

House File 2234

H-8329

1 Amend the Senate amendment, H-8264, to House File 2234, as
2 passed by the House, as follows:

3 1. Page 1, by striking line 2 and inserting:

4 <___. By striking page 1, line 33, through page 2, line 8,
5 and inserting:

6 <Sec. ___. Section 628.3, Code 2018, is amended to read as
7 follows:

8 **628.3 Redemption by debtor.**

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

25 2. Page 1, by striking lines 3 through 15 and inserting:

26 <___. By striking page 2, line 31, through page 4, line 23,
27 and inserting:

28 <Sec. ___. Section 628.26, Code 2018, is amended to read as
29 follows:

30 **628.26 Agreement to reduce period of redemption.**

31 1. The mortgagor and the mortgagee of real property
32 consisting of less than ten acres in size may agree and provide
33 in the mortgage instrument that the period of redemption after
34 sale on foreclosure of said mortgage as set forth in section
35 628.3 be reduced to six months, provided the mortgagee waives

1 in the foreclosure action any rights to a deficiency judgment
2 against the mortgagor which might arise out of the foreclosure
3 proceedings. In such event the debtor will, in the meantime,
4 be entitled to the possession of said real property; and if
5 such redemption period is so reduced, for the first three
6 months after sale such right of redemption shall be exclusive
7 to the debtor, and the time periods in [sections 628.5, 628.15,](#)
8 and [628.16](#), shall be reduced to four months.

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

27 Sec. _____. Section 654.20, subsection 1, Code 2018, is
28 amended to read as follows:

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

1 of the petition contains the following notice in capital
2 letters of the same type or print size as the rest of the
3 petition:

4 NOTICE

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

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

28 NOTICE

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

1 IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING
2 OR UNTIL TWO MONTHS FROM ENTRY OF JUDGMENT IF THE MORTGAGED
3 PROPERTY IS NOT YOUR RESIDENCE OR IS YOUR RESIDENCE BUT NOT
4 A ONE-FAMILY OR TWO-FAMILY DWELLING. YOU WILL HAVE NO RIGHT
5 OF REDEMPTION AFTER THE SALE. THE PURCHASER AT THE SALE WILL
6 BE ENTITLED TO IMMEDIATE POSSESSION OF THE MORTGAGED PROPERTY.
7 YOU MAY PURCHASE AT THE SALE.

8 Sec. ____ . Section 654.21, Code 2018, is amended to read as
9 follows:

10 **654.21 Demand for delay of sale.**

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

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

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

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

1 paid, the foreclosure action shall be dismissed. At any time
2 after judgment and before the sale, the mortgagor may pay the
3 plaintiff the amount of the judgment and, if paid, the judgment
4 shall be satisfied of record and the sale shall not be held.>>
5 3. By renumbering, redesignating, and correcting internal
6 references as necessary.

McCONKEY of Pottawattamie