memorial upon the certificate of title to the mortgaged premises and a copy  
 6.25 of the judgment and each assignment with the certificate of record endorsed on it must be  
 6.26 produced; and

6.27 ~~(3) an affidavit of the person or the person's agent, showing the amount then actually~~  
 6.28 ~~claimed due on the person's lien and required to be paid on the lien in order to redeem from~~  
 6.29 ~~the person. Additional fees and charges may be claimed due only as provided in section~~  
 6.30 ~~582.03.~~

6.31 (3) an original affidavit of the creditor or the creditor's agent, identifying the lien under  
 6.32 which the creditor claims a right to redeem and stating the amount then actually claimed

7.1 due and owing on the lien and stating the interest rate on the lien. Additional fees and charges  
 7.2 may be claimed due only as provided in section 582.03. The sheriff receiving the affidavit  
 7.3 may furnish a copy of the affidavit to any interested party, upon request.

7.4 If redemption is made to the sheriff, the sheriff may charge a fee of \$250 for issuing the  
 7.5 certificate of redemption and any related service. No other fee may be charged by the sheriff  
 7.6 for a redemption.

7.7 Within 24 hours after a redemption is made, or as soon as reasonably possible, the person  
 7.8 redeeming shall cause the documents so required to be produced to be recorded with the  
 7.9 county recorder, or registrar of titles, or both, as appropriate, who may receive fees as  
 7.10 prescribed in section 357.18 or 508.82. If the redemption is made at any place other than  
 7.11 the county seat, it is sufficient forthwith to deposit the documents in the nearest post office,  
 7.12 addressed to the recorder or registrar of titles, with the postage prepaid within 24 hours after  
 7.13 redemption is made, or as soon as reasonably possible. A person recording documents  
 7.14 produced for redemption shall, on the same day, deliver copies of the documents to the  
 7.15 sheriff for public inspection. The sheriff may receive a fee of \$20 for the documents delivered  
 7.16 following a redemption. The sheriff shall note the date of delivery on the documents and  
 7.17 shall maintain for public inspection all documents delivered to the sheriff for a period of  
 7.18 six months after the end of the mortgagor's redemption period.

7.19 **EFFECTIVE DATE.** This section is effective for redemptions occurring after January  
 7.20 1, 2024.

7.21 Sec. 7. Minnesota Statutes 2022, section 580.26, is amended to read:

7.22 **580.26 CERTIFICATE OF REDEMPTION; RECORD.**

7.23 The person or officer from whom such redemption is made shall make and deliver to  
 7.24 the person redeeming a certificate executed and acknowledged in the same manner as a  
 7.25 conveyance, containing:

7.26 ~~(1) the name of the person redeeming, and the amount paid by the person on such~~  
 7.27 ~~redemption;~~

7.28 (1) if redeemed during the mortgagor's redemption period under section 580.23, the  
 7.29 name of the mortgagor or the mortgagor's legal representative or assign redeeming, as  
 7.30 appropriate, and if redeemed by a creditor holding a lien, the name of the creditor redeeming  
 7.31 and the amount paid to redeem;

7.32 (2) a description of the sale for which such redemption is made, and of the property  
 7.33 redeemed;

8.1 (3) a statement of the claim upon which such redemption is made and, if upon a lien,  
8.2 the amount claimed to be due thereon at the date of redemption.

8.3 If redemption is made by the owner of the property sold, the owner's heirs, personal  
8.4 representatives, or assigns, such certificate shall be recorded within ~~four days~~ one week  
8.5 after the expiration of the period allowed by law to the owner for redemption and, if made  
8.6 by a creditor holding a lien, the certificate shall be recorded within ~~four days~~ one week after  
8.7 such redemption. Unless so recorded, the certificate shall be void as only against any person  
8.8 in good faith redeeming from the same person or lien.

8.9 **EFFECTIVE DATE.** This section is effective for redemptions occurring after January  
8.10 1, 2024.

8.11 Sec. 8. Minnesota Statutes 2022, section 580.28, is amended to read:

8.12 **580.28 ACTION TO SET ASIDE MORTGAGE; FORECLOSURE; REDEMPTION.**

8.13 When an action is brought wherein it is claimed that any mortgage as to the plaintiff or  
8.14 person for whose benefit the action is brought is fraudulent or void, or has been paid or  
8.15 discharged, in whole or in part, or the relative priority or the validity of liens or redemption  
8.16 rights is disputed, if such mortgage has been foreclosed by advertisement, and the time for  
8.17 redemption from the foreclosure sale will expire before final judgment in such action, the  
8.18 plaintiff or beneficiary having the right to redeem, for the purpose of saving such right in  
8.19 case the action fails, may deposit with the sheriff before the time of redemption expires the  
8.20 amount for which the mortgaged premises were sold, with interest thereon to the time of  
8.21 deposit, together with ~~a bond to the holder of the sheriff's certificate of sale, in an amount~~  
8.22 ~~and with sureties to be approved by the sheriff, conditioned to pay all interest that may~~  
8.23 ~~accrue or be allowed on such deposit if the action fail~~ a separate deposit with the sheriff of  
8.24 one year's interest on the amount deposited. The person shall, in writing, notify such sheriff  
8.25 that ~~the person claims the mortgage to be fraudulent or void, or to have been paid or~~  
8.26 ~~discharged, in whole or in part, as the case may be, and that such action is pending, and~~  
8.27 ~~direct the sheriff to retain such money and bond until final judgment. In case such action~~  
8.28 ~~fails~~ or other order of the court. If so ordered by the court, such deposit shall operate as a  
8.29 redemption of the premises from such foreclosure sale, and entitle the plaintiff to a certificate  
8.30 thereof. Such foreclosure, deposit, ~~bond~~, and notice shall be brought to the attention of the  
8.31 court by supplemental complaint in the action, and the judgment shall determine the validity  
8.32 of the foreclosure sale, and the rights of the parties to the moneys ~~and bond~~ so deposited,  
8.33 which shall be paid and delivered by the sheriff as directed by such judgment upon delivery

9.1 to the sheriff of a certified copy thereof. The remedy herein provided shall be in addition  
9.2 to other remedies now existing.

9.3 Sec. 9. Minnesota Statutes 2022, section 582.03, subdivision 1, is amended to read:

9.4 Subdivision 1. **Allowable costs collectable upon redemption.** The holder of any sheriff's  
9.5 certificate of sale, from a foreclosure by advertisement or action of a mortgage or lien or  
9.6 execution, or the holder of any certificate of redemption as a junior creditor during the  
9.7 period of redemption, may pay and claim the following on redemption: any taxes or  
9.8 assessments on which any penalty would otherwise accrue, and any costs of a hazard  
9.9 insurance policy for the holder's interest in the mortgaged premises incurred for the period  
9.10 of holding the sheriff's certificate, any costs incurred when an order to reduce a mortgagor's  
9.11 redemption period under section 582.032 is entered, including costs and disbursements  
9.12 awarded under section 582.032, subdivision 9, any fees paid to the county recorder, registrar  
9.13 of titles, or sheriff to obtain or record the certificates of sale or redemption or notices of  
9.14 intention to redeem, any reasonable fees paid to licensed real estate brokers for broker price  
9.15 opinions or to licensed appraisers for appraisals, any deed tax paid to file a certificate of  
9.16 redemption, reasonable attorney fees incurred after the foreclosure sale not to exceed one-half  
9.17 of the amount authorized by section 582.01, any costs incurred under section 582.031, and  
9.18 any interest or installment of principal upon any prior or superior mortgage, lien, or contract  
9.19 for deed in default or that becomes due during the period of redemption. In all such cases,  
9.20 the costs so paid and claimed due, with interest from the date of payment at the rate stated  
9.21 in the certificate of sale or at six percent if no rate is stated, shall be a part of the sum required  
9.22 to be paid to redeem from such sale. No other costs, fees, interest, or other amount may be  
9.23 added to the amount necessary to redeem.

9.24 **EFFECTIVE DATE.** This section is effective for affidavits filed with the sheriff after  
9.25 January 1, 2024.

9.26 Sec. 10. Minnesota Statutes 2022, section 582.03, subdivision 2, is amended to read:

9.27 Subd. 2. **Affidavit of allowable costs.** Any payments made and claimed due under  
9.28 subdivision 1 shall be proved by the affidavit of the holder of the sheriff's certificate or its  
9.29 agent or attorney, itemizing each of the allowable costs and the date of payment and  
9.30 describing the premises. The affidavit must be filed with the sheriff of the county in which  
9.31 the sale was held at any time prior to expiration of the mortgagor's redemption period. Upon  
9.32 written request by the sheriff, the holder of the sheriff's certificate or certificate of redemption  
9.33 shall provide an affidavit of allowable costs to the sheriff within seven days of the date of

10.1 the request by the sheriff. If the mortgagor does not redeem within seven days after the  
10.2 affidavit is filed, the holder of the sheriff's certificate may file a supplemental affidavit if  
10.3 additional allowable costs are incurred during the redemption period. If the holder of the  
10.4 sheriff's certificate or certificate of redemption fails to respond to the sheriff's request within  
10.5 seven days, the sheriff may calculate a redemption amount pursuant to section 580.23,  
10.6 subdivision 1, and issue a certificate of redemption for that amount. If the time allowed to  
10.7 redeem is less than seven days from the expiration of the redemption period, the sheriff  
10.8 shall make a reasonable effort to request the affidavit of allowable costs in writing from the  
10.9 holder of the sheriff's certificate, its agent, or attorney before issuing a certificate of  
10.10 redemption. If the affidavit of allowable costs is not provided more than one business day  
10.11 before the expiration of the redemption period, at any time one business day or less before  
10.12 the expiration of the redemption period, the sheriff may calculate a redemption amount  
10.13 pursuant to section 580.23, subdivision 1, and issue a certificate of redemption for that  
10.14 amount. The amount calculated by the sheriff, absent malfeasance by the sheriff, binds the  
10.15 holder of the sheriff's certificate even if the amount calculated by the sheriff is less than the  
10.16 actual amount due.

10.17 **EFFECTIVE DATE.** This section is effective for affidavits filed with the sheriff after  
10.18 January 1, 2024.

10.19 Sec. 11. Minnesota Statutes 2022, section 582.043, subdivision 6, is amended to read:

10.20 Subd. 6. **Dual tracking.** (a) If the servicer has received a loss mitigation application and  
10.21 the subject mortgage loan has not already been referred to an attorney for foreclosure, a  
10.22 servicer shall not refer the subject mortgage loan to an attorney for foreclosure while the  
10.23 mortgagor's application is pending, unless:

10.24 (1) the servicer determines that the mortgagor is not eligible for any loss mitigation  
10.25 option, the servicer informs the mortgagor of the determination in writing, and the applicable  
10.26 appeal period has expired without an appeal or the appeal has been properly denied;

10.27 (2) where a written offer is made and a written acceptance is required, the mortgagor  
10.28 fails to accept the loss mitigation offer within the time frame specified in the offer or within  
10.29 14 days after the date of the offer, whichever is longer; or

10.30 (3) the mortgagor declines the loss mitigation offer in writing.

10.31 (b) If the servicer receives a loss mitigation application after the subject mortgage loan  
10.32 has been referred to an attorney for foreclosure, but before a foreclosure sale has been

11.1 scheduled, a servicer shall not move for an order of foreclosure, seek a foreclosure judgment,  
11.2 or conduct a foreclosure sale unless:

11.3 (1) the servicer determines that the mortgagor is not eligible for a loss mitigation option,  
11.4 the servicer informs the mortgagor of this determination in writing, and the applicable appeal  
11.5 period has expired without an appeal or the appeal has been properly denied;

11.6 (2) where a written offer is made and a written acceptance is required, the mortgagor  
11.7 fails to accept the loss mitigation offer within the time frame specified in the offer or within  
11.8 14 days after the date of the offer, whichever is longer; or

11.9 (3) the mortgagor declines a loss mitigation offer in writing.

11.10 (c) If the servicer receives a loss mitigation application after the foreclosure sale has  
11.11 been scheduled, but before midnight of the seventh business day prior to the foreclosure  
11.12 sale date, the servicer must halt the foreclosure sale and evaluate the application. If required  
11.13 to halt the foreclosure sale and evaluate the application, the servicer may postpone the  
11.14 foreclosure sale under section 580.07, subdivision 1, but must not move for an order of  
11.15 foreclosure, seek a foreclosure judgment, or conduct a foreclosure sale unless:

11.16 (1) the servicer determines that the mortgagor is not eligible for a loss mitigation option,  
11.17 the servicer informs the mortgagor of this determination in writing, and the applicable appeal  
11.18 period has expired without an appeal or the appeal has been properly denied;

11.19 (2) where a written offer is made and a written acceptance is required, the mortgagor  
11.20 fails to accept the loss mitigation offer within the time frame specified in the offer or within  
11.21 14 days after the date of the offer, whichever is longer; or

11.22 (3) the mortgagor declines a loss mitigation offer in writing.

11.23 (d) A servicer shall not move for an order of foreclosure or conduct a foreclosure sale  
11.24 under any of the following circumstances:

11.25 (1) the mortgagor is in compliance with the terms of a trial or permanent loan  
11.26 modification, or other loss mitigation option; or

11.27 (2) a short sale has been approved by all necessary parties and proof of funds or financing  
11.28 has been provided to the servicer.