

CHAPTER 583

MORTGAGE AND CONTRACT FOR DEED
MORATORIUMS

583.02 Definitions.

583.03 Application.

583.04 Mortgagor may apply to district court for relief.

583.05 Court may order postponement of sale; findings.

583.07 Reduction of redemption period.

583.10 Hearing.

583.02 DEFINITIONS.

As used in this chapter, the term "homestead" means residential or agricultural real estate, a portion or all of which, at the time of the filing of the petition under section 583.04, is occupied by the owner and is entitled to receive homestead classification under section 273.13, subdivision 22 or 23 or would be entitled to receive the credit if it remained the residence of the owner on June 1 of the current year or January 2 of the next year.

History: 1985 c 306 s 16; 1Sp1985 c 14 art 4 s 97

583.03 APPLICATION.

[For text of subd 1, see M.S.1984]

Subd. 2. **General exclusion.** The provisions of sections 47.20, subdivision 15, 559.21, subdivision 6, 580.031, and 583.01 to 583.12 do not apply to:

- (1) mortgages or contracts for deed made after May 24, 1983;
- (2) mortgages or contracts for deed made before May 24, 1983, that are renewed or extended after May 24, 1983, for a period longer than one year; or
- (3) mortgages, judgments, or contracts for deed, regardless of when made, if a second or subsequent mortgage is made against the property after May 24, 1983.

No court shall allow a stay or postponement, or extension of time that would cause any right to be lost or adversely affected by any statute of limitation.

History: 1985 c 306 s 17; 1Sp1985 c 18 s 12

583.04 MORTGAGOR MAY APPLY TO DISTRICT COURT FOR RELIEF.

Any mortgagor, or owner in possession of the mortgaged premises including farm homestead premises, or anyone claiming under the mortgage, or anyone liable for the mortgage debt, may at any time after the issuance of the notice of the foreclosure proceedings and prior to the sale, petition the district court of the county where the foreclosure proceedings are pending, serving a summons and verified petition requesting that the sale in foreclosure be postponed for up to six months or, in the case of a farm homestead located on more than ten acres, for up to 12 months. A contract for deed vendee or anyone claiming under the contract or liable for the contract payment, in any case where the contract has not yet been terminated as of May 24, 1983, may petition the district court in the same manner, requesting that the contract termination be postponed for up to 90 days. Upon receiving the petition, the court shall order a stay in the foreclosure proceedings or contract termination until after the hearing on the petition. The court may order costs and attorney fees to be paid by the person applying for relief. If the court orders attorney fees to be paid, the amount may not exceed \$150 or one-half of the attorney fees allowed in section 582.01, whichever is less. The court may order the attorney

fees to be prorated and combined with payments ordered under section 583.08. The court may not order attorney fees to be paid by the person applying for relief, if the person is receiving public assistance or legal aid for their own legal representation.

History: 1985 c 306 s 18; 1Sp1985 c 18 s 13

583.05 COURT MAY ORDER POSTPONEMENT OF SALE; FINDINGS.

The court may consider the following criteria in determining whether or not to order a postponement of the sale or contract termination:

(1) that the petitioner is unemployed, underemployed, facing catastrophic medical expenses, or facing economic problems due to low farm commodity prices; and

(2) that the petitioner has an inability to make payments on the mortgage or contract for deed.

If the court grants or denies a postponement of the sale, the mortgagee shall publish notice of the new sale date as provided in section 580.03. Section 580.07 does not apply to foreclosure sales postponed by a court pursuant to sections 583.01 to 583.12.

History: 1985 c 306 s 19; 1Sp1985 c 18 s 14

583.07 REDUCTION OF REDEMPTION PERIOD.

If the court grants a postponement of the foreclosure sale pursuant to sections 583.01 to 583.12, the redemption period pursuant to section 580.23 must be reduced by an equivalent period of time, provided that in no event may the redemption period be less than 30 days. If the court does not grant a postponement of the foreclosure sale, the redemption period must be as provided in section 580.23.

History: 1985 c 306 s 20; 1Sp1985 c 18 s 15

583.10 HEARING.

The court shall schedule and hold a hearing on the petition within 30 days after the filing of the petition. The order therein must be made and filed within five days after the hearing. Review by the supreme court may be had by certiorari, if application for the writ is made within 15 days after notice of the order. The writ is returnable within 30 days after the filing of the order.

History: 1985 c 306 s 21