

Reprinted 3/26/86

COMMERCE: Priebe, Chair; Palmer and Tieden

Ament (5402, 5403) + Do Pass 3/20 (p. 811)

SENATE FILE 2270  
BY COMMITTEE ON AGRICULTURE

Approved (p. 600)  
Signed

MAR 6 1986

Passed Senate, Date 3-24-86 (p. 853) Passed House, Date 4-18-86  
Vote: Ayes 48 Nays 0 Vote: Ayes 44 Nays 45  
Approved May 23, 1986

Passed 4-29-86  
Vote 57-39

A BILL FOR

5402 1 An Act relating to real estate, by providing for the payment of  
2 property tax installments, the eligibility of certain types of  
3 real estate for a foreclosure continuance, time limits for  
4 applying for a foreclosure continuance and the term of a  
5 foreclosure continuance, the distribution of income and a  
6 phase-in of required interest under a foreclosure continuance,  
7 the separate sale of a homestead under a foreclosure on  
8 agricultural land, foreclosure continuance eligibility to real  
9 estate used for small business, an extension of time under the  
10 current declaration of economic emergency, and an effective  
11 date.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2270

5402 changes  
" 1 <sup>January to December</sup>  
" 2 <sup>April June</sup>  
5438  
See item 3

1 Section 1. Section 445.36, subsection 2, Code 1985, is  
2 amended to read as follows:  
3 2. No A demand of taxes shall-be is not necessary, but it  
4 shall-be-the-duty-of every person subject to taxation to  
5 attend-at-the-office-of-the-treasurer,-at-some-time shall pay  
6 between the first Monday in August November and September  
7 December 1 following,-and-pay to the county treasurer the  
8 person's taxes in full, or one-half thereof of the person's  
9 taxes before September December 1 succeeding the levy, and the  
10 remaining half before March 1 following.

11 Sec. 2. Section 445.37, Code 1985, is amended to read as  
12 follows:

13 445.37 WHEN DELINQUENT.

14 In-all-cases-where If the half of any taxes has not been  
15 paid before October January 1 succeeding the levy, the amount  
16 thereof-shall-become of the taxes due becomes delinquent from  
17 October January 1 after due; and in-case if the second  
18 installment is not paid before April 1 succeeding its  
19 maturity, it shall-become becomes delinquent from April 1  
20 after due.

21 However, if there is a delay of the certification of the  
22 tax list to the county treasurer, the amount due shall-become  
23 becomes delinquent thirty days after such the date of  
24 certification or October January 1, whichever date occurs  
25 later. However, such the delay shall does not affect the due  
26 and delinquent dates for special assessments specified by  
27 section 384.65.

28 Sec. 3. Section 445.39, Code 1985, is amended to read as  
29 follows:

30 445.39 INTEREST AS PENALTY.

31 If the first installment of taxes is not paid by the  
32 delinquent date specified in section 445.37, the installment  
33 shall-become becomes due and draw draws interest, as a  
34 penalty, of one percent per month until paid, from the  
35 delinquent date following the levy; and if the last half is

1 not paid by April 1 following the levy, the same interest  
 2 shall be charged from the date the last half became  
 3 delinquent. However, after April 1 in a fiscal year when late  
 4 certification of the tax list results in a penalty date later  
 5 than ~~October~~ January 1 for the first installment, penalties on  
 6 delinquent first installments shall accrue as if certification  
 7 were made on the previous June 30.

5439, 5404

8 Sec. 4. Section 654.15, subsection 1, Code Supplement  
 9 1985, is amended by adding the following new unnumbered para-  
 10 graph:

11 NEW UNNUMBERED PARAGRAPH. An owner of a small business may  
 12 apply for a continuance as provided in this subsection if the  
 13 real estate subject to foreclosure is used for the small busi-  
 14 ness. The court may continue the foreclosure proceeding if  
 15 the court finds that the application is made in good faith and  
 16 is supported by competent evidence showing that the default in  
 17 payment or inability to pay is due to the economic condition  
 18 of the customers of the small business, because the customers  
 19 of the small business have been significantly economically  
 20 distressed as a result of drought, flood, heat, hail, storm,  
 21 or other climatic conditions or due to infestation of pests.  
 22 The length of the continuance shall be determined by the  
 23 court, but shall not exceed two years.

24 Sec. 5. Section 654.15, subsection 2, Code Supplement  
 25 1985, is amended to read as follows:

26 2. In all actions for the foreclosure of real estate  
 27 mortgages, deeds of trust of real property estate, and  
 28 contracts for the purchase of real estate, an owner of real  
 29 estate may apply for a moratorium as provided in this  
 30 subsection if the governor declares a state of economic  
 31 emergency. ~~The declaration by the governor of a state of~~  
 32 ~~economic emergency shall be valid for no more than one year~~  
 33 ~~for the purposes of this subsection.~~ The governor shall state  
 34 in the declaration whether the types of real estate eligible  
 35 for a moratorium is applicable to continuance, which may

1 include real estate used for farming; designated types of  
 2 real estate not used for farming, including real estate used  
 3 for small business; or all real estate. Only property of the  
 4 a type specified in the declaration which is subject to a  
 5 mortgage, deed of trust, or contract for purchase entered into  
 6 before the date of the declaration is eligible for a  
 7 moratorium. In an action for the foreclosure of a mortgage,  
 8 deed of trust, or contract for purchase of real property  
 9 estate eligible for a moratorium, the owner may apply for a  
 10 continuation of the foreclosure if the owner has entered an  
 11 appearance and filed an answer admitting some indebtedness and  
 12 breach of the terms of the designated instrument. The  
 13 admissions cannot be withdrawn or denied after a continuance  
 14 is granted. Applications for continuance made pursuant to  
 15 this subsection must be filed within one year of the  
 16 governor's declaration of economic emergency. Upon the filing  
 17 of an application as provided in this subsection, the court  
 18 shall set a date for hearing and provide by order for notice  
 19 to the parties of the time for the hearing. If the court  
 20 finds that the application is made in good faith and the owner  
 21 is unable to pay or perform, the court may continue the  
 22 foreclosure proceeding as follows:

23 a. If the application is made in regard to real estate  
 24 used for farming, ~~and-if-the-default-or-breach-of-terms-of-the~~  
 25 ~~written-instrument-occurs-on-or-before-the-first-day-of-March~~  
 26 ~~of-the-year-in-which-the-governor-declares-a-state-of-economic~~  
 27 ~~emergency,~~ then the continuance shall terminate ~~on-the-first~~  
 28 ~~day-of-March-of-the-succeeding-year~~ two years from the date of  
 29 the order. If the application is made in regard to real  
 30 estate not used for farming, the continuance shall terminate  
 31 one year from the date of the order.

32 b. Only one continuance shall be granted the applicant or  
 33 petitioner for each written instrument or contract under each  
 34 declaration. ~~Except-as-provided-in-paragraph-"a",~~ the  
 35 ~~continuance-shall-not-exceed-one-year.~~

1 c. The court shall appoint a receiver to take charge of  
2 the property and to rent the property. The ~~owner-or-person-in~~  
3 ~~possession-of-the-property~~ applicant shall be given preference  
4 in the occupancy of the property. The receiver, who may be  
5 the ~~owner-or-person-in-possession~~ applicant, shall collect the  
6 rents and income and distribute the proceeds as follows:

7 (1) For the payment of the costs of receivership,  
8 including the required interest on the written instrument and  
9 the costs of operation.

10 (2) For the payment of taxes due or becoming due during  
11 the period of receivership.

12 (3) For the payment of insurance deemed necessary by the  
13 court including but not limited to insurance on the buildings  
14 on the premises and liability insurance.

15 (4) The remaining balance shall be paid to the owner of  
16 the written instrument upon which the foreclosure was based,  
17 to be credited against the deferred interest and then against  
18 the principal due on the written instrument.

19 d. A continuance granted under this subsection may be  
20 terminated if the court finds, after notice and hearing, all  
21 of the following:

22 (1) The party seeking foreclosure has made reasonable  
23 efforts in good faith to work with the applicant to  
24 restructure the debt obligations of the applicant.

25 (2) The party seeking foreclosure has made reasonable  
26 efforts in good faith to work with the applicant to utilize  
27 state and federal programs designed and implemented to provide  
28 debtor relief options. For the purposes of subparagraph (1)  
29 and this subparagraph, the determination of reasonableness  
30 shall take into account the financial condition of the party  
31 seeking foreclosure, and the financial strength and the long-  
32 term financial survivorship potential of the applicant.

5402 33 (3) The applicant has failed to pay interest due on the  
34 written instrument as required in this subparagraph. An  
35 applicant who has been granted a continuance under this

1 subsection shall pay one-half of the interest due on the  
2 written instrument. A schedule shall be determined and  
3 structured by the court for the payment of the remaining half  
4 of the interest. The schedule of interest payments structured  
5 for interest due during the continuance may allow for  
6 repayment beyond the continuation period. However, the  
7 applicant may, at any time prior to the required payment date,  
8 pay all or any part of the interest payment due without  
9 penalty.

10 Sec. 6. Section 654.15, Code Supplement 1985, is amended  
11 by adding the following new subsection:

12 NEW SUBSECTION. 3. As used in this section, "small  
13 business" means the same as defined in section 220.1.

540214 Sec. 7. NEW SECTION. 654.16 SEPARATE SALE OF HOMESTEAD.

15 Notwithstanding chapter 561, if a foreclosure sale is  
16 ordered on agricultural land used for farming, as defined in  
17 section 175.2, the mortgagor or the mortgagor's assignee may,  
18 by a date set by the court but not later than ten days before  
19 the sale, designate to the court the portion of the land which  
20 the mortgagor or the mortgagor's assignee claims as homestead.  
21 The homestead may be any contiguous portion of forty acres or  
22 less of the real estate subject to the foreclosure. At the  
23 time of the foreclosure sale, the portion of the real estate  
24 excluding the homestead shall be sold first. If the sale of  
25 the portion excluding the homestead does not satisfy the  
26 mortgage obligation, the homestead portion shall also be sold.  
27 If the portion designated as the homestead is sold, the court  
28 shall determine the fair market value of the homestead, and  
29 the mortgagor or the mortgagor's assignee may redeem the  
30 homestead separately by tendering that amount pursuant to  
31 chapter 628.

32 Sec. 8. Notwithstanding section 654.15, subsection 2, the  
33 declaration of economic emergency made by the governor on  
34 October 1, 1985, is in effect until March 30, 1987.

35 Sec. 9. Notwithstanding the provisions of the declaration

1 of economic emergency made by the governor on October 1, 1985,  
2 real estate used for small business is eligible for a  
3 moratorium continuance after the effective date of this Act  
4 and through the remaining effective period of the declaration.

5 Sec. 10. This Act, being deemed of immediate importance,  
6 takes effect from and after its publication in the The Algona  
7 Upper Des Moines, a newspaper published in Algona, Iowa, and  
8 in the Audubon News-Advocate, a newspaper published in  
9 Audubon, Iowa.

10 EXPLANATION

11 Sections 1, 2, and 3 provide that the due date for the  
12 payment of the first installment of property taxes is December  
13 1 following the levy, and the delinquency date is January 1  
14 following the levy. Payment need not be made in person.

15 Section 4 makes real estate used for small business  
16 eligible for a continuance of up to two years where impacted  
17 by natural disasters.

18 Sections 5 and 6 make several changes in the economic  
19 emergency continuance provisions:

20 First, the one-year period of validity of the governor's  
21 declaration is changed to specify that applicants must file  
22 within one year from the declaration.

23 Second, the continuance periods for various situations are  
24 specified. If a declaration makes land used for farming  
25 eligible, the continuance is for two years from the date of  
26 the order. If a declaration makes land not used for farming  
27 eligible, the continuance is for one year from the date of the  
28 order. Real estate used for small business is specifically  
29 made includable in the declaration.

30 Some of the items includable as "costs of receivership" are  
31 specified. These are the interest due and the operating  
32 expenses. The remaining balance after other distributions may  
33 be credited to deferred interest and principal.

34 Finally, the applicant need pay only half of the interest  
35 when due to maintain the continuance, with the other half due

1 on a schedule determined by the court.

2 Section 7 of this bill provides that when there is a  
3 foreclosure upon agricultural land, the owner-mortgagor may  
4 designate a portion of the land up to forty acres to be the  
5 homestead. The remaining portion of the land would then be  
6 sold. If this satisfies the mortgage, the homestead would not  
7 be sold. If the mortgage is not satisfied, then the homestead  
8 is sold, and the court would determine the fair market value  
9 of the homestead for purposes of redemption.

10 Sections 8 and 9 modify the current declaration by  
11 extending its effectiveness through March 30, 1987, and, after  
12 the effective date of this Act, extending eligibility to real  
13 estate used for small business.

14 The bill takes effect upon publication.

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SENATE FILE 2270

S-5402

1 Amend Senate File 2270 as follows:

- 2 1. Page 1, by striking lines 1 through 10.  
3 2. Page 1, line 15, by striking the word  
4 "January" and inserting the word "December".  
5 3. Page 1, line 17, by striking the word  
6 "January" and inserting the word "December".  
7 4. Page 1, line 18, by striking the word "April"  
8 and inserting the words "April June".  
9 5. Page 1, line 19, by striking the word "April"  
10 and inserting the words "April June".  
11 6. Page 1, line 24, by striking the word  
12 "January" and inserting the word "December".  
13 7. Page 2, line 1, by striking the word "April"  
14 and inserting the words "April June".  
15 8. Page 2, line 3, by striking the word "April"  
16 and inserting the words "April June".  
17 9. Page 2, line 5, by striking the word "January"  
18 and inserting the word "December".  
19 10. By striking page 4, line 34 through page 5,  
20 line 9 and inserting the following: "written  
21 instrument."  
22 11. Page 5, by striking lines 14 through 31 and  
23 inserting the following:  
24 "Sec. 7. NEW SECTION. 654.16 SEPARATE REDEMPTION  
25 OF HOMESTEAD.  
26 If a foreclosure sale is ordered on agricultural  
27 land used for farming, as defined in section 175.2,  
28 the mortgagor may, by a date set by the court but not  
29 later than ten days before the sale, designate to the  
30 court the portion of the land which the mortgagor  
31 claims as a homestead. The homestead may be any  
32 contiguous portion of forty acres or less of the real  
33 estate subject to the foreclosure. The homestead  
34 shall contain the residence of the mortgagor and shall  
35 be as compact as practicable.  
36 If the homestead is not sold separately, but rather  
37 is sold in conjunction with the nonhomestead property  
38 in order to satisfy the judgment, the court shall  
39 determine the fair market value of the homestead. The  
40 court may consult with the county appraisers appointed  
41 pursuant to section 450.24 to determine the fair  
42 market value of the homestead. The mortgagor may  
43 redeem the homestead separately by tendering the fair  
44 market value of the homestead pursuant to chapter  
45 628."  
46 12. Title page, lines 5 and 6, by striking the  
47 words "and a phase-in of required interest".

S-5402 Filed March 20, 1986

BY COMM. ON COMMERCE, KINLEY, CHAIR

B- Adopted 3/24 (p. 851)

A- Placed o/c (p. 853)

S-5403

1 Amend Senate File 2270 as follows:

2 1. Page 1, by inserting after line 27 the  
3 following:

4 "However, if the person subject to taxation has  
5 prepaid the taxes to a person who holds the prepaid  
6 taxes in escrow, the amount of the taxes due becomes  
7 delinquent on September 1 succeeding the levy for the  
8 first installment and on March 1 succeeding the levy  
9 for the last installment. Notwithstanding section  
10 445.39, if an installment of taxes held in escrow is  
11 not paid by the required date, the installment becomes  
12 due and draws interest, as a penalty, of one percent  
13 per month until paid from the delinquent date  
14 following the levy, to be charged against the person  
15 who holds the prepaid taxes in escrow."

S-5403 Filed March 20, 1986

BY COMM. ON COMMERCE, KINLEY, CHAIR

SENATE FILE 2270

S-5404

1 Amend Senate File 2270 as follows:

2 1. Page 2, by inserting after line 7, the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 561.22 WAIVER.

5 A person may expressly waive the homestead  
6 exemption. However, if the waiver is contained in a  
7 written contract, the contract must contain a  
8 statement in substantially the following form, in  
9 boldface type of a minimum size of ten points, and be  
10 signed and dated by the person waiving the exemption  
11 at the time of the execution of the contract: "I  
12 understand that homestead property is in many cases  
13 protected from the claims of creditors and exempt from  
14 judicial sale; and that by signing this contract, I  
15 voluntarily give up my right to this protection for  
16 this property with respect to claims based upon this  
17 contract."

18 Sec. \_\_\_\_ . NEW SECTION. 627.20 WAIVER.

19 A person may expressly waive the exemptions  
20 contained in this chapter. However, if the waiver is  
21 contained in a written contract, the contract must  
22 contain a statement in substantially the following  
23 form, in boldface type of a minimum size of ten  
24 points, and be signed and dated by the person waiving  
25 the exemption at the time of the execution of the  
26 contract: "I understand that some or all of the above  
27 property is in many cases protected from the claims of  
28 creditors and exempt from judicial sale; and that by  
29 signing this contract, I voluntarily give up my right  
30 to this protection for the property listed with  
31 respect to claims based upon this contract."

32 The signature of the person waiving the exemption  
33 located at the bottom of the contract is deemed to  
34 have satisfied the signature and dating requirements  
35 of this section."

S-5404 Filed March 20, 1986

BY DOYLE

Adopted 3/24 (p. 852)

S-5294

1 Amend Senate File 2271 as follows:

2 1. Page 2, by inserting after line 2 the  
3 following new sections:

4 "Sec. \_\_\_\_\_. There is appropriated from the road use  
5 tax fund to the state department of transportation for  
6 the fiscal year beginning July 1, 1985 and ending June  
7 30, 1986 the sum of three hundred seventy-two thousand  
8 eight hundred twenty-three (372,823) dollars, or so  
9 much thereof as is necessary, to provide salary  
10 adjustments required by implementation action taken  
11 under 1984 Iowa Acts, chapter 1314.

12 Sec. \_\_\_\_\_. There is appropriated from the primary  
13 road fund to the state department of transportation  
14 for the fiscal year beginning July 1, 1985 and ending  
15 June 30, 1986 the sum of two million eighty-one  
16 thousand one hundred seventeen (2,081,117) dollars, or  
17 so much thereof as is necessary, to provide salary  
18 adjustments required by implementation action taken  
19 under 1984 Iowa Acts, chapter 1314.

20 Sec. \_\_\_\_\_. There is appropriated from the road use  
21 tax fund to the general fund of the state for the  
22 fiscal year beginning July 1, 1985 and ending June 30,  
23 1986 the sum of one hundred seventy-nine thousand  
24 three hundred eighty-six (179,386) dollars, or so much  
25 thereof as is necessary, to provide salary adjustments  
26 required by implementation action taken under 1984  
27 Iowa Acts, chapter 1314.

28 Sec. \_\_\_\_\_. Notwithstanding section 321.145, there  
29 is transferred from the road use tax fund to the  
30 general fund of the state for the fiscal year  
31 beginning July 1, 1985 and ending June 30, 1986 the  
32 sum of twenty-eight thousand seven hundred thirty-five  
33 (28,735) dollars, or so much thereof as is necessary,  
34 to provide salary adjustments required by  
35 implementation action taken under 1984 Iowa Acts,  
36 chapter 1314."

37 2. Renumber sections and correct internal  
38 references as necessary in accordance with this  
39 amendment.

S-5294 Filed March 10, 1986 BY DRAKE, WELSH

STATE OF IOWA

**FISCAL NOTE** TO

AMENDMENT S-5402 OF SENATE FILE 2270

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In compliance with a written request received March 20, 1986, a fiscal note for AMENDMENT S-5402 TO SENATE FILE 2270 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Amendment S-5402 to Senate File 2270 provides that the due date for the payment of the first installment of property taxes is November 1 following the levy, and that the delinquency date is December 1 following the levy. The delinquency date for the second installment of property tax is moved back to June 1.

The amendment also makes the changes to the provisions of Senate File 2270 which relate to foreclosures upon agricultural land.

ASSUMPTIONS:

1. The total property taxes levied for fiscal year 1986 budgets is equal to \$1.76 billion statewide. This amount would roughly equal that amount which would be collected for FY 1987 budgets. Each installment would equal \$880 million for FY 1987.

Local governments would be charged five percent (5%) simple interest annually to borrow two months' worth of the annual levy. This transaction would take place twice during FY 1987.

3. Local jurisdictions would not be able to invest the portion of the levy which would have been collected by September 30 and March 30 less two months' worth of the annual levy (\$880 million - \$293 million = \$587 million) which was borrowed, assuming a six and one-half percent (6.5%) annual interest rate.

FISCAL EFFECT: The bill has no effect on the General Fund. Local taxing authorities may be forced to incur additional borrowing costs of up to \$14.6 million, or \$7.3 million for each property tax installment, in FY 1987. Approximately one-half of the annual interest cost will be paid by school districts, while the remaining one-half would be shared equally by counties and cities. Interest costs will vary, however, depending upon the amount actually borrowed.

Additionally, local jurisdictions would fail to realize up to \$12.4 million in interest earnings, or \$6.2 million for each property tax installment, in FY 1987 as a result of the delayed property tax payments.

(LSB 8301S.3, RJH)

Filed by Kinley March 24, 1986

DENNIS C. PROUTY, DIRECTOR, LEGISLATIVE  
FISCAL BUREAU

**REVISED**

REQ. BY KINLEY

**FISCAL NOTE TO**  
**SENATE FILE 2270**

In compliance with a written request received March 20, 1986, a fiscal note for SENATE FILE 2270 REVISED is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2270 provides that the due date for the payment of the first installment of property taxes is December 1 following the levy, and that the delinquency date is January 1 following the levy. The bill also makes real estate used for small business eligible for a continuance of up to two years if the property is impacted by natural disasters.

The bill makes several changes in the economic emergency continuance provisions of the Code, and also provides that when there is a foreclosure upon agricultural land, the owner-mortgagor may designate a portion of the land up to 40 acres to be the homestead. In order to satisfy the mortgage, the remaining portion of the land would be sold. However, if the mortgage is not satisfied, the homestead is sold, and the court would determine the fair market value of the homestead for the purposes of redemption.

The bill also modifies the current declaration by extending its effectiveness through March 30, 1987, and, after the effective date, extending eligibility to real estate used for small business. Senate File 2270 takes effect upon its publication.

ASSUMPTIONS:

1. The total property taxes levied for fiscal year 1986 budgets is equal to \$1.76 billion statewide, thus the first half of property taxes due to local jurisdictions is equal to \$880 million.
2. Local governments would be charged five percent (5%) simple interest annually to borrow three months' worth of the annual levy.
3. Local jurisdictions would not be able to invest the portion of the levy which would have been collected by September 30 less three months' worth of the annual levy (\$880 million - \$440 million = \$440 million) which was borrowed, assuming a rate of six and one-half percent (6.5%).

FISCAL EFFECT: The bill has no effect on the General Fund. Local taxing authorities may be forced to incur additional borrowing costs of up to \$11 million statewide in FY 1987. Of this amount, approximately one-half of the cost, or \$5.5 million would be paid by school districts; the remaining one-half would be shared equally by counties and cities. Interest costs will vary, however, depending upon the amount actually borrowed.

Additionally, local jurisdictions would fail to realize \$7.1 million in interest payments in FY 1987 as a result of the delayed property tax payments.

(LSB 8301S.2, RJH)

Filed by the Sec. of the Senate March 24, 1986

DENNIS C. PROUTY, DIRECTOR  
LEGISLATIVE FISCAL BUREAU

Revised 3/25/86

**FISCAL NOTE** TO  
SENATE FILE 2270

In compliance with a written request received March 13, 1986, a fiscal note for SENATE FILE 2270 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2270 provides that the due date for the payment of the first installment of property taxes is December 1 following the levy, and that the delinquency date is January 1 following the levy. The bill also makes real estate used for small business eligible for a continuance of up to two years if the property is impacted by natural disasters.

The bill makes several changes in the economic emergency continuance provisions of the Code, and also provides that when there is a foreclosure upon agricultural land, the owner-mortgagor may designate a portion of the land up to 40 acres to be the homestead. In order to satisfy the mortgage, the remaining portion of the land would be sold. However, if the mortgage is not satisfied, the homestead is sold, and the court would determine the fair market value of the homestead for the purposes of redemption.

The bill also modifies the current declaration by extending its effectiveness through March 30, 1987, and, after the effective date, extending eligibility to real estate used for small business. Senate File 2270 takes effect upon its publication.

ASSUMPTIONS:

1. The total property taxes levied for fiscal year 1986 budgets is equal to \$1.76 billion statewide, thus the first half of property taxes due to local jurisdictions is equal to \$880 million.
2. Local governments would be charged five percent (5%) simple interest annually to borrow two months' worth of the annual levy.
3. Local jurisdictions would not be able to invest the portion of the levy which would have been collected by September 30 less two months' worth of the annual levy (\$880 million - \$293 million = \$587 million) which was borrowed, assuming a rate of six and one-half percent (6.5%).

FISCAL EFFECT: The bill has no effect on the General Fund. Local taxing authorities may be forced to incur additional borrowing costs of up to \$1.2 million statewide in FY 1987. Of this amount, approximately one-half of the cost, or \$610,000, would be paid by school districts; the remaining one-half would be shared equally by counties and cities. Interest costs will vary, however, depending upon the amount actually borrowed.

Additionally, local jurisdictions would fail to realize \$6.4 million in interest payments in FY 1987 as a result of the delayed property tax payments.

Filed March 19, 1986 BY KINLEY DENNIS C. PROUTY, DIRECTOR, LEGISLATIVE FISCAL BUREAU (LSB 8301S, RJH)

See Act 3/25 Amend (1078) & Do Pass 3/27 (p. 1678)

Senate File 2270

Agriculture: Blanshan. Chair: Branstad and Hatch.

SENATE FILE 2270  
BY COMMITTEE ON AGRICULTURE

(AS AMENDED AND PASSED BY THE SENATE MARCH 24, 1986)

- \_\_\_\_\_ - New Language by the Senate
- \* - Language Stricken by the Senate

Re Passed Senate, Date 5-1-86 (p. 1534) <sup>Failed</sup> Passed House, Date 4-18-86 (p. 1573)  
 Vote: Ayes 42 Nays 0 Vote: Ayes 44 Nays 45

Approved May 23, 1986 Motion to Reconsider (p. 1544) provided 4/29

A BILL FOR

Passed House 29-76 (p. 1899)  
57-39  
 Re-passed House 5-2-86 (p. 2045)  
75-23

5851,5604 1 An Act relating to real estate, by providing for the payment of  
 2 property tax installments, the eligibility of certain types of  
 3 real estate for a foreclosure continuance, time limits for  
 4 applying for a foreclosure continuance and the term of a  
 \* 5 foreclosure continuance, the distribution of income under a  
 6 foreclosure continuance, the separate sale of a homestead  
 7 under a foreclosure on agricultural land, foreclosure  
 8 continuance eligibility to real estate used for small  
 9 business, an extension of time under the current declaration  
 10 of economic emergency, and an effective date.

S.F. 2270

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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585 \*1 Section 1. NEW SECTION. 561.22 WAIVER.  
2 A person may expressly waive the homestead exemption.  
3 However, if the waiver is contained in a written contract, the  
4 contract must contain a statement in substantially the  
5 following form, in boldface type of a minimum size of ten  
6 points, and be signed and dated by the person waiving the  
7 exemption at the time of the execution of the contract: "I  
8 understand that homestead property is in many cases protected  
9 from the claims of creditors and exempt from judicial sale;  
10 and that by signing this contract, I voluntarily give up my  
11 right to this protection for this property with respect to  
12 claims based upon this contract."

585 13 Sec. 2. NEW SECTION. 627.20 WAIVER.  
14 A person may expressly waive the exemptions contained in  
15 this chapter. However, if the waiver is contained in a  
16 written contract, the contract must contain a statement in  
17 substantially the following form, in boldface type of a  
18 minimum size of ten points, and be signed and dated by the  
19 person waiving the exemption at the time of the execution of  
20 the contract: "I understand that some or all of the above  
21 property is in many cases protected from the claims of  
22 creditors and exempt from judicial sale; and that by signing  
23 this contract, I voluntarily give up my right to this  
24 protection for the property listed with respect to claims  
25 based upon this contract."

26 The signature of the person waiving the exemption located  
27 at the bottom of the contract is deemed to have satisfied the  
28 signature and dating requirements of this section.

29 Sec. 3. Section 628.3, Code 1985, is amended by adding the  
30 following new unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. If a deficiency judgment is  
585 32 prohibited under the terms of section 654.6, the time periods  
33 provided in this chapter are reduced by one-half.

34 Sec. 4. Section 654.6, Code 1985, is amended by adding the  
585 35 following new unnumbered paragraph:

5604

1 NEW UNNUMBERED PARAGRAPH. However, if the property is  
2 agricultural land, no deficiency judgment or general execution  
3 shall be issued against the land except for the portion of the  
4 deficiency which the mortgagee shows is due to waste committed  
5 by the mortgagor.

5604

6 Sec. 5. Section 654.15, subsection 1, Code Supplement  
7 1985, is amended by adding the following new unnumbered para-  
8 graph:

9 NEW UNNUMBERED PARAGRAPH. An owner of a small business may  
10 apply for a continuance as provided in this subsection if the  
11 real estate subject to foreclosure is used for the small busi-  
12 ness. The court may continue the foreclosure proceeding if  
13 the court finds that the application is made in good faith and  
14 is supported by competent evidence showing that the default in  
15 payment or inability to pay is due to the economic condition  
16 of the customers of the small business, because the customers  
17 of the small business have been significantly economically  
18 distressed as a result of drought, flood, heat, hail, storm,  
19 or other climatic conditions or due to infestation of pests.  
20 The length of the continuance shall be determined by the  
21 court, but shall not exceed two years.

22 Sec. 6. Section 654.15, subsection 2, Code Supplement  
23 1985, is amended to read as follows:

24 2. In all actions for the foreclosure of real estate  
25 mortgages, deeds of trust of real property estate, and  
26 contracts for the purchase of real estate, an owner of real  
27 estate may apply for a moratorium as provided in this  
28 subsection if the governor declares a state of economic  
29 emergency. ~~The declaration by the governor of a state of~~  
30 ~~economic emergency shall be valid for no more than one year~~  
31 ~~for the purposes of this subsection.~~ The governor shall state  
32 in the declaration whether the types of real estate eligible  
33 for a moratorium is applicable to continuance, which may  
34 include real estate used for farming; designated types of  
35 real estate not used for farming, including real estate used

1 for small business; or all real estate. Only property of the  
2 a type specified in the declaration which is subject to a  
3 mortgage, deed of trust, or contract for purchase entered into  
4 before the date of the declaration is eligible for a  
5 moratorium. In an action for the foreclosure of a mortgage,  
6 deed of trust, or contract for purchase of real property  
7 estate eligible for a moratorium, the owner may apply for a  
8 continuation of the foreclosure if the owner has entered an  
9 appearance and filed an answer admitting some indebtedness and  
10 breach of the terms of the designated instrument. The  
11 admissions cannot be withdrawn or denied after a continuance  
12 is granted. Applications for continuance made pursuant to  
13 this subsection must be filed within one year of the  
14 governor's declaration of economic emergency. Upon the filing  
15 of an application as provided in this subsection, the court  
16 shall set a date for hearing and provide by order for notice  
17 to the parties of the time for the hearing. If the court  
18 finds that the application is made in good faith and the owner  
19 is unable to pay or perform, the court may continue the  
20 foreclosure proceeding as follows:

21 a. If the application is made in regard to real estate  
22 used for farming, ~~and-if-the-default-or-breach-of-terms-of-the~~  
23 ~~written-instrument-occurs-on-or-before-the-first-day-of-March~~  
24 ~~of-the-year-in-which-the-governor-declares-a-state-of-economic~~  
25 ~~emergency,-then~~ the continuance shall terminate ~~on-the-first~~  
26 ~~day-of-March-of-the-succeeding-year~~ two years from the date of  
27 the order. If the application is made in regard to real  
28 estate not used for farming, the continuance shall terminate  
29 one year from the date of the order.

30 b. Only one continuance shall be granted the applicant or  
31 petitioner for each written instrument or contract under each  
32 declaration. ~~Except-as-provided-in-paragraph-"a",-the~~  
33 ~~continuance-shall-not-exceed-one-year-~~

34 c. The court shall appoint a receiver to take charge of  
35 the property and to rent the property. ~~The owner-or-person-in~~

1 possession-of-the-property applicant shall be given preference  
2 in the occupancy of the property. The receiver, who may be  
3 the owner-or-person-in-possession applicant, shall collect the  
4 rents and income and distribute the proceeds as follows:

5 (1) For the payment of the costs of receivership,  
6 including the required interest on the written instrument and  
7 the costs of operation.

8 (2) For the payment of taxes due or becoming due during  
9 the period of receivership.

10 (3) For the payment of insurance deemed necessary by the  
11 court including but not limited to insurance on the buildings  
12 on the premises and liability insurance.

13 (4) The remaining balance shall be paid to the owner of  
14 the written instrument upon which the foreclosure was based,  
15 to be credited against the deferred interest and then against  
16 the principal due on the written instrument.

17 d. A continuance granted under this subsection may be  
18 terminated if the court finds, after notice and hearing, all  
19 of the following:

20 (1) The party seeking foreclosure has made reasonable  
21 efforts in good faith to work with the applicant to  
22 restructure the debt obligations of the applicant.

23 (2) The party seeking foreclosure has made reasonable  
24 efforts in good faith to work with the applicant to utilize  
25 state and federal programs designed and implemented to provide  
26 debtor relief options. For the purposes of subparagraph (1)  
27 and this subparagraph, the determination of reasonableness  
28 shall take into account the financial condition of the party  
29 seeking foreclosure, and the financial strength and the long-  
30 term financial survivorship potential of the applicant.

31 (3) The applicant has failed to pay interest due on the  
32 written instrument.

33 Sec. 7. Section 654.15, Code Supplement 1985, is amended  
34 by adding the following new subsection:

35 NEW SUBSECTION. 3. As used in this section, "small

1 business" means the same as defined in section 220.1.

5851 2 Sec. 8. NEW SECTION. 654.16 SEPARATE REDEMPTION OF  
3 HOMESTEAD.

4 If a foreclosure sale is ordered on agricultural land used  
5 for farming, as defined in section 175.2, the mortgagor may,  
6 by a date set by the court but not later than ten days before  
7 the sale, designate to the court the portion of the land which  
8 the mortgagor claims as a homestead. The homestead may be any  
9 contiguous portion of forty acres or less of the real estate  
10 subject to the foreclosure. The homestead shall contain the  
11 residence of the mortgagor and shall be as compact as  
12 practicable.

13 If the homestead is not sold separately, but rather is sold  
14 in conjunction with the nonhomestead property in order to  
15 satisfy the judgment, the court shall determine the fair  
16 market value of the homestead. The court may consult with the  
17 county appraisers appointed pursuant to section 450.24 to  
18 determine the fair market value of the homestead. The  
19 mortgagor may redeem the homestead separately by tendering the  
20 fair market value of the homestead pursuant to chapter 628.

21 Sec. 9. Notwithstanding section 654.15, subsection 2, the  
22 declaration of economic emergency made by the governor on  
23 October 1, 1985, is in effect until March 30, 1987.

24 Sec. 10. Notwithstanding the provisions of the declaration  
25 of economic emergency made by the governor on October 1, 1985,  
26 real estate used for small business is eligible for a  
27 moratorium continuance after the effective date of this Act  
28 and through the remaining effective period of the declaration.

29 Sec. 11. This Act, being deemed of immediate importance,  
30 takes effect from and after its publication in the The Algona  
31 Upper Des Moines, a newspaper published in Algona, Iowa, and  
32 in the Audubon News-Advocate, a newspaper published in  
33 Audubon, Iowa.

34

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SENATE FILE 2270

S-5438

Amend Senate File 2270 as follows:

1. By striking page 1, line 1, through page 2,  
line 7.

S-5438 Filed and adopted March 24, 1986 BY MILLER OF CERRO GORDO  
(p. 852)

SENATE FILE 2270

S-5439

Amend Senate File 2270 as follows:

1. Page 2, by inserting after line 7 the  
following:

Sec. \_\_\_\_ . Section 628.3, Code 1985, is amended by  
adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a deficiency judgment  
is prohibited under the terms of section 654.6, the  
time periods provided in this chapter are reduced by  
one-half.

Sec. \_\_\_\_ . Section 654.6, Code 1985, is amended by  
adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, if the property  
is agricultural land, no deficiency judgment or  
general execution shall be issued against the land  
except for the portion of the deficiency which the  
mortgagee shows is due to waste committed by the  
mortgagor."

S-5439 Filed and adopted March 24, 1986 BY HOLDEN, HUSAK  
(p. 853)

SENATE FILE 2270

H-5604

1 Amend Senate File 2270 as amended, passed and  
 2 reprinted by the Senate as follows:  
 3 1. Page 1, line 32, by inserting after the figure  
 4 "654.6" the following: "after a foreclosure against  
 5 agricultural land".  
 6 2. Page 1, line 35, by striking the words  
 7 "unnumbered paragraph:" and inserting the following:  
 8 "subsections, and numbering the existing unnumbered  
 9 paragraph:".

10 3. Page 2, line 1, by striking the words  
 11 "UNNUMBERED PARAGRAPH." and inserting the following:  
 12 "SUBSECTION. 2."

13 4. Page 2, line 3, by striking the word "land"  
 14 and inserting the following: "mortgagor or other  
 15 property of the mortgagor".

5654 16 5. Page 2, by inserting after line 3 the  
 17 following: "deficiency which exceeds one hundred  
 18 seventy-five percent of the value of forty acres,  
 19 based on the per acre average valuation for  
 20 agricultural land in the county in which the land is  
 21 located for the year in which the foreclosure sale was  
 22 held, and the portion of the".

23 6. Page 2, line 5, by inserting after the word  
 24 "mortgagor." the following: "However, after a  
 25 foreclosure on agricultural land, the future earnings  
 26 and wages of the mortgagor shall not be subject to  
 27 execution or garnishment under a deficiency judgment  
 28 on that foreclosure."

29 7. Page 2, by inserting after line 5 the  
 30 following:

5655 31 "NEW SUBSECTION. 3. No deficiency judgment or  
 32 general execution shall be issued against the  
 33 mortgagor or other property of the mortgagor upon the  
 5696 34 foreclosure of a mortgage on agriculture land which  
 35 secures an obligation entered into on or after July 1,  
 36 1988."

5495 37 8. Title page, lines 1 and 2, by striking the  
 38 words "providing for the payment of property tax  
 39 installments," and inserting the following:  
 40 "providing requirements for the waiver of the  
 41 homestead exemption, reducing the redemption periods  
 42 and limiting or eliminating deficiency judgments under  
 5696 43 certain foreclosures on agricultural land,".

H-5604 FILED MARCH 28, 1986 BY COMMITTEE ON AGRICULTURE

*Adopted as amended by 5852 + ~~58~~*  
*4/18/86 (p. 1572)*

*Classed 6/10 29 (p. 1898)*

SENATE FILE 2270

H-5655

1 Amend amendment H-5604 to Senate File 2270 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 1, lines 35 and 36, by striking the word  
5 and figures "July 1, 1988" and inserting the  
6 following: "March 30, 1987".

H-5655 FILED APRIL 2, 1986 BY OSTERBERG of Linn  
*Placed o/s 4/18/86 (p. 1572)*

SENATE FILE 2270

H-5654

1 Amend amendment H-5604 to Senate File 2270 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 1, by striking lines 16 through 22.

H-5654 FILED APRIL 2, 1986 BY OSTERBERG of Linn  
*Placed o/s 4/18 (p. 1572)*

SENATE FILE 2270

H-5695

1 Amend amendment H-5604 to Senate File 2270 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 1, by inserting after line 36 the  
5 following:  
6 "\_\_\_\_. Page 2, by inserting before line 6 the  
7 following:  
8 "Sec. \_\_\_\_ . Section 654.7, Code 1985, is amended to  
9 read as follows:  
10 654.7 OVERPLUS. If there is an overplus remaining  
11 after satisfying the mortgage and costs, and if there  
12 is no other lien upon the property, such the amount of  
13 the overplus up to the mortgagor's basis in the  
14 property shall be paid to the mortgagor and any  
15 overplus remaining after the recovery of the basis  
16 shall be paid to the mortgagee."

H-5695 FILED APRIL 4, 1986 BY HUMMEL of Benton  
*4/15 4/18 (p. 1557)*

SENATE FILE 2270

H-5696

1 Amend amendment H-5604 to Senate File 2270 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:  
4 1. Page 1, line 34, by striking the words  
5 "agricultural land" and inserting the words "any real  
6 estate".  
7 2. Page 1, line 43, by striking the words  
8 "agricultural land" and inserting the words "real  
9 estate".

H-5696 FILED APRIL 4, 1986 BY HUMMEL of Benton  
*Placed o/s 4/18 (p. 1572)*

## SENATE FILE 2270

H-5853

1 Amend amendment H-5604, to Senate File 2270 as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by striking lines 3 through 43, and  
5 inserting the following:

6 "\_\_\_\_. Page 1, by inserting before line 1 the  
7 following:

8 "Section 1. LEGISLATIVE FINDINGS.

9 The general assembly finds and declares as follows:

10 1. The state of Iowa is suffering from a financial  
11 crisis in agriculture that affects the entire economic  
12 health of this state.

13 2. This financial crisis has grown to include the  
14 business communities which, together with the  
15 agricultural producers, form the core of the state's  
16 economy.

17 3. A large number of producers and farm families  
18 are being forced to leave farming and make a new  
19 start.

20 4. It is deemed to be in the best interest of the  
21 state to protect the business communities and the  
22 dislocated farm families affected by the financial  
23 crisis in agriculture."

24 \_\_\_\_\_. Page 1, by striking lines 29 through 33.

25 \_\_\_\_\_. Page 2, by striking lines 1 through 5 and  
26 inserting the following:

27 "NEW UNNUMBERED PARAGRAPH. However, if the  
28 property is agricultural land, if the mortgagor does  
29 not exercise the exemptions provided under section  
30 627.6, subsections 11 and 12, and if the mortgagor is  
31 actively engaged in farming the agricultural land upon  
32 the commencement of an action for the foreclosure of a  
33 first mortgage on the agricultural land or for the  
34 enforcement of an obligation secured by a first  
35 mortgage on the agricultural land, a deficiency  
36 judgment or general execution issued against the  
37 mortgagor shall not be enforceable until July 1, 1991.  
38 The running of time periods affecting the  
39 enforceability of the deficiency judgment or general  
40 execution is suspended until July 1, 1991. Assets of  
41 the mortgagor sufficient to satisfy the deficiency  
42 judgment shall be held by the mortgagor during the  
43 period of delay provided in this paragraph. The court  
44 shall determine which assets shall be held, and a  
45 sale, disposition, or further encumbrance of these  
46 assets is not permitted without the consent of the  
47 court. The delay may not be waived before the  
48 issuance of the deficiency judgment. After the  
49 issuance of the deficiency judgment, the mortgagor may  
50 waive the delay by filing a waiver signed by the

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1 mortgagor with the court. This paragraph applies to  
2 actions pending on the effective date of this Act and  
3 actions commenced on or after the effective date of  
4 this Act but before July 1, 1991. No prejudgment or  
5 post-judgment interest shall accrue with respect to  
6 the deficiency."

7 \_\_\_\_\_. Page 2, by inserting before line 6 the  
8 following:

9 "Sec. 100. Section 627.6, subsection 5, Code 1985,  
10 is amended by striking the subsection.

11 Sec. 101. Section 627.6, subsection 10, paragraph  
12 d, Code 1985, is amended by striking the paragraph:

13 Sec. 102. Section 627.6, Code 1985, is amended by  
14 adding the following new subsections:

15 NEW SUBSECTION. 11. If the debtor is engaged in  
16 farming and does not exercise the homestead exemption  
17 under section 561.16 or the delay of the  
18 enforceability of a deficiency judgment or general  
19 execution under section 654.6, any combination of the  
20 following, not to exceed a value of twenty thousand  
21 dollars in the aggregate:

22 a. Implements and equipment reasonably related to  
23 a normal farming operation. This exemption is in  
24 addition to a motor vehicle held exempt under  
25 subsection 10.

26 b. Livestock and feed for the livestock reasonably  
27 related to a normal farming operation.

28 c. Agricultural land used for farming by the  
29 debtor.

30 NEW SUBSECTION. 12. If the debtor is engaged in  
31 farming the agricultural land upon the commencement of  
32 an action for the foreclosure of a mortgage on the  
33 agricultural land or for the enforcement of an  
34 obligation secured by a mortgage on the agricultural  
35 land, if a deficiency judgment is issued against the  
36 debtor, and if the debtor does not exercise the delay  
37 of the enforceability of the deficiency judgment or  
38 general execution under section 654.6, the disposable  
39 earnings of the debtor are exempt from garnishment to  
40 enforce the deficiency judgment after two years from  
41 the entry of the deficiency judgment, sections 642.21  
42 and 642.22 notwithstanding."

43 \_\_\_\_\_. Page 5, by inserting after line 28 the  
44 following:

45 "Sec. \_\_\_\_\_. Section 4 of this Act is repealed  
46 effective July 1, 1991."

47 \_\_\_\_\_. Page 5, by inserting before line 29 the  
48 following:

49 "Sec. \_\_\_\_\_. Sections 100, 101, and 102 apply to all  
50 actions pending on the effective date of this Act and

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1 to all actions commenced on and after the effective  
2 date of this Act.

3 Sec. \_\_\_\_\_. If section 4 of this Act is determined  
4 by the court to be unconstitutional, the provisions of  
5 section 4 are null and void. However, a judgment  
6 rendered before the court determination shall remain  
7 valid if the judgment did not involve the issue  
8 determined to be unconstitutional.

9 Sec. \_\_\_\_\_. If section 4 of this Act is determined  
10 by the court to be inapplicable to institutions of the  
11 farm credit system, the provisions of section 4 are  
12 null and void."

13 \_\_\_\_\_. Title page, by striking lines 1 and 2 and  
14 inserting the following: "An Act relating to the  
15 enforcement of certain debts and obligations, by  
16 establishing requirements for the waiver of the  
17 homestead exemption, delaying the enforceability of  
18 delinquency judgments or general executions under  
19 certain foreclosures on agricultural land, providing  
20 for certain exemptions from execution and garnishment,  
21 the eligibility of certain types of".

22 \_\_\_\_\_. Title page, line 4, by striking the words  
23 "and the" and inserting the word ", the".

BY BLANSHAN of Greene  
HUMMEL of Benton  
BRANSTAD of Winnebago  
COCHRAN of Webster

H-5853 FILED APRIL 18, 1986

ADOPTED (p. 1570)

*Blanchard 4/29 (p. 1898)*

SENATE FILE 2270

H-5851

1 Amend Senate File 2270 as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. Page 1, by striking lines 1 through 28.

4 2. Page 5, by striking lines 2 through 20.

5 3. Title page, lines 6 and 7, by striking the  
6 words "the separate sale of a homestead under a  
7 foreclosure on agricultural land,".

H-5851 FILED APRIL 18, 1986 BY BLANSHAN of Greene

ADOPTED (p. 1572)

*Blanchard 4/29 (p. 1898)*

## SENATE FILE 2270

H-6055

1 Amend Senate File 2270 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. LEGISLATIVE FINDINGS.

5 The general assembly finds and declares as follows:

6 1. The state of Iowa is suffering from a financial  
7 crisis in agriculture that affects the entire economic  
8 health of this state.

9 2. This financial crisis has grown to include the  
10 business communities which, together with the  
11 agricultural producers, form the core of the state's  
12 economy.

13 3. A large number of producers and farm families  
14 are being forced to leave farming and make a new  
15 start.

16 4. It is deemed to be in the best interest of the  
17 state to protect the business communities and the  
18 dislocated farm families affected by the financial  
19 crisis in agriculture.

20 Sec. 2. Section 654.6, Code 1985, is amended by  
21 adding the following new unnumbered paragraphs:

22 NEW UNNUMBERED PARAGRAPH. However, a deficiency  
23 judgment or general execution premised upon the  
24 deficiency judgment issued against the mortgagor shall  
25 not be enforceable until July 1, 1991 if all of the  
26 following apply:

27 1. The mortgaged property is agricultural land.

28 2. The mortgagor was actively engaged in farming  
29 the agricultural land upon the commencement of the  
30 action which resulted in a deficiency judgment.

31 3. The action was for the foreclosure of a first  
32 mortgage on the agricultural land or for the  
33 enforcement of an obligation secured by a first  
34 mortgage on the agricultural land.

35 4. The first mortgage secures a loan obligation,  
36 where a condition for the making of the loan was that  
37 the borrower purchase or own stock in the entity  
38 making the loan or in an entity related to the lending  
39 entity.

40 5. The mortgagor does not exercise the exemptions  
41 provided under section 627.6 in relation to the  
42 deficiency judgment or a general execution premised  
43 upon the deficiency judgment.

44 NEW UNNUMBERED PARAGRAPH. The running of time  
45 periods affecting the enforceability of the deficiency  
46 judgment or general execution is suspended until July  
47 1, 1991. Assets of the mortgagor sufficient to  
48 satisfy the deficiency judgment shall be held by the  
49 mortgagor during the period of delay provided in this  
6057 50 paragraph. The court shall determine which assets

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Page Two

1 shall be held, and a sale, disposition, or further  
2 encumbrance of these assets is not permitted without  
3 the consent of the court. The delay may not be waived  
4 before the issuance of the deficiency judgment. After  
5 the issuance of the deficiency judgment, the mortgagor  
6 may waive the delay by filing a waiver signed by the  
6057 7 mortgagor with the court. This paragraph applies to  
8 actions pending on the effective date of this Act and  
9 actions commenced on or after the effective date of  
10 this Act but before July 1, 1991.

11 Sec. 3. Section 627.6, subsection 5, Code 1985, is  
12 amended by striking the subsection.

13 Sec. 4. Section 627.6, subsection 10, Code 1985,  
14 is amended by striking the subsection and inserting in  
15 lieu thereof the following:

16 10. Any combination of the following, not to  
17 exceed a value of five thousand dollars in the  
18 aggregate:

19 a. Musical instruments, not including radios,  
20 television sets, or record or tape playing machines,  
21 held primarily for the personal, family, or household  
22 use of the debtor or a dependent of the debtor.

23 b. One motor vehicle.

24 c. In the event of a bankruptcy proceeding, the  
25 debtor's interest in accrued wages and in state and  
26 federal tax refunds as of the date of filing of the  
27 petition in bankruptcy, not to exceed one thousand  
28 dollars in the aggregate. This exemption is in  
29 addition to the limitations contained in sections  
30 642.21 and 537.5105.

31 Sec. 5. Section 627.6, Code 1985, is amended by  
32 adding the following new subsections:

33 NEW SUBSECTION. 11. If the debtor is engaged in  
34 any profession or occupation other than farming and  
35 does not exercise the homestead exemption under  
36 section 561.16, the proper implements, professional  
37 books, or tools of the trade of the debtor or a  
38 dependent of the debtor, not to exceed in value twenty  
39 thousand dollars in the aggregate.

40 NEW SUBSECTION. 12. If the debtor is engaged in  
41 farming and does not exercise the homestead exemption  
42 under section 561.16 or the delay of the  
43 enforceability of a deficiency judgment or general  
44 execution under section 654.6 in relation to the  
45 execution under which the exemption is claimed, any  
46 combination of the following, not to exceed a value of  
47 twenty thousand dollars in the aggregate:

48 a. Implements and equipment reasonably related to  
49 a normal farming operation. This exemption is in  
50 addition to a motor vehicle held exempt under

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1 subsection 10.

2 b. Livestock and feed for the livestock reasonably  
3 related to a normal farming operation.

4 NEW SUBSECTION. 13. If the debtor is engaged in  
5 farming the agricultural land upon the commencement of  
6 an action for the foreclosure of a mortgage on the  
7 agricultural land or for the enforcement of an  
8 obligation secured by a mortgage on the agricultural  
9 land, if a deficiency judgment is issued against the  
10 debtor, and if the debtor does not exercise the delay  
11 of the enforceability of the deficiency judgment or  
12 general execution under section 654.6 in relation to  
13 the execution under which the exemption is claimed,  
14 the disposable earnings of the debtor are exempt from  
15 garnishment to enforce the deficiency judgment after  
16 two years from the entry of the deficiency judgment,  
17 sections 642.21 and 642.22 notwithstanding. However,  
18 earnings paid to the debtor directly or indirectly by  
19 the debtor are not exempt.

20 Sec. 6. Section 654.15, subsection 1, Code  
21 Supplement 1985, is amended by adding the following  
22 new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. An owner of a small  
24 business may apply for a continuance as provided in  
25 this subsection if the real estate subject to  
26 foreclosure is used for the small business. The court  
27 may continue the foreclosure proceeding if the court  
28 finds that the application is made in good faith and  
29 is supported by competent evidence showing that the  
30 default in payment or inability to pay is due to the  
31 economic condition of the customers of the small  
32 business, because the customers of the small business  
33 have been significantly economically distressed as a  
34 result of drought, flood, heat, hail, storm, or other  
35 climatic conditions or due to infestation of pests.  
36 The length of the continuance shall be determined by  
37 the court, but shall not exceed two years.

38 Sec. 7. Section 654.15, subsection 2, Code  
39 Supplement 1985, is amended to read as follows:

40 2. In all actions for the foreclosure of real  
41 estate mortgages, deeds of trust of real property  
42 estate, and contracts for the purchase of real estate,  
43 an owner of real estate may apply for a moratorium as  
44 provided in this subsection if the governor declares a  
45 state of economic emergency. ~~The declaration by the~~  
46 ~~governor of a state of economic emergency shall be~~  
47 ~~valid for no more than one year for the purposes of~~  
48 ~~this subsection.~~ The governor shall state in the  
49 declaration whether the types of real estate eligible  
50 for a moratorium is applicable to continuance, which

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1 may include real estate used for farming; designated  
2 types of real estate not used for farming, including  
3 real estate used for small business; or all real  
4 estate. Only property of the a type specified in the  
5 declaration which is subject to a mortgage, deed of  
6 trust, or contract for purchase entered into before  
7 the date of the declaration is eligible for a  
8 moratorium. In an action for the foreclosure of a  
9 mortgage, deed of trust, or contract for purchase of  
10 real property estate eligible for a moratorium, the  
11 owner may apply for a continuation of the foreclosure  
12 if the owner has entered an appearance and filed an  
13 answer admitting some indebtedness and breach of the  
14 terms of the designated instrument. The admissions  
15 cannot be withdrawn or denied after a continuance is  
16 granted. Applications for continuance made pursuant  
17 to this subsection must be filed within one year of  
18 the governor's declaration of economic emergency.  
19 Upon the filing of an application as provided in this  
20 subsection, the court shall set a date for hearing and  
21 provide by order for notice to the parties of the time  
22 for the hearing. If the court finds that the  
23 application is made in good faith and the owner is  
24 unable to pay or perform, the court may continue the  
25 foreclosure proceeding as follows:  
26 a. If the application is made in regard to real  
27 estate used for farming, ~~and-if-the-default-or-breach~~  
28 ~~of-terms-of-the-written-instrument-occurs-on-or-before~~  
29 ~~the-first-day-of-March-of-the-year-in-which-the~~  
30 ~~governor-declares-a-state-of-economic-emergency,-then~~  
31 the continuance shall terminate ~~on-the-first-day-of~~  
32 ~~March-of-the-succeeding-year~~ two years from the date  
33 of the order. If the application is made in regard to  
34 real estate not used for farming, the continuance  
35 shall terminate one year from the date of the order.  
36 b. Only one continuance shall be granted the  
37 applicant ~~or-petitioner~~ for each written instrument or  
38 contract under each declaration. ~~Except-as-provided~~  
39 ~~in-paragraph-"a",-the-continuance-shall-not-exceed-one~~  
40 ~~year-~~  
41 c. The court shall appoint a receiver to take  
42 charge of the property and to rent the property. The  
43 ~~owner-or-person-in-possession-of-the-property~~  
44 applicant shall be given preference in the occupancy  
45 of the property. The receiver, who may be the ~~owner~~  
46 ~~or-person-in-possession~~ applicant, shall collect the  
47 rents and income and distribute the proceeds as  
48 follows:  
49 (1) For the payment of the costs of receivership,  
50 including the required interest on the written

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1 instrument and the costs of operation.

2 (2) For the payment of taxes due or becoming due  
3 during the period of receivership.

4 (3) For the payment of insurance deemed necessary  
5 by the court including but not limited to insurance on  
6 the buildings on the premises and liability insurance.

7 (4) The remaining balance shall be paid to the  
8 owner of the written instrument upon which the  
9 foreclosure was based, to be credited against the  
10 deferred interest and then against the principal due  
11 on the written instrument.

12 d. A continuance granted under this subsection may  
13 be terminated if the court finds, after notice and  
14 hearing, all of the following:

15 (1) The party seeking foreclosure has made  
16 reasonable efforts in good faith to work with the  
17 applicant to restructure the debt obligations of the  
18 applicant.

19 (2) The party seeking foreclosure has made  
20 reasonable efforts in good faith to work with the  
21 applicant to utilize state and federal programs  
22 designed and implemented to provide debtor relief  
23 options. For the purposes of subparagraph (1) and  
24 this subparagraph, the determination of reasonableness  
25 shall take into account the financial condition of the  
26 party seeking foreclosure, and the financial strength  
27 and the long-term financial survivorship potential of  
28 the applicant.

29 (3) The applicant has failed to pay interest due  
30 on the written instrument.

31 Sec. 8. Section 654.15, Code Supplement 1985, is  
32 amended by adding the following new subsection:

33 NEW SUBSECTION. 3. As used in this section,  
34 "small business" means the same as defined in section  
35 220.1.

36 Sec. 9. Notwithstanding section 654.15, subsection  
37 2, the declaration of economic emergency made by the  
38 governor on October 1, 1985, is in effect until March  
39 30, 1987.

40 Sec. 10. Notwithstanding the provisions of the  
41 declaration of economic emergency made by the governor  
42 on October 1, 1985, real estate used for small  
43 business is eligible for a moratorium continuance  
44 after the effective date of this Act and through the  
45 remaining effective period of the declaration.

46 Sec. 11. Section 2 of this Act is repealed  
47 effective July 1, 1991.

48 Sec. 12. This Act, being deemed of immediate  
49 importance, takes effect from and after its  
50 publication in The Algona Upper Des Moines, a

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1 newspaper published in Algona, Iowa, and in the  
 2 Audubon News-Advocate, a newspaper published in  
 3 Audubon, Iowa."  
 4 2. Title page, by striking lines 1 through 10 and  
 5 inserting the following: "An Act relating to the  
 6 enforcement of certain debts and obligations, by  
 7 delaying the enforceability of certain delinquency  
 8 judgments or general executions related to obligations  
 9 secured by agricultural land, providing for certain  
 10 exemptions from execution and garnishment, providing  
 11 for the eligibility of certain types of real estate  
 12 for a foreclosure continuance, providing time limits  
 13 for applying for a foreclosure continuance and for the  
 14 term of a foreclosure continuance, providing immediate  
 15 foreclosure continuance eligibility to real estate  
 16 used for small business, providing an extension of  
 17 time under the current declaration of economic  
 18 emergency, and providing an effective date."

BY SWARTZ of Marshall

BLANSHAN of Greene

RUNNING of Linn

BRANSTAD of Winnebago

COREY of Louisa

H-6055 FILED APRIL 29, 1986

ADOPTED *as amended by 6057 4/29 (p. 1898)*

KREMER of Buchanan

MAULSBY of Calhoun

PARKER of Jasper

WOODS of Polk

RENAUD of Polk

McINTEE of Black Hawk

## SENATE FILE 2270

H-6057

1 Amend amendment H-6055 to Senate File 2270 as  
 2 amended, passed and reprinted by the Senate as follows:  
 3 1. Page 1, line 50, by striking the word "paragraph"  
 4 and inserting the word "section".  
 5 2. Page 2, line 7, by striking the word "paragraph"  
 6 and inserting the word "section".

H-6057 FILED APRIL 29, 1986 BY SWARTZ of Marshall

ADOPTED BY UNANIMOUS CONSENT *(p. 1897)*

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1 subsection 10.

2 b. Livestock and feed for the livestock reasonably  
3 related to a normal farming operation.

4 NEW SUBSECTION. 13. If the debtor is engaged in  
5 farming the agricultural land upon the commencement of  
6 an action for the foreclosure of a mortgage on the  
7 agricultural land or for the enforcement of an  
8 obligation secured by a mortgage on the agricultural  
9 land, if a deficiency judgment is issued against the  
10 debtor, and if the debtor does not exercise the delay  
11 of the enforceability of the deficiency judgment or  
12 general execution under section 654.6 in relation to  
13 the execution under which the exemption is claimed,  
14 the disposable earnings of the debtor are exempt from  
15 garnishment to enforce the deficiency judgment after  
16 two years from the entry of the deficiency judgment,  
17 sections 642.21 and 642.22 notwithstanding. However,  
18 earnings paid to the debtor directly or indirectly by  
19 the debtor are not exempt.

5924

20 Sec. 6. Section 654.15, subsection 1, Code  
21 Supplement 1985, is amended by adding the following  
22 new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. An owner of a small  
24 business may apply for a continuance as provided in  
25 this subsection if the real estate subject to  
26 foreclosure is used for the small business. The court  
27 may continue the foreclosure proceeding if the court  
28 finds that the application is made in good faith and  
29 is supported by competent evidence showing that the  
30 default in payment or inability to pay is due to the  
31 economic condition of the customers of the small  
32 business, because the customers of the small business  
33 have been significantly economically distressed as a  
34 result of drought, flood, heat, hail, storm, or other  
35 climatic conditions or due to infestation of pests.  
36 The length of the continuance shall be determined by  
37 the court, but shall not exceed two years.

38 Sec. 7. Section 654.15, subsection 2, Code  
39 Supplement 1985, is amended to read as follows:

40 2. In all actions for the foreclosure of real  
41 estate mortgages, deeds of trust of real property  
42 estate, and contracts for the purchase of real estate,  
43 an owner of real estate may apply for a moratorium as  
44 provided in this subsection if the governor declares a  
45 state of economic emergency. ~~The declaration by the~~  
46 ~~governor of a state of economic emergency shall be~~  
47 ~~valid for no more than one year for the purposes of~~  
48 ~~this subsection.~~ The governor shall state in the  
49 declaration whether the types of real estate eligible  
50 for a moratorium is applicable to continuance, which

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1 may include real estate used for farming; designated  
2 types of real estate not used for farming, including  
3 real estate used for small business; or all real  
4 estate. Only property of the a type specified in the  
5 declaration which is subject to a mortgage, deed of  
6 trust, or contract for purchase entered into before  
7 the date of the declaration is eligible for a  
8 moratorium. In an action for the foreclosure of a  
9 mortgage, deed of trust, or contract for purchase of  
10 real property estate eligible for a moratorium, the  
11 owner may apply for a continuation of the foreclosure  
12 if the owner has entered an appearance and filed an  
13 answer admitting some indebtedness and breach of the  
14 terms of the designated instrument. The admissions  
15 cannot be withdrawn or denied after a continuance is  
16 granted. Applications for continuance made pursuant  
17 to this subsection must be filed within one year of  
18 the governor's declaration of economic emergency.  
19 Upon the filing of an application as provided in this  
20 subsection, the court shall set a date for hearing and  
21 provide by order for notice to the parties of the time  
22 for the hearing. If the court finds that the  
23 application is made in good faith and the owner is  
24 unable to pay or perform, the court may continue the  
25 foreclosure proceeding as follows:  
26 a. If the application is made in regard to real  
27 estate used for farming, ~~and-if-the-default-or-breach~~  
28 ~~of-terms-of-the-written-instrument-occurs-on-or-before~~  
29 ~~the-first-day-of-March-of-the-year-in-which-the~~  
30 ~~governor-declares-a-state-of-economic-emergency,~~ then  
31 the continuance shall terminate on-the-first-day-of  
32 March-of-the-succeeding-year two years from the date  
33 of the order. If the application is made in regard to  
34 real estate not used for farming, the continuance  
35 shall terminate one year from the date of the order.  
36 b. Only one continuance shall be granted the  
37 applicant ~~or-petitioner~~ for each written instrument or  
38 contract under each declaration. ~~Except-as-provided~~  
39 ~~in-paragraph-"a",-the-continuance-shall-not-exceed-one~~  
40 ~~year.~~  
41 c. The court shall appoint a receiver to take  
42 charge of the property and to rent the property. ~~The~~  
43 ~~owner-or-person-in-possession-of-the-property~~  
44 applicant shall be given preference in the occupancy  
45 of the property. The receiver, who may be the ~~owner~~  
46 ~~or-person-in-possession~~ applicant, shall collect the  
47 rents and income and distribute the proceeds as  
48 follows:  
49 (1) For the payment of the costs of receivership,  
50 including the required interest on the written

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1 instrument and the costs of operation.

2 (2) For the payment of taxes due or becoming due  
3 during the period of receivership.

4 (3) For the payment of insurance deemed necessary  
5 by the court including but not limited to insurance on  
6 the buildings on the premises and liability insurance.

7 (4) The remaining balance shall be paid to the  
8 owner of the written instrument upon which the  
9 foreclosure was based, to be credited against the  
10 deferred interest and then against the principal due  
11 on the written instrument.

12 d. A continuance granted under this subsection may  
13 be terminated if the court finds, after notice and  
14 hearing, all of the following:

15 (1) The party seeking foreclosure has made  
16 reasonable efforts in good faith to work with the  
17 applicant to restructure the debt obligations of the  
18 applicant.

19 (2) The party seeking foreclosure has made  
20 reasonable efforts in good faith to work with the  
21 applicant to utilize state and federal programs  
22 designed and implemented to provide debtor relief  
23 options. For the purposes of subparagraph (1) and  
24 this subparagraph, the determination of reasonableness  
25 shall take into account the financial condition of the  
26 party seeking foreclosure, and the financial strength  
27 and the long-term financial survivorship potential of  
28 the applicant.

29 (3) The applicant has failed to pay interest due  
30 on the written instrument.

31 Sec. 8. Section 654.15, Code Supplement 1985, is  
32 amended by adding the following new subsection:

33 NEW SUBSECTION. 3. As used in this section,  
34 "small business" means the same as defined in section  
35 220.1.

36 Sec. 9. Notwithstanding section 654.15, subsection  
37 2, the declaration of economic emergency made by the  
38 governor on October 1, 1985, is in effect until March  
39 30, 1987.

40 Sec. 10. Notwithstanding the provisions of the  
41 declaration of economic emergency made by the governor  
42 on October 1, 1985, real estate used for small  
43 business is eligible for a moratorium continuance  
44 after the effective date of this Act and through the  
45 remaining effective period of the declaration.

46 Sec. 11. Section 2 of this Act is repealed  
47 effective July 1, 1991.

48 Sec. 12. This Act, being deemed of immediate  
49 importance, takes effect from and after its  
50 publication in The Algona Upper Des Moines, a

1 newspaper published in Algona, Iowa, and in the  
2 Audubon News-Advocate, a newspaper published in  
3 Audubon, Iowa."

4 2. Title page, by striking lines 1 through 10 and  
5 inserting the following: "An Act relating to the  
6 enforcement of certain debts and obligations, by  
7 delaying the enforceability of certain delinquency  
8 judgments or general executions related to obligations  
9 secured by agricultural land, providing for certain  
10 exemptions from execution and garnishment, providing  
11 for the eligibility of certain types of real estate  
12 for a foreclosure continuance, providing time limits  
13 for applying for a foreclosure continuance and for the  
14 term of a foreclosure continuance, providing immediate  
15 foreclosure continuance eligibility to real estate  
16 used for small business, providing an extension of  
17 time under the current declaration of economic  
18 emergency, and providing an effective date."

S-5806 Filed April 30, 1986 REC'D FROM THE HOUSE

*Senate amended & Concurred 5/1 (p. 1523)*

HOUSE AMENDMENT TO  
SENATE FILE 2270

S-5806

1 Amend Senate File 2270 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. LEGISLATIVE FINDINGS.

5 The general assembly finds and declares as follows:

6 1. The state of Iowa is suffering from a financial  
7 crisis in agriculture that affects the entire economic  
8 health of this state.

9 2. This financial crisis has grown to include the  
10 business communities which, together with the  
11 agricultural producers, form the core of the state's  
12 economy.

13 3. A large number of producers and farm families  
14 are being forced to leave farming and make a new  
15 start.

16 4. It is deemed to be in the best interest of the  
17 state to protect the business communities and the  
18 dislocated farm families affected by the financial  
19 crisis in agriculture.

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592  
20 Sec. 2. Section 654.6, Code 1985, is amended by  
21 adding the following new unnumbered paragraphs:

22 NEW UNNUMBERED PARAGRAPH. However, a deficiency  
23 judgment or general execution premised upon the  
24 deficiency judgment issued against the mortgagor shall  
25 not be enforceable until July 1, 1991 if all of the  
26 following apply:

27 1. The mortgaged property is agricultural land.

28 2. The mortgagor was actively engaged in farming  
29 the agricultural land upon the commencement of the  
30 action which resulted in a deficiency judgment.

31 3. The action was for the foreclosure of a first  
32 mortgage on the agricultural land or for the  
33 enforcement of an obligation secured by a first  
34 mortgage on the agricultural land.

35 4. The first mortgage secures a loan obligation,  
36 where a condition for the making of the loan was that  
37 the borrower purchase or own stock in the entity  
38 making the loan or in an entity related to the lending  
39 entity.

40 5. The mortgagor does not exercise the exemptions  
41 provided under section 627.6 in relation to the  
42 deficiency judgment or a general execution premised  
43 upon the deficiency judgment.

44 NEW UNNUMBERED PARAGRAPH. The running of time  
45 periods affecting the enforceability of the deficiency  
46 judgment or general execution is suspended until July  
47 1, 1991. Assets of the mortgagor sufficient to  
48 satisfy the deficiency judgment shall be held by the  
49 mortgagor during the period of delay provided in this  
50 section. The court shall determine which assets shall

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1 be held, and a sale, disposition, or further  
2 encumbrance of these assets is not permitted without  
3 the consent of the court. The delay may not be waived  
4 before the issuance of the deficiency judgment. After  
5 the issuance of the deficiency judgment, the mortgagor  
6 may waive the delay by filing a waiver signed by the  
7 mortgagor with the court. This section applies to  
8 actions pending on the effective date of this Act and  
9 actions commenced on or after the effective date of  
10 this Act but before July 1, 1991.

11 Sec. 3. Section 627.6, subsection 5, Code 1985, is  
12 amended by striking the subsection.

13 Sec. 4. Section 627.6, subsection 10, Code 1985,  
14 is amended by striking the subsection and inserting in  
15 lieu thereof the following:

16 10. Any combination of the following, not to  
17 exceed a value of five thousand dollars in the  
18 aggregate:

19 a. Musical instruments, not including radios,  
20 television sets, or record or tape playing machines,  
21 held primarily for the personal, family, or household  
22 use of the debtor or a dependent of the debtor.

23 b. One motor vehicle.

24 c. In the event of a bankruptcy proceeding, the  
25 debtor's interest in accrued wages and in state and  
26 federal tax refunds as of the date of filing of the  
27 petition in bankruptcy, not to exceed one thousand  
28 dollars in the aggregate. This exemption is in  
29 addition to the limitations contained in sections  
30 642.21 and 537.5105.

31 Sec. 5. Section 627.6, Code 1985, is amended by  
32 adding the following new subsections:

592 33 NEW SUBSECTION. 11. If the debtor is engaged in  
34 any profession or occupation other than farming and  
35 does not exercise the homestead exemption under  
36 section 561.16, the proper implements, professional  
37 books, or tools of the trade of the debtor or a  
38 dependent of the debtor, not to exceed in value twenty  
39 thousand dollars in the aggregate.

592 40 NEW SUBSECTION. 12. If the debtor is engaged in  
41 farming and does not exercise the homestead exemption  
42 under section 561.16 or the delay of the  
43 enforceability of a deficiency judgment or general  
44 execution under section 654.6 in relation to the  
45 execution under which the exemption is claimed, any  
46 combination of the following, not to exceed a value of  
47 twenty thousand dollars in the aggregate:

48 a. Implements and equipment reasonably related to  
49 a normal farming operation. This exemption is in  
50 addition to a motor vehicle held exempt under

SENATE FILE 2270

S-5878

1 Amend the House amendment, S-5806, to Senate File  
2 2270 as amended, passed, and reprinted by the Senate  
3 as follows:

4 1. Page 1, line 1, by inserting after the figure  
5 "2270" the words "as amended, passed, and reprinted by  
6 the Senate".

7 2. Page 1, by striking lines 4 through 19 and  
8 inserting the following:

9 "Section 1. FINDINGS. The general assembly finds  
10 that the agricultural sector of the economy of this  
11 state is under severe financial stress due to low farm  
12 commodity prices, continuing high interest rates, and  
13 reduced net farm income. The suffering agricultural  
14 economy also adversely affects economic conditions for  
15 all other businesses in rural communities. Thousands  
16 of this state's farmers are unable to meet current  
17 payments of interest and principal on mortgages and  
18 other loan and land contracts and are threatened by  
19 the loss of their farmland, equipment, crops, and  
20 livestock through mortgage and lien foreclosures,  
21 forfeiture of real estate contracts, and other  
22 collection actions. A large number of producers and  
23 farm families are being forced to leave farming and  
24 make a new start. The agricultural economic emergency  
25 requires an orderly process with state assistance to  
26 adjust agricultural indebtedness to preserve the  
27 general welfare and fiscal integrity of the state, and  
28 it is deemed to be in the best interest of the state  
29 to protect the business communities and the dislocated  
30 farm families affected by the financial crisis in  
31 agriculture."

32 3. Page 1, by inserting before line 20 the  
33 following:

34 "Sec. 100. NEW SECTION. 13.20 AUTHORITY TO  
35 CONTRACT FOR LEGAL ASSISTANCE PROGRAM.

36 The farm crisis program coordinator, provided in  
37 section 654A.2, shall contract with an eligible  
38 nonprofit organization to provide legal assistance to  
39 financially distressed farmers. The contract shall be  
40 awarded within thirty days after the effective date of  
41 this Act. The contract may be terminated by the  
42 coordinator upon written notice and for good cause.

43 Sec. 102. NEW SECTION. 13.21 ELIGIBLE  
44 ORGANIZATION.

45 To be eligible for a contract under section 13.20,  
46 an organization must:

47 1. Be a nonprofit organization chartered in the  
48 state.

49 2. Have attorneys admitted to practice in the Iowa  
50 supreme court and the United States district courts.

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- 1 3. Have offices throughout the state of Iowa.
- 2 4. Have attorneys and staff qualified to address
- 3 agricultural legal problems and agricultural credit
- 4 problems affecting financially distressed farmers.

5 Sec. 103. NEW SECTION. 13.22 PROGRAM

6 REQUIREMENTS.  
7 A legal services provider which enters into a  
8 contract with the coordinator under authority of  
9 section 13.20 shall:

- 10 1. Offer direct representation of individual
- 11 farmers in litigation and administrative cases.
- 12 2. Offer technical support to individual farmers.
- 13 3. Cooperate to the fullest extent feasible with
- 14 the Iowa state university agricultural extension
- 15 service so that its economic and farm management
- 16 counseling services are utilized by eligible persons.
- 17 4. Utilize, to the fullest extent feasible,
- 18 existing resources of accredited law schools within
- 19 the state of Iowa to provide consulting assistance to
- 20 attorneys in the agricultural law field.
- 21 5. Assist, to the fullest extent feasible,
- 22 accredited law schools within the state of Iowa in
- 23 enhancing their expertise in the area of agricultural
- 24 law so that all attorneys within the state will have a
- 25 resource available to provide training and experience
- 26 in the agricultural law field.
- 27 6. Cooperate to the fullest extent feasible with
- 28 the existing informational and referral networks among
- 29 farmers, farmer advocates, and others concerned with
- 30 the economic crisis in agricultural areas. The legal
- 31 services provider is not a state agency for the
- 32 purposes of chapters 19A, 20, and 25A.

33 Sec. 104. NEW SECTION. 13.23 PERSONS ELIGIBLE

34 FOR LEGAL ASSISTANCE.  
35 A person may obtain legal representation and legal

- 36 assistance from the contracting legal services  
37 provider if the person meets all of the following  
38 criteria:
- 39 1. Is a resident of the state of Iowa.
  - 40 2. Is a farmer, or a family shareholder of a
  - 41 family farm corporation, and has an occupation of
  - 42 farming.
  - 43 3. Is engaged in a farm business that has a debt-
  - 44 to-asset ratio greater than fifty percent.
  - 45 4. Has received less than twenty thousand dollars
  - 46 of taxable income in the last taxable year.
  - 47 5. Is financially unable to acquire legal
  - 48 assistance.

49 Sec. 105. NEW SECTION. 13.24 REPORT.

- 50 1. The legal services provider which enters into a

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1 contract with the coordinator under authority of this  
2 Act shall submit to the coordinator a working plan for  
3 the accomplishment of the objectives of this Act  
4 within thirty days after the contract is awarded. The  
5 plan must establish priorities and procedures, and set  
6 forth its annual operating budget for the fiscal year  
7 including projected salaries and all anticipated  
8 expenses. This budget shall set forth the maximum  
9 obligation of financial aid proposed for payment by  
10 the state and the availability of any additional funds  
11 or resources from the federal government and other  
12 sources to meet such expenses of operation.

13 2. At the end of each fiscal year the contracting  
14 legal services provider shall provide to the  
15 coordinator an audited statement of actual expenses  
16 incurred. The report shall also summarize the legal  
17 services provided and make recommendations for  
18 improved services for financially distressed farmers.

19 3. The contract entered into pursuant to section  
20 13.20 shall provide that any contractual payments to  
21 the legal services provider are to be made monthly.

22 Sec. 106. NEW SECTION. 554.9319 SALE OF A  
23 PRODUCT SUBJECT TO A LIEN OR SECURITY INTEREST.

24 1. An individual who in the ordinary course of  
25 business sells a product including a farm product  
26 which is subject to a security interest or a lien  
27 pursuant to chapter 570, 571, 572, 574, 576, 577, 578,  
28 579, 580, or 582 may assert a claim against the  
29 proceeds of the product in order to meet the necessary  
30 living expenses of the individual or the individual's  
31 household. The individual shall assert the lien by  
32 filing with the secured party or the lienholder and  
33 the county recorder of the county in which the person  
34 resides at least three days prior to the sale a sworn  
35 affidavit stating all of the following:

36 a. That the individual is asserting a claim under  
37 this section.

38 b. That the proceeds are from the sale of a  
39 product.

40 c. That the individual or the individual's  
41 household requires the amount claimed to meet  
42 necessary living expenses.

43 d. The name of all individuals in the household.

44 e. The amount claimed by the individual under this  
45 section on the basis of the affidavit.

46 f. That the total amount claimed by the individual  
47 under this section, including the amount claimed on  
48 the affidavit that is being sworn, in the preceding  
49 twelve months does not exceed the appropriate amount  
50 permitted in subsection 2 based upon the size of the

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1 individual's household.

2 2. a. Until superseded by rule pursuant to  
3 paragraph "b", the maximum amount that an individual  
4 may claim under this section during any twelve-month  
5 period is the following, based upon the size of the  
6 individual's household:

7 (1) For a household with one member, the annual  
8 maximum is five thousand three hundred sixty dollars.

9 (2) For a household with more than one member the  
10 annual maximum is that amount permitted under  
11 subparagraph (1) and in addition one thousand eight  
12 hundred eighty dollars for each additional member of  
13 the household.

14 b. The department of human services shall review  
15 maximum limitations at least once each twelve months  
16 and may revise the limitations by rule adopted  
17 pursuant to chapter 17A. In establishing new  
18 standards, the department shall consider any revisions  
19 in the federal poverty guidelines, the current  
20 condition of the state's economy, the changes in the  
21 consumer price index and any other factors which the  
22 department deems relevant. The department shall send  
23 a copy of any new standard adopted to each county  
24 recorder who shall maintain the standards on file.

25 c. In applying the annual maximums established  
26 under this subsection, an individual shall deduct from  
27 the applicable maximum standard any income received  
28 during the twelve-month period of time by a member of  
29 the household from sources of income other than from  
30 the sale of products subject to security interests and  
31 liens.

32 3. A secured party or a lienholder may contest a  
33 claim on an affidavit filed under this section by  
34 filing a petition in the district court of the county  
35 in which the individual asserting the claim under this  
36 section resides.

37 4. The county recorder shall maintain for eighteen  
38 months from the date of filing any affidavit filed  
39 under this section. The affidavit shall be recorded  
40 under the name of the individual making the affidavit.

41 5. As used in this section, "individual's  
42 household" includes any individual residing in the  
43 same house as the individual filing the affidavit or  
44 any individual for which the individual filing the  
45 affidavit has provided at least fifty percent of the  
46 individual's support for the preceding twelve months.

47 Sec. 107. Section 554.9501, Code 1985, is amended  
48 by adding the following new subsection:

49 NEW SUBSECTION. 6. A creditor, as defined in  
50 section 654A.1, shall not initiate a proceeding under

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1 this chapter against a borrower subject to section  
2 654A.4 to enforce a secured interest in agricultural  
3 property, as defined in section 654A.1, which is  
4 subject to chapter 654A and which is subject to a  
5 secured debt of ten thousand dollars or more unless  
6 the person receives a mediation release under section  
7 654A.11, or unless the court determines after notice  
8 and hearing that the time delay required for the  
9 mediation would cause the person to suffer irreparable  
10 harm.

11 Sec. 108. NEW SECTION. 561.22 WAIVER.

12 If a homestead exemption waiver is contained in a  
13 written contract, the contract must contain a  
14 statement in substantially the following form, in  
15 boldface type of a minimum size of ten points, and be  
16 signed and dated by the person waiving the exemption  
17 at the time of the execution of the contract: "I  
18 understand that homestead property is in many cases  
19 protected from the claims of creditors and exempt from  
20 judicial sale; and that by signing this contract, I  
21 voluntarily give up my right to this protection for  
22 this property with respect to claims based upon this  
23 contract.

24 Sec. 109. NEW SECTION. 654.2A AGRICULTURAL LAND

25 -- NOTICE, RIGHT TO CURE DEFAULT.

26 1. A creditor shall not initiate an action  
27 pursuant to this chapter to foreclose on a deed of  
28 trust or mortgage on agricultural land, as defined in  
29 section 172C.1, until the creditor has complied with  
30 this section.

31 2. A creditor who believes in good faith that a  
32 borrower on a deed of trust or mortgage on  
33 agricultural land is in default may give the borrower  
34 notice of the alleged default, and, if the borrower  
35 has a right to cure the default, shall give the  
36 borrower the notice of right to cure provided in  
37 section 654.2B. The notice is deemed received if sent  
38 by certified mail to the borrower.

39 3. The borrower has a right to cure the default  
40 unless the creditor has given the borrower a proper  
41 notice of right to cure with respect to two prior  
42 defaults on the obligation secured by the deed of  
43 trust or mortgage, or the borrower has voluntarily  
44 surrendered possession of the agricultural land and  
45 the creditor has accepted it in full satisfaction of  
46 any debt owing on the obligation in default. The  
47 borrower does not have a right to cure the default if  
48 the creditor has given the borrower a proper notice of  
49 right to cure with respect to a prior default within  
50 twelve months prior to the alleged default.

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1 4. If the borrower has a right to cure a default:

2 a. A creditor shall not accelerate the maturity of  
3 the unpaid balance of the obligation, demand or  
4 otherwise take possession of the land, other than by  
5 accepting a voluntary surrender of it, or otherwise  
6 attempt to enforce the obligation until forty-five  
7 days after a proper notice of right to cure is given.  
8 The time period for a request for mediation pursuant  
9 to chapter 654A shall run concurrently with the period  
10 for the notice to cure under this section.

11 b. Until the expiration of forty-five days after  
12 notice is given, the borrower may cure the default by  
13 tendering either the amount of all unpaid installments  
14 due at the time of tender, without acceleration, plus  
15 a delinquency charge of the scheduled annual interest  
16 rate plus five percent per annum for the period  
17 between the giving of the notice of right to cure and  
18 the tender, or the amount stated in the notice of  
19 right to cure, whichever is less, or by tendering any  
20 performance necessary to cure a default other than  
21 nonpayment of amounts due, which is described in the  
22 notice of right to cure.

23 5. The act of curing a default restores to the  
24 borrower the borrower's rights under the obligation  
25 and the deed of trust or mortgage, except as provided  
26 in subsection 3.

27 6. This section does not prohibit a borrower from  
28 voluntarily surrendering possession of the  
29 agricultural land, and does not prohibit the creditor  
30 from enforcing the creditor's interest in the land at  
31 any time after compliance with this section.

32 Sec. 110. NEW SECTION. 654.2B REQUIREMENTS OF  
33 NOTICE OF RIGHT TO CURE.

34 The notice of right to cure shall be in writing and  
35 shall conspicuously state the name, address, and  
36 telephone number of the creditor to which payment is  
37 to be made, a brief identification of the obligation  
38 secured by the deed of trust or mortgage and of the  
39 borrower's right to cure the default, a statement of  
40 the nature of the right to cure the default, a  
41 statement of the nature of the alleged default, a  
42 statement of the total payment, including an  
43 itemization of any delinquency or deferral charges, or  
44 other performance necessary to cure the alleged  
45 default, and the exact date by which the amount must  
46 be paid or performance tendered.

47 Sec. 111. NEW SECTION. 654.2C MEDIATION NOTICE -  
48 - FORECLOSURE ON AGRICULTURAL PROPERTY.

49 A person shall not initiate a proceeding under this  
50 chapter to foreclose a deed of trust or mortgage on

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1 agricultural property, as defined in section 654A.1,  
2 which is subject to chapter 654A and which is subject  
3 to a debt of ten thousand dollars or more under the  
4 deed of trust or mortgage unless the person receives a  
5 mediation release under section 654A.11, or unless the  
6 court determines after notice and hearing that the  
7 time delay required for the mediation would cause the  
8 person to suffer irreparable harm."

9 4. Page 2, lines 34 through 36, by striking the  
10 words and figure: "and does not exercise the  
11 homestead exemption under section 561.16".

12 5. Page 2, lines 41 and 42, by striking the words  
13 and figure: "the homestead exemption under section  
14 561.16 or".

15 6. Page 3, by inserting after line 19 the  
16 following:

17 "Sec. 112. NEW SECTION. 627.20 WAIVER.

18 A person may expressly waive the exemptions  
19 contained in this chapter. However, if the waiver is  
20 contained in a written contract, the contract must  
21 contain a statement in substantially the following  
22 form, in boldface type of a minimum size of ten  
23 points, and be signed and dated by the person waiving  
24 the exemption at the time of the execution of the  
25 contract: "I understand that some or all of the above  
26 property is in many cases protected from the claims of  
27 creditors and exempt from judicial sale; and that by  
28 signing this contract, I voluntarily give up my right  
29 to this protection for the property listed with  
30 respect to claims based upon this contract."

31 The signature of the person waiving the exemption  
32 located at the bottom of the contract is deemed to  
33 have satisfied the signature and dating requirements  
34 of this section."

35 7. Page 3, by inserting before line 20 the  
36 following:

37 "Sec. 113. Section 654.14, unnumbered paragraph 1,  
38 Code 1985, is amended to read as follows:

39 In any an action to foreclose a real estate  
40 mortgage, where if a receiver is appointed to take  
41 charge of the real estate, preference shall be given  
42 to the owner or person in actual possession, subject  
43 to approval of the court, in leasing the mortgaged  
44 premises. If the real estate is agricultural land  
45 used for farming, as defined in section 172C.1, the  
46 owner or person in actual possession shall be  
47 appointed as receiver without bond, provided that all  
48 parties agree to the appointment. Upon the agreement  
49 of the parties in mediation under chapter 654A, the  
50 mortgagor shall have the right to rent the

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1 agricultural land. If there is a foreclosure sale on  
2 the agricultural land, the mortgagor shall have the  
3 first right of refusal to repurchase the agricultural  
4 land during any period the mortgagee is holding the  
5 land. The rents, profits, avails, and/or and income  
6 derived from said the real estate shall be applied as  
7 follows:

8 Sec. 114. NEW SECTION. 654.16 SEPARATE  
9 REDEMPTION OF HOMESTEAD.

10 If a foreclosure sale is ordered on agricultural  
11 land used for farming, as defined in section 175.2,  
12 the mortgagor may, by a date set by the court but not  
13 later than ten days before the sale, designate to the  
14 court the portion of the land which the mortgagor  
15 claims as a homestead. The homestead may be any  
16 contiguous portion of forty acres or less of the real  
17 estate subject to the foreclosure. The homestead  
18 shall contain the residence of the mortgagor and shall  
19 be as compact as practicable.

20 If the homestead is not sold separately, but rather  
21 is sold in conjunction with the nonhomestead property  
22 in order to satisfy the judgment, the court shall  
23 determine the fair market value of the homestead. The  
24 court may consult with the county appraisers appointed  
25 pursuant to section 450.24 to determine the fair  
26 market value of the homestead. The mortgagor may  
27 redeem the homestead separately by tendering the fair  
28 market value of the homestead pursuant to chapter 628.  
29 This section applies to all foreclosures on  
30 agricultural land, notwithstanding a waiver of  
31 homestead rights granted in this section or chapter  
32 561 under the obligation secured by the mortgage or  
33 deed of trust."

34 8. Page 5, by inserting after line 35 the  
35 following:

36 "Sec. 115. NEW SECTION. 654A.1 DEFINITIONS.

37 As used in this chapter, unless the context  
38 otherwise requires:

39 1. "Agricultural property" means agricultural land  
40 that is principally used for farming as defined in  
41 section 172C.1, and personal property that is used as  
42 security to finance a farm operation or used as part  
43 of a farm operation including equipment, crops,  
44 livestock, and proceeds of the security.

45 2. "Coordinator" means the farm crisis program  
46 coordinator provided in section 654A.2.

47 3. "Creditor" means the holder of a mortgage on  
48 agricultural property, a vendor of a real estate  
49 contract for agricultural property, a person with a  
50 lien or security interest in agricultural property, or

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1 a judgment creditor with a judgment against a debtor  
2 with agricultural property.

3 4. "File" means to deliver by the required date by  
4 certified mail or another method acknowledging  
5 receipt.

6 5. "Mediation release" means an agreement or  
7 statement signed by all parties or by less than all  
8 the parties and the mediator pursuant to section  
9 654A.11.

10 Sec. 116. NEW SECTION. 654A.2 FARM CRISIS  
11 PROGRAM COORDINATOR.

12 The attorney general or the attorney general's  
13 designee shall serve as the farm crisis program  
14 coordinator. The coordinator has the powers and  
15 duties specified in this chapter and in chapter 13.

16 Sec. 117. NEW SECTION. 654A.3 FARM MEDIATION  
17 SERVICE.

18 The farm crisis coordinator shall contract with a  
19 nonprofit organization chartered in this state to  
20 provide farmer-creditor mediation services. The  
21 contract shall be awarded within thirty days after the  
22 effective date of this Act. The contract may be  
23 terminated by the coordinator upon written notice and  
24 for good cause. The organization awarded the contract  
25 is designated as the farm mediation service for the  
26 duration of the contract. However, the farm mediation  
27 service is not a state agency for the purposes of  
28 chapters 19A, 20, and 25A.

29 Sec. 118. NEW SECTION. 654A.4 APPLICABILITY OF  
30 CHAPTER.

31 1. This chapter applies to all creditors of a  
32 borrower described under subsection 2 with a secured  
33 debt against the borrower of ten thousand dollars or  
34 more.

35 2. This chapter applies to a borrower who is any  
36 of the following:

37 a. An individual operating a farm.

38 b. A family farm corporation as defined in section  
39 172C.1.

40 c. An authorized farm corporation as defined in  
41 section 172C.1.

42 Sec. 119. NEW SECTION. 654A.5 VOLUNTARY  
43 MEDIATION PROCEEDINGS.

44 A borrower who owns agricultural property or a  
45 creditor of that borrower may request mediation of the  
46 indebtedness by applying to the farm mediation  
47 service. The farm mediation service shall make  
48 voluntary mediation application forms available. The  
49 farm mediation service shall evaluate each request and  
50 may direct a mediator to meet with the borrower and

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1 creditor to assist in mediation.

2 Sec. 120. NEW SECTION. 654A.6 MANDATORY

3 MEDIATION PROCEEDINGS.

4 1. A creditor subject to this chapter desiring to  
5 initiate a proceeding to enforce a debt against  
6 agricultural property which is real estate under  
7 chapter 654, to forfeit a contract to purchase  
8 agricultural property under chapter 656, to enforce a  
9 secured interest in agricultural property under  
10 chapter 554, or to otherwise garnish, levy on, execute  
11 on, seize, or attach agricultural property, shall file  
12 a request for mediation with the farm mediation  
13 service. The creditor may not begin the proceeding  
14 subject to this chapter until the creditor receives a  
15 mediation release, or until the court determines after  
16 notice and hearing that the time delay required for  
17 the mediation would cause the creditor to suffer  
18 irreparable harm. The time period for the notice of  
19 right to cure provided in section 654.2A shall run  
20 concurrently with the time period for the mediation  
21 period provided in this section and section 654A.10.

22 2. Upon the receipt of a request for mediation,  
23 the farm mediation service shall conduct an initial  
24 consultation with the borrower without charge. The  
25 borrower may waive mediation after the initial  
26 consultation.

27 Sec. 121. NEW SECTION. 654A.7 FINANCIAL ANALYST  
28 AND LEGAL ASSISTANCE.

29 1. After receiving a mediation request, the farm  
30 mediation service shall refer the borrower to a  
31 financial analyst associated with the Iowa state  
32 university extension service ASSIST program. The  
33 financial analyst shall assist the borrower in the  
34 preparation of information relative to the finances of  
35 the borrower for the initial mediation meeting.

36 2. After receiving the mediation request, the farm  
37 mediation service shall notify the borrower that legal  
38 assistance may be available without charge through the  
39 legal assistance for farmers program provided in  
40 chapter 13.

41 Sec. 122. NEW SECTION. 654A.8 INITIAL MEDIATION  
42 MEETING.

43 1. Unless the borrower waives mediation, within  
44 twenty-one days after receiving a mediation request  
45 the farm mediation service shall send a mediation  
46 meeting notice to the borrower and to all known  
47 creditors of the borrower setting a time and place for  
48 an initial mediation meeting between the borrower, the  
49 creditors, and a mediator directed by the farm  
50 mediation service to assist in mediation. An initial

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1 mediation meeting shall be held within twenty-one days  
2 of the issuance of the mediation meeting notice.

3 2. If a creditor subject to this chapter receives  
4 a mediation meeting notice under subsection 1, the  
5 creditor and the creditor's successors in interest may  
6 not continue proceedings to enforce a debt against  
7 agricultural property of the borrower under chapter  
8 654, to forfeit a real estate contract for the  
9 purchase of agricultural property of the borrower  
10 under chapter 656, to enforce a secured interest in  
11 agricultural property under chapter 554, or to  
12 otherwise garnish, levy on, execute on, seize, or  
13 attach agricultural property. Time periods under and  
14 affecting those procedures stop running until the farm  
15 mediation service issues a mediation release to the  
16 creditor.

17 Sec. 123. NEW SECTION. 654A.9 DUTIES OF  
18 MEDIATOR.

19 At the initial mediation meeting and subsequent  
20 meetings, the mediator shall:

- 21 1. Listen to the borrower and the creditors  
22 desiring to be heard.
- 23 2. Attempt to mediate between the borrower and the  
24 creditors.
- 25 3. Advise the borrower and the creditors as to the  
26 existence of available assistance programs.
- 27 4. Encourage the parties to adjust, refinance, or  
28 provide for payment of the debts.
- 29 5. Advise, counsel, and assist the borrower and  
30 creditors in attempting to arrive at an agreement for  
31 the future conduct of financial relations among them.

32 Sec. 124. NEW SECTION. 654A.10 MEDIATION PERIOD.

33 The mediator may call mediation meetings during the  
34 mediation period, which is up to forty-two days after  
35 the farm mediation service received the mediation  
36 request. However, if all parties consent, mediation  
37 may continue after the end of the mediation period.

38 Sec. 125. NEW SECTION. 654A.11 MEDIATION  
39 RELEASE.

40 1. If an agreement is reached between the borrower  
41 and the creditors, the mediator shall draft a written  
42 mediation agreement, have it signed by the creditors,  
43 and submit the agreement to the farm mediation  
44 service.

45 2. The borrower and the creditors who are parties  
46 to the mediation agreement may enforce the mediation  
47 agreement as a legal contract. The agreement  
48 constitutes a mediation release.

49 3. If the borrower waives mediation, or if a  
50 mediation agreement is not reached, the borrower and

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1 the creditors may sign a statement prepared by the  
2 mediator that mediation was waived or that the parties  
3 did not reach an agreement. If any party does not  
4 sign the statement, the mediator shall sign the  
5 statement. The statement constitutes a mediation  
6 release. Unless the borrower waives mediation, a  
7 creditor shall not receive a mediation release until  
8 the creditor has participated in at least one  
9 mediation meeting.

10 Sec. 126. NEW SECTION. 654A.12 EXTENSION OF  
11 DEADLINES.

12 Upon petition by the borrower and all known  
13 creditors, the farm mediation service may, for good  
14 cause, extend a deadline imposed by section 654A.8 or  
15 section 654A.10 for up to thirty days.

16 Sec. 127. NEW SECTION. 654A.13 CONFIDENTIALITY.

17 1. All data regarding the finances of individual  
18 borrowers and creditors which is created, collected,  
19 and maintained by the farm mediation service are not  
20 public records under chapter 22.

21 2. Meetings of the farm mediation service are  
22 closed meetings and are not subject to chapter 21.

23 Sec. 128. NEW SECTION. 654A.14 RULES AND FORMS.

24 The farm mediation service shall recommend rules to  
25 the coordinator. The coordinator shall adopt rules  
26 pursuant to chapter 17A to set the compensation of  
27 mediators and to implement this chapter. The  
28 compensation of the mediators shall be no more than  
29 twenty-five dollars per hour, and all parties shall  
30 contribute an equal amount of the cost. The  
31 coordinator shall adopt voluntary mediation  
32 application and mediation request forms.

33 Sec. 129. NEW SECTION. 656.8 MEDIATION NOTICE.

34 Notwithstanding the provisions of sections 656.1  
35 through 656.5, a person shall not initiate proceedings  
36 under this chapter to forfeit a real estate contract  
37 for the purchase of agricultural property, as defined  
38 in section 654A.1, which is subject to an outstanding  
39 obligation on the contract of ten thousand dollars or  
40 more unless the person received a mediation release  
41 under section 654A.11, or unless the court determines  
42 after notice and hearing that the time delay required  
43 for the mediation would cause the person to suffer  
44 irreparable harm."

45 9. Page 5, by inserting after line 45 the  
46 following:

47 "Sec. \_\_\_\_\_. Sections 107, 109, 110, 111, and 115  
48 through 129 of this Act apply to actions commenced on  
49 or after the effective date of this Act. Sections 6,  
50 7, 8, 10, 106, 113, and 114 of this Act apply to

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1 actions pending on the effective date of this Act and  
2 actions commenced on or after the effective date of  
3 this Act."

4 10. Page 5, by inserting after line 47 the  
5 following:

6 "Sec. \_\_\_\_\_. Sections 100 through 105, 107, 111 and  
7 115 through 129 of this Act are repealed on July 1,  
8 1989."

9 11. Page 6, line 3, by inserting after the word  
10 "Iowa" the words and figures ", but not later than  
11 July 1, 1986".

12 12. Page 6, by striking lines 4 through 18.

13 13. Page 6, by inserting before line 19 the  
14 following:

15 "\_\_\_\_\_. Title page, line 1, by striking the words  
16 "real estate" and inserting the words "economic crisis  
17 relief".

18 \_\_\_\_\_. Title page, line 1, by striking the words  
19 "providing for the payment of"

20 \_\_\_\_\_. Title page, by striking lines 2 through 10  
21 and inserting the following: "providing a legal  
22 assistance to farmers program, providing living  
23 expense exemptions in the sale of products subject to  
24 a lien or security interest, providing a procedure for  
25 the waiver of the homestead and other exemptions,  
26 providing for the cure of a default, delaying the  
27 enforceability of certain deficiency judgments or  
28 general executions, providing for certain exemptions  
29 from execution and garnishment, providing for the  
30 separate redemption of a homestead, providing for the  
31 eligibility of certain types of real estate for a  
32 foreclosure continuance, providing time limits for  
33 applying for a foreclosure continuance and for the  
34 term of a foreclosure continuance, providing for a  
35 farm mediation program, providing immediate  
36 foreclosure continuance eligibility to real estate  
37 used for small business, providing an extension of  
38 time under the current declaration of economic  
39 emergency, and providing an effective date.""

S-5878 Filed April 30, 1986

BY BOSWELL

*W/D 5/1 (p. 1532)*

SENATE FILE 2270

S-5912

1 Amend the House amendment, S-5806, to Senate File  
2 2270 as amended, passed and reprinted by the Senate as  
3 follows:

4 1. Page 1, by inserting after line 19 the  
5 following:

6 "Sec. \_\_\_\_ . NEW SECTION. 654.16 SEPARATE  
7 REDEMPTION OF HOMESTEAD.

8 If a foreclosure sale is ordered on agricultural  
9 land used for farming, as defined in section 175.2,  
10 the mortgagor may, by a date set by the court but not  
11 later than ten days before the sale, designate to the  
12 court the portion of the land which the mortgagor  
13 claims as a homestead. The homestead may be any  
14 contiguous portion of forty acres or less of the real  
15 estate subject to the foreclosure. The homestead  
16 shall contain the residence of the mortgagor and shall  
17 be as compact as practicable.

18 If the homestead is not sold separately, but rather  
19 is sold in conjunction with the nonhomestead property  
20 in order to satisfy the judgment, the court shall  
21 determine the fair market value of the homestead. The  
22 court may consult with the county appraisers appointed  
23 pursuant to section 450.24 to determine the fair  
24 market value of the homestead. The mortgagor may  
25 redeem the homestead separately by tendering the fair  
26 market value of the homestead pursuant to chapter  
27 628."

28 2. Page 2, lines 34 through 36, by striking the  
29 words and figure "and does not exercise the homestead  
30 exemption under section 561.16".

31 3. Page 2, line 38, by striking the word "twenty"  
32 and inserting the word "ten".

33 4. Page 2, lines 41 and 42, by striking the words  
34 and figure "the homestead exemption under section  
35 561.16".

36 5. Page 2, line 47, by striking the word "twenty"  
37 and inserting the word "ten".

38 6. Page 6, line 7, by inserting before the word  
39 "delaying" the words "providing for the separate  
40 redemption of a homestead".

S-5912 Filed April 30, 1986

BY HUSAK

*H/D 5/1 (p. 1533)*

SENATE FILE 2270

-5919

1 Amend the House amendment S-5806 to Senate File  
2 2270 as amended, passed, and reprinted by the Senate  
3 as follows:

4 1. Page 1, by inserting before line 20, the  
5 following:

6 "Sec. 100. NEW SECTION. 554.9319 SALE OF A  
7 PRODUCT SUBJECT TO A LIEN OR SECURITY INTEREST.

8 1. An individual who in the ordinary course of  
9 business sells a product including a farm product  
10 which is subject to a security interest or a lien  
11 pursuant to chapter 570, 571, 572, 574, 576, 577, 578,  
12 579, 580, or 582 may assert a claim against the  
13 proceeds of the product in order to meet the necessary  
14 living expenses of the individual or the individual's  
15 household. The individual shall assert the lien by  
16 filing with the secured party or the lienholder and  
17 the county recorder of the county in which the person  
18 resides at least three days prior to the sale a sworn  
19 affidavit stating all of the following:

20 a. That the individual is asserting a claim under  
21 this section.

22 b. That the proceeds are from the sale of a  
23 product.

24 c. That the individual or the individual's  
25 household requires the amount claimed to meet  
26 necessary living expenses.

27 d. The name of all individuals in the household.

28 e. The amount claimed by the individual under this  
29 section on the basis of the affidavit.

30 f. That the total amount claimed by the individual  
31 under this section, including the amount claimed on  
32 the affidavit that is being sworn, in the preceding  
33 twelve months does not exceed the appropriate amount  
34 permitted in subsection 2 based upon the size of the  
35 individual's household.

36 2. a. Until superseded by rule pursuant to  
37 paragraph "b", the maximum amount that an individual  
38 may claim under this section during any twelve-month  
39 period is the following, based upon the size of the  
40 individual's household:

41 (1) For a household with one member, the annual  
42 maximum is five thousand three hundred sixty dollars.

43 (2) For a household with more than one member the  
44 annual maximum is that amount permitted under  
45 subparagraph (1) and in addition one thousand eight  
46 hundred eighty dollars for each additional member of  
47 the household.

48 b. The department of human services shall review  
49 maximum limitations at least once each twelve months  
50 and may revise the limitations by rule adopted

1 pursuant to chapter 17A. In establishing new  
2 standards, the department shall consider any revisions  
3 in the federal poverty guidelines, the current  
4 condition of the state's economy, the changes in the  
5 consumer price index and any other factor which the  
6 department deems relevant. The department shall send  
7 a copy of any new standard adopted to each county  
8 recorder who shall maintain the standards on file.

9 c. In applying the annual maximums established  
10 under this subsection, an individual shall deduct from  
11 the applicable maximum standard any income received  
12 during the twelve-month period of time by a member of  
13 the household from sources of income other than from  
14 the sale of products subject to security interests and  
15 liens.

16 3. A secured party or a lienholder may contest a  
17 claim on an affidavit filed under this section by  
18 filing a petition in the district court of the county  
19 in which the individual asserting the claim under this  
20 section resides.

21 4. The county recorder shall maintain for eighteen  
22 months from the date of filing any affidavit filed  
23 under this section. The affidavit shall be recorded  
24 under the name of the individual making the affidavit.

25 5. As used in this section, "individual's  
26 household" includes any individual residing in the  
27 same house as the individual filing the affidavit or  
28 any individual for which the individual filing the  
29 affidavit has provided at least fifty percent of the  
30 individual's support for the preceding twelve months."

31 2. Page 3, by inserting before line 20, the  
32 following:

33 "Sec. 101. Section 654.14, unnumbered paragraph 1,  
34 Code 1985, is amended to read as follows:

35 In any an action to foreclose a real estate  
36 mortgage, where if a receiver is appointed to take  
37 charge of the real estate, preference shall be given  
38 to the owner or person in actual possession, subject  
39 to approval of the court, in leasing the mortgaged  
40 premises. If the real estate is agricultural land  
41 used for farming, as defined in section 172C.1, the  
42 owner or person in actual possession shall be  
43 appointed as receiver without bond, provided that all  
44 parties agree to the appointment. Upon the agreement  
45 of the parties in mediation under chapter 654A, the  
46 mortgagor shall have the right to rent the  
47 agricultural land. If there is a foreclosure sale on  
48 the agricultural land, the mortgagor shall have the  
49 first right of refusal to repurchase the agricultural  
50 land during any period the mortgagee is holding the

1 land. The rents, profits, avails, and/or and income  
2 derived from said the real estate shall be applied as  
3 follows:".

*w/drawn*

SENATE FILE 2270

S-5924

1 Amend the House amendment, S-5806, to Senate File  
2 2270 as amended, passed, and reprinted by the Senate  
3 as follows:

4 1. By striking page 1, line 20 through page 2,  
5 line 10 and inserting the following:

6 "Sec. 100. Section 554.9502, subsection 2, Code  
7 1985, is amended to read as follows:

8 2. A secured party who by agreement is entitled to  
9 charge back uncollected collateral or otherwise to  
10 full or limited recourse against the debtor and who  
11 undertakes to collect from the account debtors or  
12 obligors must proceed in a commercially reasonable  
13 manner and may deduct the secured party's reasonable  
14 expenses of realization from the collections. If the  
15 security agreement secures an indebtedness, the  
16 secured party must account to the debtor for any  
17 surplus, and unless otherwise agreed, the debtor is  
18 liable for any deficiency. But, if the underlying  
19 transaction was a sale of accounts or chattel paper,  
20 the debtor is entitled to any surplus or is liable for  
21 any deficiency only if the security agreement so  
22 provides. However, if the loan is secured by  
23 agricultural land, then the security agreement shall  
24 provide that the loan is a nonrecourse loan and the  
25 debtor is not liable for any deficiency.

26 Sec. 101. Section 554.9504, subsection 2, Code  
27 1985, is amended to read as follows:

28 2. If the security interest secures an  
29 indebtedness, the secured party must account to the  
30 debtor for any surplus, and, unless otherwise agreed,  
31 the debtor is liable for any deficiency. But if the  
32 underlying transaction was a sale of accounts or  
33 chattel paper, the debtor is entitled to any surplus  
34 or is liable for any deficiency only if the security  
35 agreement so provides. However, if the loan is  
36 secured by agricultural land, then the security  
37 agreement shall provide that the loan is a nonrecourse  
38 loan and the debtor is not liable for any deficiency."

39 2. Page 2, lines 42 through 45, by striking the  
40 words and figure "the delay of the enforceability of a  
41 deficiency judgment or general execution under section  
42 654.6 in relation to the execution under which the  
43 exemption is claimed".

44 3. Page 3, by inserting after line 19 the  
45 following:

46 "Sec. 102. Section 654.6, Code 1985, is amended to  
47 read as follows:

48 654.6 DEFICIENCY -- GENERAL EXECUTION.

49 If the mortgaged property does not sell for  
50 sufficient to satisfy the execution, a general

1 execution may be issued against the mortgagor, unless  
2 the parties have stipulated otherwise. However, a  
3 loan made after the effective date of this Act that is  
4 secured by agricultural land shall be a nonrecourse  
5 loan. The borrower is not liable in an action on the  
6 mortgage or the note for any deficiency resulting if  
7 the proceeds from the sale of the collateral on the  
8 loan are insufficient to fully cover the outstanding  
9 indebtedness on the loan. As used in this section,  
10 "borrower" includes any person obligated to make  
11 payments under the loan agreement."

12 4. Page 5, by striking lines 46 and 47 and  
13 inserting the following:

14 "Sec. \_\_\_\_ . Sections 100, 101, and 102 apply only  
15 to loans made on or after the effective date of this  
16 Act."

17 5. Page 6, lines 7 through 9, by striking the  
18 words "delaying the enforceability of certain  
19 delinquency judgments or general executions related to  
20 obligations secured by agricultural land" and  
21 inserting the following: "providing restrictions on  
22 obligations secured by agricultural land".

S-5924 Filed May 1, 1986  
BY WALDSTEIN

LOST

*Lost 5/1 (p. 1533)*

SENATE FILE 2270

S-5933

1 Amend the House amendment, S-5806, to Senate File  
2 2270 as amended, passed and reprinted by the House as  
3 follows:  
4 1. Page 5, by inserting after line 35 the  
5 following:  
6 "Sec. \_\_\_\_ . 1986 Iowa Acts, House File 2353,  
7 section 5, is amended to read as follows:  
8 SEC. 5. There is appropriated from the general  
9 fund of the state to the ~~Iowa-family-farm~~ agricultural  
10 development authority for the fiscal year period  
11 beginning July 1, 1985 and ending ~~June~~ August 30,  
12 1986, the amount of five million (5,000,000) dollars  
13 or so much thereof as is necessary, to be used for  
14 providing financial assistance to Iowa farmers under  
15 and through the agricultural loan assistance program,  
16 by providing moneys for grants under agreements  
17 subject to section 175.35 entered into on or after  
18 March 1, 1986 but before ~~July~~ September 1, 1986. If  
19 the grants under the agreements exceed two million  
20 dollars, the excess shall be transferred from the Iowa  
21 plan fund for economic development, notwithstanding  
22 the provisions of 1985 Acts, chapter 33. Not more  
23 than one hundred thousand (100,000) dollars, or so  
24 much thereof as is necessary, shall be used for  
25 general administration, including salaries, support,  
26 and miscellaneous purposes. Moneys appropriated by  
27 this section which are committed for grants under  
28 agreements entered into on or after March 1, 1986 but  
29 before ~~July~~ September 1, 1986, do not revert to the  
30 general fund or the Iowa plan fund. Moneys  
31 appropriated by this section which are committed for  
32 agreements but which are not utilized for the grants  
33 by July 1, 1987 revert on a pro rata basis to the  
34 general fund and the Iowa plan fund."  
35 2. Page 6, lines 5 and 6, by striking the words  
36 "the enforcement of".  
37 3. Page 6, line 6, by inserting after the word  
38 "certain" the following: "loans,".  
39 4. Page 6, line 18, by inserting after the word  
40 "emergency" the following: "extending the period for  
41 grants under the agricultural assistance program,".

S-5933 Filed May 1, 1986

BY HUSAK

*Adopted 5/1 (p. 1533)*

*Adopted*

S-5929

1 Amend the House amendment, S-5806, to Senate File  
2 2270 as amended, passed and reprinted by the Senate as  
3 follows:

4 1. Page 1, by inserting after line 19 the  
5 following:

6 "Sec. 100. NEW SECTION. 654.16 SEPARATE  
7 REDEMPTION OF HOMESTEAD.

8 If a foreclosure sale is ordered on agricultural  
9 land used for farming, as defined in section 175.2,  
10 the mortgagor may, by a date set by the court but not  
11 later than ten days before the sale, designate to the  
12 court the portion of the land which the mortgagor  
13 claims as a homestead. The homestead may be any  
14 contiguous portion of forty acres or less of the real  
15 estate subject to the foreclosure. The homestead  
16 shall contain the residence of the mortgagor and shall  
17 be as compact as practicable.

A

18 If the homestead is not sold separately, but rather  
19 is sold in conjunction with the nonhomestead property  
20 in order to satisfy the judgment, the court shall  
21 determine the fair market value of the homestead. The  
22 court may consult with the county appraisers appointed  
23 pursuant to section 450.24 to determine the fair  
24 market value of the homestead. The mortgagor may  
25 redeem the homestead separately by tendering the fair  
26 market value of the homestead pursuant to chapter  
27 628."

28 2. Page 1, line 39, by inserting after the word  
29 "entity." the following: "This requirement is  
30 satisfied if there was such a condition at the time  
31 the original loan was made."

B

32 3. Page 2, lines 34 through 36, by striking the  
33 words and figure "and does not exercise the homestead  
34 exemption under section 561.16".

35 4. Page 2, line 38, by striking the word "twenty"  
36 and inserting the word "ten".

37 5. Page 2, lines 41 and 42, by striking the words  
38 and figure "the homestead exemption under section  
39 561.16 or".

A

40 6. Page 2, line 47, by striking the word "twenty"  
41 and inserting the word "ten".

42 7. Page 5, by inserting after line 45 the  
43 following:

44 "Sec. \_\_\_\_ . This Act applies to actions filed on or  
45 after the effective date of this Act."

46 8. Page 6, line 3, by inserting after the word  
47 "Iowa" the following: ", but not later than July 1,  
48 1986".

49 9. Page 6, line 7, by inserting before the word  
50 "delaying" the words "providing for the separate

S-5929 p. 2

1 redemption of a homestead".

2 10. Page 6, line 7, by striking the word  
3 "delinquency" and inserting the word "deficiency".

B

S-5929 Filed May 1, 1986  
BY HUSAK

A & B Adopted

Adopted 5/1 (p. 1533)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2270  
H-6115

Amend the House amendment, S-5806, to Senate File 2270 as amended, passed and reprinted by the Senate as follows:

1. Page 1, by inserting after line 19 the following:

"Sec. 100. NEW SECTION. 654.16 SEPARATE REDEMPTION OF HOMESTEAD.

If a foreclosure sale is ordered on agricultural land used for farming, as defined in section 175.2, the mortgagor may, by a date set by the court but not later than ten days before the sale, designate to the court the portion of the land which the mortgagor claims as a homestead. The homestead may be any contiguous portion of forty acres or less of the real estate subject to the foreclosure. The homestead shall contain the residence of the mortgagor and shall be as compact as practicable.

If the homestead is not sold separately, but rather is sold in conjunction with the nonhomestead property in order to satisfy the judgment, the court shall determine the fair market value of the homestead. The court may consult with the county appraisers appointed pursuant to section 450.24 to determine the fair market value of the homestead. The mortgagor may redeem the homestead separately by tendering the fair market value of the homestead pursuant to chapter 628."

2. Page 1, line 39, by inserting after the word "entity." the following: "This requirement is satisfied if there was such a condition at the time the original loan was made."

3. Page 2, lines 34 through 36, by striking the words and figure "and does not exercise the homestead exemption under section 561.16".

4. Page 2, line 38, by striking the word "twenty" and inserting the word "ten".

5. Page 2, lines 41 and 42, by striking the words and figure "the homestead exemption under section 561.16 or".

6. Page 2, line 47, by striking the word "twenty" and inserting the word "ten".

7. Page 5, by inserting after line 35 the following:

"Sec. \_\_\_\_ . 1986 Iowa Acts, House File 2353, section 5, is amended to read as follows:

SEC. 5. There is appropriated from the general fund of the state to the ~~Iowa-family-farm~~ agricultural development authority for the fiscal year period beginning July 1, 1985 and ending ~~June~~ August 30, 1986, the amount of five million (5,000,000) dollars

H-6115

Page Two

1 or so much thereof as is necessary, to be used for  
2 providing financial assistance to Iowa farmers under  
3 and through the agricultural loan assistance program,  
4 by providing moneys for grants under agreements  
5 subject to section 175.35 entered into on or after  
6 March 1, 1986 but before ~~July~~ September 1, 1986. If  
7 the grants under the agreements exceed two million  
8 dollars, the excess shall be transferred from the Iowa  
9 plan fund for economic development, notwithstanding  
10 the provisions of 1985 Acts, chapter 33. Not more  
11 than one hundred thousand (100,000) dollars, or so  
12 much thereof as is necessary, shall be used for  
13 general administration, including salaries, support,  
14 and miscellaneous purposes. Moneys appropriated by  
15 this section which are committed for grants under  
16 agreements entered into on or after March 1, 1986 but  
17 before ~~July~~ September 1, 1986, do not revert to the  
18 general fund or the Iowa plan fund. Moneys  
19 appropriated by this section which are committed for  
20 agreements but which are not utilized for the grants  
21 by July 1, 1987 revert on a pro rata basis to the  
22 general fund and the Iowa plan fund."

23 8. Page 5, by inserting after line 45 the  
24 following:

25 "Sec. \_\_\_\_\_. This Act applies to actions filed on or  
26 after the effective date of this Act."

27 9. Page 6, line 3, by inserting after the word  
28 "Iowa" the following: ", but not later than July 1,  
29 1986".

30 10. Page 6, lines 5 and 6, by striking the words  
31 "the enforcement of".

32 11. Page 6, line 6, by inserting after the word  
33 "certain" the following: "loans,".

34 12. Page 6, line 7, by inserting before the word  
35 "delaying" the words "providing for the separate  
36 redemption of a homestead".

37 13. Page 6, line 7, by striking the word  
38 "delinquency" and inserting the word "deficiency".

39 14. Page 6, line 18, by inserting after the word  
40 "emergency," the following: "extending the period for  
41 grants under the agricultural assistance program,".

42 15. By renumbering, relettering, or redesignating  
43 and correcting internal references as necessary.

H-6115 FILED MAY 1, 1986

RECEIVED FROM THE SENATE

*House concurred 5/2 (p. 2045)*

SENATE FILE 2270

S-5919

1 Amend the House amendment S-5806 to Senate File  
2 2270 as amended, passed, and reprinted by the Senate  
3 as follows:

4 1. Page 1, by inserting before line 20, the  
5 following:

6 "Sec. 100. NEW SECTION. 554.9319 SALE OF A  
7 PRODUCT SUBJECT TO A LIEN OR SECURITY INTEREST.

8 1. An individual who in the ordinary course of  
9 business sells a product including a farm product  
10 which is subject to a security interest or a lien  
11 pursuant to chapter 570, 571, 572, 574, 576, 577, 578,  
12 579, 580, or 582 may assert a claim against the  
13 proceeds of the product in order to meet the necessary  
14 living expenses of the individual or the individual's  
15 household. The individual shall assert the lien by  
16 filing with the secured party or the lienholder and  
17 the county recorder of the county in which the person  
18 resides at least three days prior to the sale a sworn  
19 affidavit stating all of the following:

20 a. That the individual is asserting a claim under  
21 this section.

22 b. That the proceeds are from the sale of a  
23 product.

24 c. That the individual or the individual's  
25 household requires the amount claimed to meet  
26 necessary living expenses.

27 d. The name of all individuals in the household.

28 e. The amount claimed by the individual under this  
29 section on the basis of the affidavit.

30 f. That the total amount claimed by the individual  
31 under this section, including the amount claimed on  
32 the affidavit that is being sworn, in the preceding  
33 twelve months does not exceed the appropriate amount  
34 permitted in subsection 2 based upon the size of the  
35 individual's household.

36 2. a. Until superseded by rule pursuant to  
37 paragraph "b", the maximum amount that an individual  
38 may claim under this section during any twelve-month  
39 period is the following, based upon the size of the  
40 individual's household:

41 (1) For a household with one member, the annual  
42 maximum is five thousand three hundred sixty dollars.

43 (2) For a household with more than one member the  
44 annual maximum is that amount permitted under  
45 subparagraph (1) and in addition one thousand eight  
46 hundred eighty dollars for each additional member of  
47 the household.

48 b. The department of human services shall review  
49 maximum limitations at least once each twelve months  
50 and may revise the limitations by rule adopted

1 pursuant to chapter 17A. In establishing new  
2 standards, the department shall consider any revisions  
3 in the federal poverty guidelines, the current  
4 condition of the state's economy, the changes in the  
5 consumer price index and any other factors which the  
6 department deems relevant. The department shall send  
7 a copy of any new standard adopted to each county  
8 recorder who shall maintain the standards on file.

9 c. In applying the annual maximums established  
10 under this subsection, an individual shall deduct from  
11 the applicable maximum standard any income received  
12 during the twelve-month period of time by a member of  
13 the household from sources of income other than from  
14 the sale of products subject to security interests and  
15 liens.

16 3. A secured party or a lienholder may contest a  
17 claim on an affidavit filed under this section by  
18 filing a petition in the district court of the county  
19 in which the individual asserting the claim under this  
20 section resides.

21 4. The county recorder shall maintain for eighteen  
22 months from the date of filing any affidavit filed  
23 under this section. The affidavit shall be recorded  
24 under the name of the individual making the affidavit.

25 5. As used in this section, "individual's  
26 household" includes any individual residing in the  
27 same house as the individual filing the affidavit or  
28 any individual for which the individual filing the  
29 affidavit has provided at least fifty percent of the  
30 individual's support for the preceding twelve months."

31 2. Page 3, by inserting before line 20, the  
32 following:

33 "Sec. 101. Section 654.14, unnumbered paragraph 1,  
34 Code 1985, is amended to read as follows:

35 In any an action to foreclose a real estate  
36 mortgage, where if a receiver is appointed to take  
37 charge of the real estate, preference shall be given  
38 to the owner or person in actual possession, subject  
39 to approval of the court, in leasing the mortgaged  
40 premises. If the real estate is agricultural land  
41 used for farming, as defined in section 172C.1, the  
42 owner or person in actual possession shall be  
43 appointed as receiver without bond, provided that all  
44 parties agree to the appointment. Upon the agreement  
45 of the parties in mediation under chapter 654A, the  
46 mortgagor shall have the right to rent the  
47 agricultural land. If there is a foreclosure sale on  
48 the agricultural land, the mortgagor shall have the  
49 first right of refusal to repurchase the agricultural  
50 land during any period the mortgagee is holding the

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1 land. The rents, profits, avails, and/or and income  
2 derived from said the real estate shall be applied as  
3 follows:".

S-5919 Filed May 1, 1986  
BY BOSWELL, RIORDAN

*W/drawn*

SENATE FILE 2270

AN ACT

RELATING TO CERTAIN LOANS, DEBTS AND OBLIGATIONS, BY PROVIDING FOR THE SEPARATE REDEMPTION OF A HOMESTEAD, DELAYING THE ENFORCEABILITY OF CERTAIN DEFICIENCY JUDGMENTS OR GENERAL EXECUTIONS RELATED TO OBLIGATIONS SECURED BY AGRICULTURAL LAND, PROVIDING FOR CERTAIN EXEMPTIONS FROM EXECUTION AND GARNISHMENT, PROVIDING FOR THE ELIGIBILITY OF CERTAIN TYPES OF REAL ESTATE FOR A FORECLOSURE CONTINUANCE, PROVIDING TIME LIMITS FOR APPLYING FOR A FORECLOSURE CONTINUANCE AND FOR THE TERM OF A FORECLOSURE CONTINUANCE, PROVIDING IMMEDIATE FORECLOSURE CONTINUANCE ELIGIBILITY TO REAL ESTATE USED FOR SMALL BUSINESS, PROVIDING AN EXTENSION OF TIME UNDER THE CURRENT DECLARATION OF ECONOMIC EMERGENCY, EXTENDING THE PERIOD FOR GRANTS UNDER THE AGRICULTURAL ASSISTANCE PROGRAM, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. LEGISLATIVE FINDINGS.

The general assembly finds and declares as follows:

1. The state of Iowa is suffering from a financial crisis in agriculture that affects the entire economic health of this state.
2. This financial crisis has grown to include the business communities which, together with the agricultural producers, form the core of the state's economy.
3. A large number of producers and farm families are being forced to leave farming and make a new start.
4. It is deemed to be in the best interest of the state to protect the business communities and the dislocated farm families affected by the financial crisis in agriculture.

Sec. 2. NEW SECTION. 654.16 SEPARATE REDEMPTION OF HOMESTEAD.

If a foreclosure sale is ordered on agricultural land used for farming, as defined in section 175.2, the mortgagor may, by a date set by the court but not later than ten days before the sale, designate to the court the portion of the land which the mortgagor claims as a homestead. The homestead may be any contiguous portion of forty acres or less of the real estate subject to the foreclosure. The homestead shall contain the residence of the mortgagor and shall be as compact as practicable.

If the homestead is not sold separately, but rather is sold in conjunction with the nonhomestead property in order to satisfy the judgment, the court shall determine the fair market value of the homestead. The court may consult with the county appraisers appointed pursuant to section 450.24 to determine the fair market value of the homestead. The mortgagor may redeem the homestead separately by tendering the fair market value of the homestead pursuant to chapter 628.

Sec. 3. Section 654.6, Code 1985, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. However, a deficiency judgment or general execution premised upon the deficiency judgment issued against the mortgagor shall not be enforceable until July 1, 1991 if all of the following apply:

1. The mortgaged property is agricultural land.
2. The mortgagor was actively engaged in farming the agricultural land upon the commencement of the action which resulted in a deficiency judgment.
3. The action was for the foreclosure of a first mortgage on the agricultural land or for the enforcement of an obligation secured by a first mortgage on the agricultural land.
4. The first mortgage secures a loan obligation, where a condition for the making of the loan was that the borrower purchase or own stock in the entity making the loan or in an entity related to the lending entity. This requirement is

satisfied if there was such a condition at the time the original loan was made.

5. The mortgagor does not exercise the exemptions provided under section 627.6 in relation to the deficiency judgment or a general execution premised upon the deficiency judgment.

NEW UNNUMBERED PARAGRAPH. The running of time periods affecting the enforceability of the deficiency judgment or general execution is suspended until July 1, 1991. Assets of the mortgagor sufficient to satisfy the deficiency judgment shall be held by the mortgagor during the period of delay provided in this section. The court shall determine which assets shall be held, and a sale, disposition, or further encumbrance of these assets is not permitted without the consent of the court. The delay may not be waived before the issuance of the deficiency judgment. After the issuance of the deficiency judgment, the mortgagor may waive the delay by filing a waiver signed by the mortgagor with the court. This section applies to actions pending on the effective date of this Act and actions commenced on or after the effective date of this Act but before July 1, 1991.

Sec. 4. Section 627.6, subsection 5, Code 1985, is amended by striking the subsection.

Sec. 5. Section 627.6, subsection 10, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

10. Any combination of the following, not to exceed a value of five thousand dollars in the aggregate:

a. Musical instruments, not including radios, television sets, or record or tape playing machines, held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

b. One motor vehicle.

c. In the event of a bankruptcy proceeding, the debtor's interest in accrued wages and in state and federal tax refunds as of the date of filing of the petition in bankruptcy, not to

exceed one thousand dollars in the aggregate. This exemption is in addition to the limitations contained in sections 642.21 and 537.5105.

Sec. 6. Section 627.6, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 11. If the debtor is engaged in any profession or occupation other than farming, the proper implements, professional books, or tools of the trade of the debtor or a dependent of the debtor, not to exceed in value ten thousand dollars in the aggregate.

NEW SUBSECTION. 12. If the debtor is engaged in farming and does not exercise the delay of the enforceability of a deficiency judgment or general execution under section 654.6 in relation to the execution under which the exemption is claimed, any combination of the following, not to exceed a value of ten thousand dollars in the aggregate:

a. Implements and equipment reasonably related to a normal farming operation. This exemption is in addition to a motor vehicle held exempt under subsection 10.

b. Livestock and feed for the livestock reasonably related to a normal farming operation.

NEW SUBSECTION. 13. If the debtor is engaged in farming the agricultural land upon the commencement of an action for the foreclosure of a mortgage on the agricultural land or for the enforcement of an obligation secured by a mortgage on the agricultural land, if a deficiency judgment is issued against the debtor, and if the debtor does not exercise the delay of the enforceability of the deficiency judgment or general execution under section 654.6 in relation to the execution under which the exemption is claimed, the disposable earnings of the debtor are exempt from garnishment to enforce the deficiency judgment after two years from the entry of the deficiency judgment, sections 642.21 and 642.22 notwithstanding. However, earnings paid to the debtor directly or indirectly by the debtor are not exempt.

Sec. 7. Section 654.15, subsection 1, Code Supplement 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An owner of a small business may apply for a continuance as provided in this subsection if the real estate subject to foreclosure is used for the small business. The court may continue the foreclosure proceeding if the court finds that the application is made in good faith and is supported by competent evidence showing that the default in payment or inability to pay is due to the economic condition of the customers of the small business, because the customers of the small business have been significantly economically distressed as a result of drought, flood, heat, hail, storm, or other climatic conditions or due to infestation of pests. The length of the continuance shall be determined by the court, but shall not exceed two years.

Sec. 8. Section 654.15, subsection 2, Code Supplement 1985, is amended to read as follows:

2. In all actions for the foreclosure of real estate mortgages, deeds of trust of real property estate, and contracts for the purchase of real estate, an owner of real estate may apply for a moratorium as provided in this subsection if the governor declares a state of economic emergency. ~~The declaration by the governor of a state of economic emergency shall be valid for no more than one year for the purposes of this subsection.~~ The governor shall state in the declaration whether the types of real estate eligible for a moratorium is applicable to continuance, which may include real estate used for farming; designated types of real estate not used for farming, including real estate used for small business; or all real estate. Only property of ~~the~~ a type specified in the declaration which is subject to a mortgage, deed of trust, or contract for purchase entered into before the date of the declaration is eligible for a moratorium. In an action for the foreclosure of a mortgage,

deed of trust, or contract for purchase of real property estate eligible for a moratorium, the owner may apply for a continuance of the foreclosure if the owner has entered an appearance and filed an answer admitting some indebtedness and breach of the terms of the designated instrument. The admissions cannot be withdrawn or denied after a continuance is granted. Applications for continuance made pursuant to this subsection must be filed within one year of the governor's declaration of economic emergency. Upon the filing of an application as provided in this subsection, the court shall set a date for hearing and provide by order for notice to the parties of the time for the hearing. If the court finds that the application is made in good faith and the owner is unable to pay or perform, the court may continue the foreclosure proceeding as follows:

a. If the application is made in regard to real estate used for farming, ~~and if the default or breach of terms of the written instrument occurs on or before the first day of March of the year in which the governor declares a state of economic emergency, then~~ the continuance shall terminate ~~on the first day of March of the succeeding year~~ two years from the date of the order. If the application is made in regard to real estate not used for farming, the continuance shall terminate one year from the date of the order.

b. Only one continuance shall be granted the applicant or petitioner for each written instrument or contract under each declaration. ~~Except as provided in paragraph "a", the continuance shall not exceed one year.~~

c. The court shall appoint a receiver to take charge of the property and to rent the property. The ~~owner or person in possession of the property~~ applicant shall be given preference in the occupancy of the property. The receiver, who may be the ~~owner or person in possession~~ applicant, shall collect the rents and income and distribute the proceeds as follows:

(1) For the payment of the costs of receivership, including the required interest on the written instrument and the costs of operation.

(2) For the payment of taxes due or becoming due during the period of receivership.

(3) For the payment of insurance deemed necessary by the court including but not limited to insurance on the buildings on the premises and liability insurance.

(4) The remaining balance shall be paid to the owner of the written instrument upon which the foreclosure was based, to be credited against the deferred interest and then against the principal due on the written instrument.

d. A continuance granted under this subsection may be terminated if the court finds, after notice and hearing, all of the following:

(1) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to restructure the debt obligations of the applicant.

(2) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to utilize state and federal programs designed and implemented to provide debtor relief options. For the purposes of subparagraph (1) and this subparagraph, the determination of reasonableness shall take into account the financial condition of the party seeking foreclosure, and the financial strength and the long-term financial survivorship potential of the applicant.

(3) The applicant has failed to pay interest due on the written instrument.

Sec. 9. Section 654.15, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 3. As used in this section, "small business" means the same as defined in section 220.1.

Sec. 10. 1986 Iowa Acts, House File 2353, section 5, is amended to read as follows:

SEC. 5. There is appropriated from the general fund of the state to the ~~Iowa-family-farm~~ agricultural development authority for the fiscal year period beginning July 1, 1985 and ending ~~June~~ August 30, 1986, the amount of five million (5,000,000) dollars or so much thereof as is necessary, to be used for providing financial assistance to Iowa farmers under and through the agricultural loan assistance program, by providing moneys for grants under agreements subject to section 175.35 entered into on or after March 1, 1986 but before ~~July~~ September 1, 1986. If the grants under the agreements exceed two million dollars, the excess shall be transferred from the Iowa plan fund for economic development, notwithstanding the provisions of 1985 Acts, chapter 33. Not more than one hundred thousand (100,000) dollars, or so much thereof as is necessary, shall be used for general administration, including salaries, support, and miscellaneous purposes. Moneys appropriated by this section which are committed for grants under agreements entered into on or after March 1, 1986 but before ~~July~~ September 1, 1986, do not revert to the general fund or the Iowa plan fund. Moneys appropriated by this section which are committed for agreements but which are not utilized for the grants by July 1, 1987 revert on a pro rata basis to the general fund and the Iowa plan fund.

Sec. 11. Notwithstanding section 654.15, subsection 2, the declaration of economic emergency made by the governor on October 1, 1985, is in effect until March 30, 1987.

Sec. 12. Notwithstanding the provisions of the declaration of economic emergency made by the governor on October 1, 1985, real estate used for small business is eligible for a moratorium continuance after the effective date of this Act and through the remaining effective period of the declaration.

Sec. 13. This Act applies to actions filed on or after the effective date of this Act.

Sec. 14. Section 3 of this Act is repealed effective July 1, 1991.

Sec. 15. This Act, being deemed of immediate importance, takes effect from and after its publication in The Algona Upper Des Moines, a newspaper published in Algona, Iowa, and in the Audubon News-Advocate, a newspaper published in Audubon, Iowa, but not later than July 1, 1986.

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ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2270, Seventy-first General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved May 23, 1986

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TERRY E. BRANSTAD  
Governor

S.F. 2270