

H-8038

1 Amend House File 2234 as follows:

2 1. By striking page 1, line 33, through page 2, line 8, and  
3 inserting:

4 <Sec. \_\_\_\_\_. Section 628.3, Code 2018, is amended to read as  
5 follows:

6 **628.3 Redemption by debtor.**

7 The debtor may redeem real property at any time within  
8 one year from the day of sale, and will, in the meantime,  
9 be entitled to the possession thereof; and for the first six  
10 months thereafter such right of redemption is exclusive.  
11 However, the time that a debtor has to redeem real property may  
12 be reduced in direct proportion to any delay in the service  
13 of a default notice or the filing of the forfeiture action  
14 required by 12 C.F.R. §1024.41(f)(1)(i) provided that the total  
15 time that the debtor has to redeem is not less than six months  
16 from the day of sale, that the debtor will, in the meantime,  
17 be entitled to the possession of the real property, and that  
18 for the first six months after the day of sale such right of  
19 redemption is exclusive. Any real property redeemed by the  
20 debtor shall thereafter be free and clear from any liability  
21 for any unpaid portion of the judgment under which said real  
22 property was sold.>

23 2. By striking page 2, line 31, through page 3, line 11, and  
24 inserting:

25 <Sec. \_\_\_\_\_. Section 628.26, Code 2018, is amended to read as  
26 follows:

27 **628.26 Agreement to reduce period of redemption.**

28 1. The mortgagor and the mortgagee of real property  
29 consisting of less than ten acres in size may agree and provide  
30 in the mortgage instrument that the period of redemption after  
31 sale on foreclosure of said mortgage as set forth in section  
32 628.3 be reduced to six months, provided the mortgagee waives  
33 in the foreclosure action any rights to a deficiency judgment  
34 against the mortgagor which might arise out of the foreclosure  
35 proceedings. In such event the debtor will, in the meantime,

1 be entitled to the possession of said real property; and if  
2 such redemption period is so reduced, for the first three  
3 months after sale such right of redemption shall be exclusive  
4 to the debtor, and the time periods in [sections 628.5, 628.15,](#)  
5 and [628.16](#), shall be reduced to four months.

6 2. Notwithstanding subsection 1, if there is a delay in the  
7 service of a default notice or the filing of the forfeiture  
8 action required by 12 C.F.R. §1024.41(f)(1)(i), the mortgagor  
9 and the mortgagee of real property consisting of less than ten  
10 acres in size may agree and provide in the mortgage instrument  
11 that the period of redemption after sale on foreclosure of said  
12 mortgage as set forth in section 628.3 be reduced in proportion  
13 to the delay caused by 12 C.F.R. §1024.41(f)(1)(i), provided  
14 that the total time the debtor has to redeem is not less than  
15 three months, and that the mortgagee waives in the foreclosure  
16 action any rights to a deficiency judgment against the  
17 mortgagor which might arise out of the foreclosure proceedings.  
18 In such event the debtor will, in the meantime, be entitled to  
19 the possession of said real property; and if such redemption  
20 period is so reduced, for the first month after sale such right  
21 of redemption shall be exclusive to the debtor, and the time  
22 periods in sections 628.5, 628.15, and 628.16, shall be reduced  
23 to two months.>

24 3. Page 3, by striking lines 12 through 35 and inserting:  
25 <Sec. \_\_\_\_ . Section 654.20, subsection 1, Code 2018, is  
26 amended to read as follows:

27 1. a. If the mortgaged property is not used for an  
28 agricultural purpose as defined in [section 535.13](#) and there was  
29 not a delay in the service of a default notice or the filing of  
30 the forfeiture action required by 12 C.F.R. §1024.41(f)(1)(i),  
31 the plaintiff in an action to foreclose a real estate mortgage  
32 may include in the petition an election for foreclosure without  
33 redemption. The election is effective only if the first page  
34 of the petition contains the following notice in capital  
35 letters of the same type or print size as the rest of the

1 petition:

2 NOTICE

3 THE PLAINTIFF HAS ELECTED FORECLOSURE WITHOUT REDEMPTION.  
4 THIS MEANS THAT THE SALE OF THE MORTGAGED PROPERTY WILL OCCUR  
5 PROMPTLY AFTER ENTRY OF JUDGMENT UNLESS YOU FILE WITH THE COURT  
6 A WRITTEN DEMAND TO DELAY THE SALE. IF YOU FILE A WRITTEN  
7 DEMAND, THE SALE WILL BE DELAYED UNTIL TWELVE MONTHS (or  
8 SIX MONTHS if the petition includes a waiver of deficiency  
9 judgment) FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY  
10 IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING  
11 OR UNTIL TWO MONTHS FROM ENTRY OF JUDGMENT IF THE MORTGAGED  
12 PROPERTY IS NOT YOUR RESIDENCE OR IS YOUR RESIDENCE BUT NOT A  
13 ONE-FAMILY OR TWO-FAMILY DWELLING. YOU WILL HAVE NO RIGHT OF  
14 REDEMPTION AFTER THE SALE. THE PURCHASER AT THE SALE WILL BE  
15 ENTITLED TO IMMEDIATE POSSESSION OF THE MORTGAGED PROPERTY. YOU  
16 MAY PURCHASE AT THE SALE.

17 b. If the mortgaged property is not used for an agricultural  
18 purpose as defined in section 535.13 and there was a delay in  
19 the service of a default notice or the filing of the forfeiture  
20 action required by 12 C.F.R. §1024.41(f)(1)(i), the plaintiff  
21 in an action to foreclose a real estate mortgage may include in  
22 the petition an election for foreclosure without redemption.  
23 The election is effective only if the first page of the  
24 petition contains the following notice in capital letters of  
25 the same type or print size as the rest of the petition:

26 NOTICE

27 THE PLAINTIFF HAS ELECTED FORECLOSURE WITHOUT REDEMPTION.  
28 THIS MEANS THAT THE SALE OF THE MORTGAGED PROPERTY WILL OCCUR  
29 PROMPTLY AFTER ENTRY OF JUDGMENT UNLESS YOU FILE WITH THE  
30 COURT A WRITTEN DEMAND TO DELAY THE SALE. IF YOU FILE A  
31 WRITTEN DEMAND, THE SALE WILL BE DELAYED UNTIL SIX MONTHS (or  
32 THREE MONTHS if the petition includes a waiver of deficiency  
33 judgment) FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY  
34 IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING  
35 OR UNTIL TWO MONTHS FROM ENTRY OF JUDGMENT IF THE MORTGAGED

1 PROPERTY IS NOT YOUR RESIDENCE OR IS YOUR RESIDENCE BUT NOT  
2 A ONE-FAMILY OR TWO-FAMILY DWELLING. YOU WILL HAVE NO RIGHT  
3 OF REDEMPTION AFTER THE SALE. THE PURCHASER AT THE SALE WILL  
4 BE ENTITLED TO IMMEDIATE POSSESSION OF THE MORTGAGED PROPERTY.  
5 YOU MAY PURCHASE AT THE SALE.>

6 4. Page 4, by striking lines 1 through 23 and inserting:  
7 <Sec. \_\_\_\_\_. Section 654.21, Code 2018, is amended to read as  
8 follows:

9 **654.21 Demand for delay of sale.**

10 1. At any time prior to entry of judgment, the mortgagor may  
11 file a demand for delay of sale. If the demand is filed, the  
12 sale shall be held promptly after the expiration of two months  
13 from entry of judgment.

14 2. However, if the demand is filed and the mortgaged  
15 property is the residence of the mortgagor and is a one-family  
16 or two-family dwelling, the sale shall be held promptly after  
17 the expiration of twelve months, or six months if the petition  
18 includes a waiver of deficiency judgment, from entry of  
19 judgment.

20 3. However, if there was a delay in the service of a default  
21 notice or the filing of the forfeiture action required by  
22 12 C.F.R. §1024.41(f)(1)(i) and the demand is filed and the  
23 mortgaged property is the residence of the mortgagor and is  
24 a one-family or two-family dwelling, the sale shall be held  
25 promptly after the expiration of six months, or three months  
26 if the petition includes a waiver of deficiency judgment, from  
27 entry of judgment.

28 4. If the demand is filed, the mortgagor and mortgagee  
29 subsequently may file a stipulation that the sale may be held  
30 promptly after the stipulation is filed and that the mortgagee  
31 waives the right to entry of a deficiency judgment. If the  
32 stipulation is filed, the sale shall be held promptly after  
33 the filing. At any time prior to judgment, the mortgagor may  
34 pay the plaintiff the amount claimed in the petition and, if  
35 paid, the foreclosure action shall be dismissed. At any time

1 after judgment and before the sale, the mortgagor may pay the  
2 plaintiff the amount of the judgment and, if paid, the judgment  
3 shall be satisfied of record and the sale shall not be held.>

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McCONKEY of Pottawattamie