

House File 2234 - Enrolled

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AN ACT

RELATING TO SHORTENING THE PERIODS OF TIME FOR REDEEMING REAL PROPERTY FROM FORECLOSURE AND DELAYING SALE OF FORECLOSED PROPERTY AND RELATING TO THE STATUTE OF LIMITATIONS PERIOD FOR EXECUTING JUDGMENTS ON CLAIMS FOR RENT.

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

Section 1. Section 535.8, subsection 4, paragraph e, subparagraph (1), Code 2018, is amended to read as follows:

(1) Notwithstanding [section 628.3](#) when a foreclosure of a mortgage on real property results from the enforcement of a due-on-sale clause, the mortgagor may redeem the real property at any time within ~~three years~~ eighteen months from the day of sale under the levy, and the mortgagor shall, in the meantime, be entitled to the possession thereof; and for the first ~~thirty~~ fifteen months thereafter such right of redemption is exclusive. Any real property redeemed by the debtor shall thereafter be free and clear from any liability for any unpaid portion of the judgment under which the real property was sold. The right of redemption established by this paragraph is not subject to waiver by the mortgagor and the period of redemption established by this paragraph shall not be reduced. The times for redemption by creditors provided in sections 628.5, [628.15](#), and [628.16](#) shall be extended to ~~thirty-three~~ sixteen months in any case in which the mortgagor's period for redemption is extended by this paragraph. This paragraph does not apply to foreclosure of a mortgage if for any reason

other than enforcement of a due-on-sale clause. As used in this paragraph, "*due-on-sale clause*" means any type of covenant which gives the mortgagee the right to demand payment of the outstanding balance or a major part thereof upon a transfer by the mortgagor to a third party of an interest of the mortgagor in property covered by the mortgage. This paragraph applies to any foreclosure occurring on or after May 10, 1980. However, this paragraph does not apply if the lender establishes, based on reasonable criteria which are not more restrictive than those used to evaluate new mortgage-loan applications, that the security interest or the likelihood of repayment is impaired as a result of the transfer of interest.

Sec. 2. Section 615.1A, Code 2018, is amended to read as follows:

615.1A Execution on judgment — claim for rent.

After the expiration of a period of ~~five~~ ten years from the date of entry of judgment of a court not of record, or twenty years from the date of entry of judgment of a court of record, in an action on a claim for rent, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court, such judgment shall be null and void, all liens shall be extinguished, and no execution shall be issued. However, in the event that the judgment or the right to collect thereon is sold or otherwise assigned for value to a third party other than a state or federally chartered bank or credit union, such judgment shall be null and void, all liens shall be extinguished, and no execution shall be issued after the expiration of two years from the date of entry of the judgment, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action or order of court.

Sec. 3. Section 628.26, Code 2018, is amended to read as follows:

628.26 Agreement to reduce period of redemption.

The mortgagor and the mortgagee of real property consisting of less than ten acres in size may agree and provide in the mortgage instrument that the period of redemption after sale on foreclosure of said mortgage as set forth in [section 628.3](#) be reduced to six months, or reduced to three months if the

property is not used for an agricultural purpose as defined in section 535.13, provided in all cases under this section that the mortgagee waives in the foreclosure action any rights to a deficiency judgment against the mortgagor which might arise out of the foreclosure proceedings. In such event the debtor will, in the meantime, be entitled to the possession of said real property; and if such redemption period is so reduced, for the first ~~three~~ two months after sale such right of redemption shall be exclusive to the debtor, and the time periods in sections 628.5, 628.15, and 628.16, shall be reduced to ~~four~~ three months.

Sec. 4. Section 654.20, subsection 1, Code 2018, is amended to read as follows:

1. If the mortgaged property is not used for an agricultural purpose as defined in section 535.13, the plaintiff in an action to foreclose a real estate mortgage may include in the petition an election for foreclosure without redemption. The election is effective only if the first page of the petition contains the following notice in capital letters of the same type or print size as the rest of the petition:

NOTICE

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

Sec. 5. Section 654.21, Code 2018, is amended to read as follows:

654.21 Demand for delay of sale.

At any time prior to entry of judgment, the mortgagor may

file a demand for delay of sale. If the demand is filed, the sale shall be held promptly after the expiration of two months from entry of judgment. However, if the demand is filed and the mortgaged property is the residence of the mortgagor and is a one-family or two-family dwelling, the sale shall be held promptly after the expiration of ~~twelve~~ six months, or ~~six~~ three months if the petition includes a waiver of deficiency judgment, from entry of judgment. If the demand is filed, the mortgagor and mortgagee subsequently may file a stipulation that the sale may be held promptly after the stipulation is filed and that the mortgagee waives the right to entry of a deficiency judgment. If the stipulation is filed, the sale shall be held promptly after the filing. At any time prior to judgment, the mortgagor may pay the plaintiff the amount claimed in the petition and, if paid, the foreclosure action shall be dismissed. At any time after judgment and before the sale, the mortgagor may pay the plaintiff the amount of the judgment and, if paid, the judgment shall be satisfied of record and the sale shall not be held.

LINDA UPMEYER
Speaker of the House

CHARLES SCHNEIDER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2234, Eighty-seventh General Assembly.

CARMINE BOAL
Chief Clerk of the House

Approved _____, 2018

KIM REYNOLDS
Governor