

MINNESOTA STATUTES 1977 SUPPLEMENT

ADVERSE CLAIMS TO REAL ESTATE 559.17

CHAPTER 549. COSTS, DISBURSEMENTS

Sec.
549.06 Several actions; costs, how allowed.

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When several actions are brought on one instrument, or for the same cause of action, against several parties who might have been joined as defendants in the same action, costs shall be allowed to the plaintiff in but one of such actions, to be selected by him, if at the commencement of such action the defendants in the other actions were openly within the state; but plaintiff's disbursements may be allowed as provided in section 549.04.

[1977 c 347 s 62]

CHAPTER 550. EXECUTIONS, REDEMPTION, EXEMPTIONS

Sec.
550.37 Property exempt.

550.37 Property exempt.

[For text of subds 1 to 3, see M.S.1976]

Subd. 4. All wearing apparel, one watch, household furniture, utensils, household appliances, phonographs, radio and television receivers, and foodstuffs of the debtor and his family, not exceeding \$3,000 in value. The exemption provided by this subdivision may not be waived except with regard to purchase money security interests.

[For text of subds 5 to 20, see M.S.1976]

[1977 c 180 s 3]

CHAPTER 559. ADVERSE CLAIMS TO REAL ESTATE

Sec.
559.17 Mortgagee not entitled to possession.

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Subdivision 1. A mortgage of real property is not to be deemed a conveyance, so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure, except as permitted in subdivision 2. The enforcement of an assignment of rents of the type described in subdivision 2 shall not be deemed prohibited by this subdivision, nor because a foreclosure sale under the mortgage has extinguished all or part of the mortgage debt.

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

- (1) Was executed, modified or amended subsequent to August 1, 1977;
- (2) Secured an original principal amount of \$500,000 or more; and
- (3) Is not a lien upon property which was entirely homesteaded as agricultural property. The assignment may be enforced as follows:

(a) If, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section 576.01, subdivision 2, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of his appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section 576.01, subdivision 2.

559.17 ADVERSE CLAIMS TO REAL ESTATE

(b) If no provision is made for the appointment of a receiver in the assignment, the assignment shall be binding upon the assignor without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section 576.01, subdivision 2, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of filing by the holder of the assignment in the office of the county recorder or the office of the registrar of titles for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of the notice upon the occupiers of the premises. The holder of the assignment shall apply the rents and profits received in accordance with the terms of the assignment, and, if the assignment so provides, for the entire redemption period from any foreclosure sale. A holder of an assignment who enforces it in accordance with this clause shall not be deemed to be a mortgagee in possession with attendant liability.

Nothing contained herein shall prohibit the right to reinstate the mortgage debt granted pursuant to section 580.30, nor the right to redeem granted pursuant to sections 580.23 and 581.10, and any excess cash, as that term is used herein, collected by the receiver under clause (a), or any rents and profits taken by the holder of the assignment under clause (b), shall be credited to the amount required to be paid to effect a reinstatement or redemption.

[1977 c 202 s 2]

CHAPTER 574. BONDS, FINES, FORFEITURES

Sec.
574.262 Small business. [New]

574.262 Small business.

Subdivision 1. **Bonds.** To carry out the programs, established elsewhere by law, for awarding certain portions of state construction and procurement contracts and subcontracts to small businesses and small businesses owned by economically and socially disadvantaged persons, the commissioners of administration and transportation may, when deemed appropriate, arrange, through competitive bidding or negotiation, to partially indemnify bonding companies which provide bid and performance bonds covering all or any part of the construction and procurement contracts or subcontracts which are designated for award to small businesses and small businesses owned by economically and socially disadvantaged persons. The amount of the indemnity on each contract shall not exceed \$100,000. Bonds which are subject to indemnity shall be provided to contractors at a cost which shall not exceed the cost of bid and performance bonds if purchased in the usual manner by other businesses for similar contract work or procurement.

Subd. 2. **Participation limit.** No small business or small business owned and operated by economically and socially disadvantaged persons shall be eligible for bonding pursuant to this section for a period of more than five years from the date that the small business or small business owned and operated by economically and socially disadvantaged persons received its first bond pursuant to this section.

Subd. 3. **Qualifications.** The commissioners of administration and transportation shall each establish standards to determine the eligibility of small businesses and small businesses owned by economically and socially disadvantaged persons for the use of bid and performance bonds subject to indemnity under this section. The rule making provisions of chapter 15 shall not apply to the establishment of these standards. Until January 1, 1978, each commissioner may adopt emergency rules pursuant to section 15.0412, subdivision 5, to implement the provisions of this section.

Subd. 4. **Encumbrance not applicable.** Agreements of indemnity entered into pursuant to subdivision 1 shall not be subject to encumbrance requirements imposed by other provisions of law.

[1977 c 394 s 1]