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FILED MAR 09 1989

SENATE FILE 390  
BY COMMITTEE  
ON AGRICULTURE

(SUCCESSOR TO SSB 256)

Passed Senate, Date 3-28-89 (1034) Passed House, Date 3/28/90 (P.1537)  
Vote: Ayes 35 Nays 13 Vote: Ayes 96 Nays 1  
Approved 5/6/90

A BILL FOR

1 An Act relating to the transfer of agricultural land, by  
2 restricting the time land can be held by financial and  
3 insurance institutions, providing for valuation of land, the  
4 opportunity to repurchase land, for redemption, and providing  
5 effective dates and dates of applicability.

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

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SF 390

1 Section 1. Section 511.3, unnumbered paragraph 1, Code  
2 1989, is amended to read as follows:

3 Any A company or association organized under chapter 502,  
4 the laws of this or another state or country and doing  
5 business in this state shall, at all times, have invested in  
6 the securities provided in this section, funds equivalent to  
7 its legal reserve. Legal reserve shall be is the net present  
8 value of all outstanding policies, and contracts involving  
9 life contingencies. ~~Any association, organized under chapter~~  
10 ~~510, accumulating any moneys to be held in trust for the~~  
11 ~~purpose of the fulfillment of its policies or certificates,~~  
12 ~~contracts, or otherwise, shall invest such accumulations in~~  
13 ~~the securities provided in this section. However, in this~~  
14 ~~section, reference is made to "legal reserve," it shall mean~~  
15 ~~the total accumulations in the case of an association~~  
16 ~~organized under chapter 510. Nothing herein contained shall~~  
17 this section does not prohibit a company or association from  
18 holding a portion of its legal reserve in cash.

19 Sec. 2. Section 511.5, subsection 10, paragraph b, Code  
20 1989, is amended to read as follows:

21 b. Any real estate acquired through foreclosure, or in  
22 settlement or satisfaction of any indebtedness by a company or  
23 association, including a life insurance company organized  
24 under the laws of this or another state or country and doing  
25 business in this state. Any company or association may  
26 improve real estate so acquired or remodel existing  
27 improvements and exchange such real estate for other real  
28 estate or securities, and real estate acquired by such  
29 exchange may be improved or the improvements remodeled. Any  
30 ~~farm real estate acquired under this paragraph shall be sold~~  
31 ~~within five years from the date of acquisition unless the~~  
32 ~~commissioner of insurance shall extend the time for such~~  
33 ~~period or periods as seem warranted by the circumstances.~~

34 Real property purchased by a company or association at  
35 sales upon foreclosure of mortgages or deeds of trust owned by

1 it, or acquired upon judgments or decrees obtained or rendered  
2 for debts due it, or real property conveyed to it in  
3 satisfaction of debts previously contracted in the course of  
4 its business, or real property obtained by it through  
5 redemption as a junior mortgagee or judgment creditor, shall  
6 be sold or otherwise disposed of by the company or association  
7 within two years after title is vested in the company or  
8 association, unless the time is extended by the commission.  
9 Agricultural land held by a company or association pursuant to  
10 this paragraph shall be valued on the books of the company or  
11 association at a value determined by obtaining the per acre  
12 average of the valuations for the current year and the four  
13 previous years for agricultural land in the county in which  
14 the agricultural land is located as published by Iowa state  
15 university of science and technology. If an appraisal  
16 conducted by an independent real estate appraiser is available  
17 for the current year, the five-year county average shall be  
18 adjusted by either adding or subtracting from the five-year  
19 average the percentage by which the particular farm's current  
20 appraised value exceeds or is less than the current year's  
21 county average value.

22 Sec. 3. Section 524.910, subsection 2, Code 1989, is  
23 amended to read as follows:

24 2. Real property purchased by a state bank at sales upon  
25 foreclosure of mortgages or deeds of trust owned by it, or  
26 acquired upon judgments or decrees obtained or rendered for  
27 debts due it, or real property conveyed to it in satisfaction  
28 of debts previously contracted in the course of its business,  
29 or real property obtained by it through redemption as a junior  
30 mortgagee or judgment creditor, shall be sold or otherwise  
31 disposed of by the state bank within ~~five~~ two years after  
32 title is vested in the state bank, unless the time is extended  
33 by the superintendent. Agricultural land held by a state bank  
34 pursuant to this subsection shall be valued on the books of  
35 the bank at a value determined by obtaining the per acre

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1 average of the valuations for the current year and the four  
2 previous years for agricultural land in the county in which  
3 the agricultural land is located as published by Iowa state  
4 university of science and technology. If an appraisal  
5 conducted by an independent real estate appraiser is available  
6 for the current year, the five-year county average shall be  
7 adjusted by either adding or subtracting from the five-year  
8 average the percentage by which the particular farm's current  
9 appraised value exceeds or is less than the current year's

10 county average value. To the extent permitted by federal law,  
11 national banks may value agricultural land on the same basis

12 as state banks. ~~Before the state bank sells or otherwise  
13 disposes of agricultural land held pursuant to this  
14 subsection, the state bank shall first offer the prior owner  
15 the opportunity to repurchase the agricultural land on the  
16 terms the state bank proposes to sell or dispose of the  
17 agricultural land.~~

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18 Sec. 4. Section 654.16, Code 1989, is amended to read as  
19 follows:

20 654.16 SEPARATE REDEMPTION OF HOMESTEAD.

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

30 If the designated a homestead is sold at a foreclosure sale  
31 in order to satisfy the judgment designated, the court shall  
32 determine the fair market value of the designated homestead  
33 before the sheriff's sale. The court may consult with the  
34 county appraisers appointed pursuant to section 450.24, or  
35 with one or more independent appraisers, to determine the fair

1 market value of the designated homestead.

2 The mortgagor may redeem the designated homestead by  
3 tendering the lesser of either the amount bid at the sheriff's  
4 sale pursuant to procedures set forth in chapter 628, or the  
5 fair market value, as determined pursuant to this section, of

3391-6 the designated homestead at any time within two years one year  
7 from the date of the foreclosure sheriff's sale, pursuant to  
8 the procedures set forth in chapter 628. However, ~~this~~  
9 ~~paragraph shall not apply to a member institution which has~~  
10 ~~purchased a designated homestead at a foreclosure sale.~~

11 ~~The mortgagor may redeem the designated homestead from a~~  
12 ~~member institution, which has purchased the designated~~  
13 ~~homestead at a foreclosure sale, by tendering the fair market~~  
14 ~~value of the designated homestead within one year from the~~  
15 ~~date of the foreclosure sale, pursuant to the procedures set~~  
16 ~~forth in chapter 628.~~

3341-17 If the member institution which has purchased mortgagor  
18 does not redeem the designated homestead at a foreclosure sale  
19 is not a state bank as defined in section 524.103, the  
20 following shall apply:

21 1. At Not later than the time the sheriff's deed is issued  
22 recorded, the institution grantee in the sheriff's sale shall  
23 notify the mortgagor of the mortgagor's right of first  
24 refusal. A copy of this unnumbered paragraph and subsections  
25 1 through 5 and, titled "Notice of Right of First Refusal" is  
26 sufficient notice.

27 2. If within one year after a sheriff's deed is issued to  
28 the institution recorded, the institution grantee proposes to  
29 sell or otherwise dispose of the designated homestead, in a  
30 transaction other than a public auction, the institution  
31 grantee shall first offer the mortgagor the opportunity to

343-32 repurchase the designated homestead on the same terms the  
33 institution grantee proposes to sell or dispose of the  
34 designated homestead. If the institution grantee seeks to  
35 sell or otherwise dispose of the designated homestead by

1 public auction within one year after a sheriff's deed is  
2 ~~issued to the institution~~ recorded, the mortgagor must be  
3 given sixty days' notice of all of the following:

4 a. The date, time, place, and procedures of the auction  
5 sale.

6 b. Any minimum terms or limitations imposed upon the  
7 auction.

8 3. The institution grantee is not required to offer the  
9 mortgagor financing for the purchase of the homestead.

10 4. The mortgagor has ten business days after being given  
3405-11 notice of the terms of the proposed sale or disposition, other  
12 than a public auction, in which to exercise the right to  
13 repurchase the homestead by submitting a binding offer to the  
14 institution grantee on the same terms as the proposed sale or  
15 other disposition, with closing to occur within thirty days  
16 after the offer unless otherwise agreed by the institution  
17 grantee. After the expiration of either the period for offer  
18 or the period for closing, without submission of an offer or a  
19 closing occurring, the institution grantee may sell or  
20 otherwise dispose of the designated homestead to any other  
21 person on the terms upon which it was offered to the  
22 mortgagor.

23 5. Notice of the mortgagor's right of first refusal, a  
24 proposed sale, auction, or other disposition, or the  
25 submission of a binding offer by the mortgagor, is considered  
26 given on the date the that notice or offer is personally  
27 served on the other party or on the date the that notice or  
28 offer is mailed to the other party's last known address by  
29 registered or certified mail, return receipt requested. The  
30 right of first refusal provided in this section is not  
31 assignable, but may be exercised by the mortgagor's successor  
32 in interest, receiver, personal representative, executor, or  
33 heir only in case of bankruptcy, receivership, or death of the  
34 mortgagor.

35 ~~As used in this section, "member institution" means any~~

1 lending-institution-that-is-a-member-of-the-federal-deposit  
2 insurance-corporation,-the-federal-savings-and-loan-insurance  
3 corporation,-the-national-credit-union-administration,-or-an  
4 affiliate-of-such-institution-

5 Sec. 5. This Act, being deemed of immediate importance,  
6 takes effect upon enactment.

7 Sec. 6. A company or association which has purchased land  
3391- 8 before the effective date of this Act has until July 1, 1991,  
9 to dispose of the land as provided under section 511.8 as  
10 amended by this Act.

3391- 11 Sec. 7. Section 524.910, Code 1989, as amended by section  
12 3 of this Act, applies to all foreclosure actions filed on or  
13 after March 30, 1990, and as applied to a prior owner's  
14 opportunity to repurchase agricultural land is retroactive to  
15 all foreclosure actions for which a sheriff's sale has not  
16 been held on March 30, 1990.

3391- 17 Sec. 8. Section 654.16, Code 1989, as amended by section 4  
18 of this Act, applies to all foreclosure actions filed on or  
19 after the effective date of this Act, and is retroactive to  
20 all foreclosure actions for which a sheriff's sale has not  
21 been held on the effective date of this Act.

22 EXPLANATION

23 This bill amends section 511.8 by reducing from five to two  
24 the number of years that an insurance company or association  
25 may hold agricultural land acquired through foreclosure, and  
26 provides a valuation method for the land. The bill applies to  
27 all life insurance companies doing business in the state.

28 As of March 30, 1990, the bill amends section 524.910 by  
29 reducing from five to two the number of years that a state  
30 bank may hold agricultural land acquired through foreclosure.  
31 A requirement under section 524.910 that the bank must offer  
32 the prior owner the opportunity to repurchase the land is  
33 eliminated on the same date.

34 The bill amends section 654.16 to provide the following:

- 35 1. A homestead on agricultural land as designated by a

1 court, under the section, may be redeemed by the mortgagor for  
2 fair market value. However, the bill provides that the  
3 mortgagor may, if the amount is less, redeem the homestead by  
4 paying the amount bid at the sheriff's sale as provided under  
5 chapter 628.

6 2. The Iowa supreme court, in Federal Land Bank of Omaha  
7 v. Arnold, 426 N.W. 2d 153 (Iowa 1988), struck down a  
8 provision in section 654.16 and decided that allowing some  
9 mortgagees to provide less than two years' time for redemption  
10 is unconstitutional if other mortgagees must provide two  
11 years. The bill provides all mortgagors must have one year of  
12 redemption as described above.

13 3. The provision in section 654.16 requires a "member  
14 institution" to extend a one-year first right of refusal to  
15 the mortgagor in lieu of the two-year redemption requirement.  
16 The Arnold case held that the "member institution" distinction  
17 is unconstitutional.

18 4. The bill provides effective dates and dates of  
19 applicability as follows:

20 a. An insurance company or association acquiring land by  
21 foreclosure before the effective date of the Act, has until  
22 July 1, 1991, to dispose of the land as provided in this bill.

23 b. The amendments to sections 524.910 and 654.16 as  
24 applied to opportunities to repurchase land by prior owners  
25 and the right of redemption by prior owners are retroactive to  
26 all foreclosure actions for which a sheriff's sale has not  
27 been held on either March 30, 1990, or the effective date of  
28 the Act.

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House Copy

Amended from SSB 256, H. Pass 4/15/90 (p. 401)

SENATE FILE 390  
BY COMMITTEE  
ON AGRICULTURE

(SUCCESSOR TO SSB 256)

(AS AMENDED AND PASSED BY THE SENATE MARCH 28, 1989)

~~AS AMENDED AND PASSED BY THE SENATE MARCH 28, 1989~~ - New Language by the Senate

Passed Senate, Date 4/2/90 (p. 1454) Passed House, Date 3/28/90 (p. 1537)

Vote: Ayes 49 Nays 0 Vote: Ayes 96 Nays 1

Approved May 6, 1990

A BILL FOR

1 An Act relating to the transfer of agricultural land, by  
2 restricting the time land can be held by financial and  
3 insurance institutions, providing for valuation of land, the  
4 opportunity to repurchase land, for redemption, and providing  
5 effective dates and dates of applicability.

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

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1 Section 1. Section 511.8, unnumbered paragraph 1, Code  
2 1989, is amended to read as follows:

3 Any A company, or association organized under chapter-508,  
4 the laws of this or another state or country and doing  
5 business in this state shall, at all times, have invested in  
6 the securities provided in this section, funds equivalent to  
7 its legal reserve. Legal reserve ~~shall be~~ is the net present  
8 value of all outstanding policies, and contracts involving  
9 life contingencies. ~~Any association, organized under chapter~~  
10 ~~510, accumulating any moneys to be held in trust for the~~  
11 ~~purpose of the fulfillment of its policies or certificates,~~  
12 ~~contracts, or otherwise, shall invest such accumulations in~~  
13 ~~the securities provided in this section.--Wherever, in this~~  
14 ~~section, reference is made to "legal reserve", it shall mean~~  
15 ~~the total accumulations in the case of an association~~  
16 ~~organized under chapter 510.--Nothing herein contained shall~~  
17 This section does not prohibit a company or association from  
18 holding a portion of its legal reserve in cash.

19 Sec. 2. Section 511.8, subsection 10, paragraph b, Code  
20 1989, is amended to read as follows:

21 b. Any real estate acquired through foreclosure, or in  
22 settlement or satisfaction of any indebtedness by a company or  
23 association, including a life insurance company organized  
24 under the laws of this or another state or country and doing  
25 business in this state. Any company or association may  
26 improve real estate so acquired or remodel existing  
27 improvements and exchange such real estate for other real  
28 estate or securities, and real estate acquired by such  
29 exchange may be improved or the improvements remodeled. Any  
30 ~~farm real estate acquired under this paragraph shall be sold~~  
31 ~~within five years from the date of acquisition unless the~~  
32 ~~commissioner of insurance shall extend the time for such~~  
33 ~~period or periods as seem warranted by the circumstances.~~

34 Real property purchased by a company or association at  
35 sales upon foreclosure of mortgages or deeds of trust owned by

1 or acquired upon judgments or decrees obtained or rendered  
2 debts due it, or real property conveyed to it in  
3 satisfaction of debts previously contracted in the course of  
4 its business, or real property obtained by it through  
5 redemption as a junior mortgagee or judgment creditor, shall  
6 be sold or otherwise disposed of by the company or association  
7 within two years after title is vested in the company or  
8 association, unless the time is extended by the commission.  
9 Agricultural land held by a company or association pursuant to  
10 this paragraph shall be valued on the books of the company or  
11 association at a value determined by obtaining the per acre  
12 average of the valuations for the current year and the four  
13 previous years for agricultural land in the county in which  
14 the agricultural land is located as published by Iowa state  
15 university of science and technology. If an appraisal  
16 conducted by an independent real estate appraiser is available  
17 for the current year, the five-year county average shall be  
18 adjusted by either adding or subtracting from the five-year  
19 average the percentage by which the particular farm's current  
20 appraised value exceeds or is less than the current year's  
21 county average value.

22 Sec. 3. Section 524.910, subsection 2, Code 1989, is  
23 amended to read as follows:

24 2. Real property purchased by a state bank at sales upon  
25 foreclosure of mortgages or deeds of trust owned by it, or  
26 acquired upon judgments or decrees obtained or rendered for  
27 debts due it, or real property conveyed to it in satisfaction  
28 of debts previously contracted in the course of its business,  
29 or real property obtained by it through redemption as a junior  
30 mortgagee or judgment creditor, shall be sold or otherwise  
31 disposed of by the state bank within ~~five~~ two years after  
32 title is vested in the state bank, unless the time is extended  
33 by the superintendent. Agricultural land held by a state bank  
34 pursuant to this subsection shall be valued on the books of  
35 the bank at a value determined by obtaining the per acre

1 average of the valuations for the current year and the four  
 2 previous years for agricultural land in the county in which  
 3 the agricultural land is located as published by Iowa state  
 4 university of science and technology. If an appraisal  
 5 conducted by an independent real estate appraiser is available  
 6 for the current year, the five-year county average shall be  
 7 adjusted by either adding or subtracting from the five-year  
 8 average the percentage by which the particular farm's current  
 9 appraised value exceeds or is less than the current year's  
 10 county average value. To the extent permitted by federal law,  
 11 national banks may value agricultural land on the same basis  
 12 as state banks. ~~Before the state bank sells or otherwise~~  
 13 ~~disposes of agricultural land held pursuant to this~~  
 14 ~~subsection, the state bank shall first offer the prior owner~~  
 15 ~~the opportunity to repurchase the agricultural land on the~~  
 16 ~~terms the state bank proposes to sell or dispose of the~~  
 17 ~~agricultural land.~~

18 Sec. 4. Section 654.16, Code 1989, is amended to read as  
 19 follows:

20 654.16 SEPARATE REDEMPTION OF HOMESTEAD.

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

30 If ~~the designated~~ a homestead is ~~sold at a foreclosure sale~~  
 31 ~~in order to satisfy the judgment~~ designated, the court shall  
 32 determine the fair market value of the designated homestead  
 33 before the sheriff's sale. The court may consult with the  
 34 county appraisers appointed pursuant to section 450.24, or  
 35 with one or more independent appraisers, to determine the fair

1 market value of the designated homestead.

2 The mortgagor may redeem the designated homestead by  
3 tendering the lesser of either the amount bid at the sheriff's  
4 sale pursuant to procedures set forth in chapter 628, or the  
5 fair market value, as determined pursuant to this section, of  
6 the designated homestead at any time within two-years one year  
7 from the date of the foreclosure sheriff's sale, pursuant to  
8 the procedures set forth in chapter 628. However, ~~this~~  
9 ~~paragraph shall not apply to a member institution which has~~  
10 ~~purchased a designated homestead at a foreclosure sale.~~

11 ~~The mortgagor may redeem the designated homestead from a~~  
12 ~~member institution, which has purchased the designated~~  
13 ~~homestead at a foreclosure sale, by tendering the fair market~~  
14 ~~value of the designated homestead within one year from the~~  
15 ~~date of the foreclosure sale, pursuant to the procedures set~~  
16 ~~forth in chapter 628.~~

17 If the member institution which has purchased mortgagor  
18 does not redeem the designated homestead at a foreclosure sale  
19 ~~is not a state bank as defined in section 524.103~~, the  
20 following shall apply:

21 1. At Not later than the time the sheriff's deed is issued  
22 recorded, the institution grantee in the sheriff's sale shall  
23 notify the mortgagor of the mortgagor's right of first  
24 refusal. A copy of this unnumbered paragraph and subsections  
25 1 through 5 and, titled "Notice of Right of First Refusal" is  
26 sufficient notice.

27 2. If within one year after a sheriff's deed is issued ~~to~~  
28 ~~the institution~~ recorded, the institution grantee proposes to  
29 sell or otherwise dispose of the designated homestead, in a  
30 transaction other than a public auction, the institution  
31 grantee shall first offer the mortgagor the opportunity to  
32 repurchase the designated homestead on the same terms and at  
33 the same price that the institution grantee proposes to sell  
34 or dispose of the designated homestead. If the institution  
35 grantee seeks to sell or otherwise dispose of the designated

1 homestead by public auction within one year after a sheriff's  
2 deed is ~~issued-to-the-institution~~ recorded, the mortgagor must  
3 be given sixty days' notice of all of the following:

4 a. The date, time, place, and procedures of the auction  
5 sale.

6 b. Any minimum terms or limitations imposed upon the  
7 auction.

8 3. The institution grantee is not required to offer the  
9 mortgagor financing for the purchase of the homestead.

10 4. The mortgagor has ten business days after being given  
11 notice of the terms and price of the proposed sale or  
12 disposition, other than a public auction, in which to exercise  
13 the right to repurchase the homestead by submitting a binding  
14 offer to the institution grantee on the same terms as the  
15 proposed sale or other disposition, with closing to occur  
16 within thirty days after the offer unless otherwise agreed by  
17 the institution grantee. After the expiration of either the  
18 period for offer or the period for closing, without submission  
19 of an offer or a closing occurring, the institution grantee  
20 may sell or otherwise dispose of the designated homestead to  
21 any other person on the terms upon which it was offered to the  
22 mortgagor.

23 5. Notice of the mortgagor's right of first refusal, a  
24 proposed sale, auction, or other disposition, or the  
25 submission of a binding offer by the mortgagor, is considered  
26 given on the date ~~the~~ that notice or offer is personally  
27 served on the other party or on the date ~~the~~ that notice or  
28 offer is mailed to the other party's last known address by  
29 registered or certified mail, return receipt requested. The  
30 right of first refusal provided in this section is not  
31 assignable, but may be exercised by the mortgagor's successor  
32 in interest, receiver, personal representative, executor, or  
33 heir only in case of bankruptcy, receivership, or death of the  
34 mortgagor.

35 ~~As-used-in-this-section7-"member-institution"-means-any~~

1 lending-institution-that-is-a-member-of-the-federal-deposit  
2 insurance-corporation, the-federal-savings-and-loan-insurance  
3 corporation, the-national-credit-union-administration, or-an  
4 affiliate-of-such-institution;

5 Sec. 5. This Act, being deemed of immediate importance,  
6 takes effect upon enactment.

7 Sec. 6. A company or association which has purchased land  
8 before the effective date of this Act has until July 1, 1991,  
9 to dispose of the land as provided under section 511.8 as  
10 amended by this Act.

11 Sec. 7. Section 524.910, Code 1989, as amended by section  
12 3 of this Act, applies to all foreclosure actions filed on or  
13 after March 30, 1990, and as applied to a prior owner's  
14 opportunity to repurchase agricultural land is retroactive to  
15 all foreclosure actions for which a sheriff's sale has not  
16 been held on March 30, 1990.

17 Sec. 8. Section 654.16, Code 1989, as amended by section 4  
18 of this Act, applies to all foreclosure actions filed on or  
19 after the effective date of this Act, and is retroactive to  
20 all foreclosure actions for which a sheriff's sale has not  
21 been held on the effective date of this Act.

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## SENATE FILE 390

5153

Amend Senate File 390, as amended, passed, and reprinted by the Senate, as follows:

1. By striking page 1, line 1, through page 2, line 21.

2. Page 2, line 31, by striking the words "five two" and inserting the following: "five".

3. By striking page 3, line 18 through page 6, line 4, and inserting the following:

"Sec. \_\_\_\_ . Section 654.16, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

654.16 SEPARATE REDEMPTION OF HOMESTEAD.

If a sheriff's 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 sheriff's sale. The homestead shall contain the residence of the mortgagor and shall be as compact as practicable.

If a homestead is designated, the court shall determine the fair market value of the designated homestead before the sheriff's sale. The court may consult with the county appraisers appointed pursuant to section 450.24, or with one or more independent appraisers, to determine the fair market value of the designated homestead.

The mortgagor may redeem the designated homestead by tendering the lesser of either any amount separately bid for the designated homestead at the sheriff's sale pursuant to procedures set forth in chapter 628, or the fair market value, as determined pursuant to this section, of the designated homestead at any time within one year from the date of the sheriff's sale, pursuant to the procedures set forth in chapter 628.

Sec. \_\_\_\_ . NEW SECTION. 654.16A RIGHT OF FIRST REFUSAL FOLLOWING RECORDING OF SHERIFF'S DEED TO AGRICULTURAL LAND.

1. Not later than the time a sheriff's deed to agricultural land used for farming, as defined in section 175.2, is recorded, the grantee recording the sheriff's deed shall notify the mortgagor of the mortgagor's right of first refusal. The grantee shall record the sheriff's deed within one year and sixty days from the date of the sheriff's sale. A copy of this section, titled "Notice of Right of First Refusal" is sufficient notice.



H-5153

Page 2

1 2. If, after a sheriff's deed is recorded, the  
2 grantee proposes to sell or otherwise dispose of the  
3 agricultural land, in a transaction other than a  
4 public auction, the grantee shall first offer the  
5 mortgagor the opportunity to repurchase the  
6 agricultural land on the same terms and at the same  
7 price that the grantee proposes to sell or dispose of  
8 the agricultural land. If the grantee seeks to sell  
9 or otherwise dispose of the agricultural land by  
10 public auction, the mortgagor must be given sixty  
11 days' notice of all of the following:

12 a. The date, time, place, and procedures of the  
13 auction sale.

14 b. Any minimum terms or limitations imposed upon  
15 the auction.

16 3. The grantee is not required to offer the  
17 mortgagor financing for the purchase of the  
18 agricultural land.

19 4. The mortgagor has ten business days after being  
20 given notice of the terms and price of the proposed  
21 sale or disposition, other than a public auction, in  
22 which to exercise the right to repurchase the  
23 agricultural land by submitting a binding offer to the  
24 grantee on the same terms as the proposed sale or  
25 other disposition, with closing to occur within thirty  
26 days after the offer unless otherwise agreed by the  
27 grantee. After the expiration of either the period  
28 for offer or the period for closing, without  
29 submission of an offer or a closing occurring, the  
30 grantee may sell or otherwise dispose of the  
31 agricultural land to any other person on the terms  
32 upon which it was offered to the mortgagor.

33 5. Notice of the mortgagor's right of first  
34 refusal, a proposed sale, auction, or other  
35 disposition, or the submission of a binding offer by  
36 the mortgagor, is considered given on the date that  
37 notice or offer is personally served on the other  
38 party or on the date that notice or offer is mailed to  
39 the other party's last known address by registered or  
40 certified mail, return receipt requested. The right  
41 of first refusal provided in this section is not  
42 assignable, but may be exercised by the mortgagor's  
43 successor in interest, receiver, personal  
44 representative, executor, or heir only in case of  
45 bankruptcy, receivership, or death of the mortgagor."

46 4. Page 6, by striking lines 7 through 10.

47 5. Page 6, lines 11 and 12, by striking the words  
48 and figure "section 3 of".

49 6. Page 6, lines 17 and 18, by striking the words  
50 and figure "section 4 of".

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Page 3

1 7. Page 6, by inserting after line 21 the  
2 following:

3 "Sec. \_\_\_\_\_.

4 Section 654.16A applies to all foreclosure actions  
5 filed on or after the effective date of this Act, and  
6 is retroactive to all foreclosure actions for which a  
7 sheriff's sale has not been held on the effective date  
8 of this Act."

By COMMITTEE ON AGRICULTURE  
OSTERBERG of Linn, Chairperson

H-5153 FILED FEBRUARY 15, 1990

*Adopted 3/28 (p. 1537)*

## SENATE FILE 390

S-3394

1 Amend Senate File 390 as follows:

2 1. Page 3, line 10, by inserting after the word  
3 "value." The following: "The state bank shall notify  
4 the land's immediately prior owner of the new value of  
5 the land within ten days after the bank records the  
6 land's new value on the bank's books."

7 2. Page 3, line 17, by inserting after the word  
8 "land-" the following: "National banks valuing land  
9 on the same basis as state banks shall notify the  
10 land's immediately prior owner of the new value of the  
11 land within ten days after the bank records the land's  
12 new value on the bank's books. A person, other than a  
13 state bank or national bank valuing land on the same  
14 basis as a state bank, which in the ordinary course of  
15 business lends money to finance agricultural land  
16 purchases or agricultural operations and which  
17 acquires real property under this subsection, shall  
18 notify the land's immediately prior owner of a new  
19 appraised value of the land within ten days after the  
20 person records the land's new value on the person's  
21 books."

22 3. Page 6, by inserting after line 16, the  
23 following:

24 "Sec. \_\_\_\_ . A person, including a state or national  
25 bank, required to notify an immediately prior owner of  
26 agricultural land of the land's new value as recorded  
27 in the person's books, pursuant to section 524.910,  
28 Code 1989, as amended by this Act, shall, beginning on  
29 July 1, 1989, provide notice of the most recent change  
30 in value to the prior owner, regardless of whether the  
31 last valuation occurred before, on, or after July 1,  
32 1989."

33 4. By renumbering as necessary.

By RICHARD VANDE HOEF

S-3394 FILED MARCH 23, 1989

*Withdrawn 3-28-89 (p. 1025)*  
SENATE FILE 390

S-3403

1 Amend Senate File 390 as follows:

2 1. Page 4, line 32, by inserting after the word  
3 "terms" the following: "and at the same price that".

4 2. Page 5, line 11, by inserting after the word  
5 "terms" the following: "and price".

By RICHARD VANDE HOEF

S-3403 FILED MARCH 23, 1989

*Adopted 3-28-89 (p. 1040)*

S-5795

Page 3

1 7. Page 6, by inserting after line 21 the  
2 following:

3 "Sec. \_\_\_\_\_.

4 Section 654.16A applies to all foreclosure actions  
5 filed on or after the effective date of this Act, and  
6 is retroactive to all foreclosure actions for which a  
7 sheriff's sale has not been held on the effective date  
8 of this Act."

RECEIVED FROM THE HOUSE

S-5795 FILED MARCH 30, 1990

*Senate concurred 4/2 (p. 1454)*

## SENATE FILE 390

S-3391

1 Amend Senate File 390 as follows:

2 1. Page 2, line 7, by striking the word "two" and  
3 inserting the following: "five".

4 2. Page 2, line 21, by inserting after the word  
5 "value." the following: "Before the company or  
6 association sells or otherwise disposes of  
7 agricultural land held pursuant to this paragraph, the  
8 state bank shall first offer the immediately prior  
9 owner the opportunity to repurchase the agricultural  
10 land on the same terms the company or association  
11 proposes to sell or dispose of the agricultural land,  
12 according to the same procedures as provided in  
13 section 524.910."

14 3. Page 2, line 31, by striking the words "five  
15 two" and inserting the following: "five".

16 4. Page 3, by striking lines 12 through 17, and  
17 inserting the following: "as state banks."

18 3. Before the state bank sells or otherwise  
19 disposes of agricultural land, other than a designated  
20 homestead as provided in section 654.16, held pursuant  
21 to this subsection 2, the state bank shall first offer  
22 the immediately prior owner the opportunity to  
23 repurchase the agricultural land on the terms the  
24 state bank proposes to sell or dispose of the  
25 agricultural land."

26 5. Page 3, by inserting after line 17, the  
27 following:

28 "4. The state bank shall dispose of agricultural  
29 land held pursuant to subsection 2 as follows:

30 a. Not later than the time the sheriff's deed is  
31 recorded, the state bank shall notify the immediately  
32 prior owner of the owner's right of first refusal. A  
33 copy of this subsection, titled "Notice of Right of  
34 First Refusal" is sufficient notice.

35 b. If the state bank proposes to sell or otherwise  
36 dispose of the agricultural land in a transaction  
37 other than a public auction, the state bank shall  
38 first offer the mortgagor the opportunity to  
39 repurchase the agricultural land on the same terms the  
40 state bank proposes to sell or dispose of the  
41 agricultural land. If the state bank seeks to sell or  
42 otherwise dispose of the agricultural land by public  
43 auction, the immediately prior owner must be given  
44 sixty days' notice of all of the following:

45 (1) The date, time, place, and procedures of the  
46 auction sale.

47 (2) Any minimum terms or limitations imposed upon  
48 the auction.

49 c. The state bank is not required to offer the  
50 immediately prior owner financing for the purchase of

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Page 2

1 the agricultural land.  
2 d. The immediately prior owner has ten business  
3 days after being given notice of the terms of the  
4 proposed sale or disposition, other than a public  
5 auction, in which to exercise the right to repurchase  
6 the agricultural land by submitting a binding offer to  
7 the state bank on the same terms as the proposed sale  
8 or other disposition, with closing to occur within  
9 thirty days after the offer unless otherwise agreed by  
10 the state bank. After the expiration of either the  
11 period for offer or the period for closing, without  
12 submission of an offer or a closing occurring, the  
13 state bank may sell or otherwise dispose of the  
14 designated homestead to any other person on the terms  
15 upon which it was offered to the immediately prior  
16 owner.

17 e. Notice of the immediately prior owner's right  
18 of first refusal, a proposed sale, auction, or other  
19 disposition, or the submission of a binding offer by  
20 the immediately prior owner is considered given on the  
21 date that the notice or offer is personally served on  
22 the other party or on the date that the notice or  
23 offer is mailed to the other party's last known  
24 address by certified mail or restricted certified  
25 mail. The right of first refusal provided in this  
26 section is not assignable, but may be exercised by the  
27 immediately prior owner's successor in interest,  
28 receiver, personal representative, executor, or heir  
29 only in case of bankruptcy, receivership, or death of  
30 the immediately prior owner."

31 6. Page 3, line 18, by striking the figure and  
32 words "Code 1989, is" and inserting the following:  
33 "unnumbered paragraphs 1 through 5, Code 1989 are".

34 7. Page 3, by striking line 20.

35 8. Page 4, line 6, by striking the words "two  
36 years one year" and inserting the following: "two  
37 years".

38 9. By striking page 4, line 17 through page 6,  
39 line 4, and inserting the following:

40 "Sec. \_\_\_\_ . Section 654.16, subsections 1 through  
41 5, and unnumbered paragraph 6, Code 1989, are amended  
42 by striking the subsections and the paragraph."

43 10. Page 6, line 8, by striking the figure "1991"  
44 and inserting the following: "1994".

45 11. Page 6, by striking lines 11 through 16.

46 12. Page 6, by striking lines 17 through 21.

By JIM RIORDAN

S-3391 FILED MARCH 22, 1989

lost 3-28-89 (p. 1035)

HOUSE AMENDMENT TO  
SENATE FILE 390

S-5795

1 Amend Senate File 390, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking page 1, line 1, through page 2,  
4 line 21.

5 2. Page 2, line 31, by striking the words "five  
6 two" and inserting the following: "five".

7 3. By striking page 3, line 18 through page 6,  
8 line 4, and inserting the following:

9 "Sec. \_\_\_\_ . Section 654.16, Code 1989, is amended  
10 by striking the section and inserting in lieu thereof  
11 the following:

12 654.16 SEPARATE REDEMPTION OF HOMESTEAD.

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

23 If a homestead is designated, the court shall  
24 determine the fair market value of the designated  
25 homestead before the sheriff's sale. The court may  
26 consult with the county appraisers appointed pursuant  
27 to section 450.24, or with one or more independent  
28 appraisers, to determine the fair market value of the  
29 designated homestead.

30 The mortgagor may redeem the designated homestead  
31 by tendering the lesser of either any amount  
32 separately bid for the designated homestead at the  
33 sheriff's sale pursuant to procedures set forth in  
34 chapter 628, or the fair market value, as determined  
35 pursuant to this section, of the designated homestead  
36 at any time within one year from the date of the  
37 sheriff's sale, pursuant to the procedures set forth  
38 in chapter 628.

39 Sec. \_\_\_\_ . NEW SECTION. 654.16A RIGHT OF FIRST  
40 REFUSAL FOLLOWING RECORDING OF SHERIFF'S DEED TO  
41 AGRICULTURAL LAND.

42 1. Not later than the time a sheriff's deed to  
43 agricultural land used for farming, as defined in  
44 section 175.2, is recorded, the grantee recording the  
45 sheriff's deed shall notify the mortgagor of the  
46 mortgagor's right of first refusal. The grantee shall  
47 record the sheriff's deed within one year and sixty  
48 days from the date of the sheriff's deed. A copy of  
49 this section, titled "Notice of Right of First  
50 Refusal" is sufficient notice.

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Page 2

1 2. If, after a sheriff's deed is recorded, the  
2 grantee proposes to sell or otherwise dispose of the  
3 agricultural land, in a transaction other than a  
4 public auction, the grantee shall first offer the  
5 mortgagor the opportunity to repurchase the  
6 agricultural land on the same terms and at the same  
7 price that the grantee proposes to sell or dispose of  
8 the agricultural land. If the grantee seeks to sell  
9 or otherwise dispose of the agricultural land by  
10 public auction, the mortgagor must be given sixty  
11 days' notice of all of the following:

12 a. The date, time, place, and procedures of the  
13 auction sale.

14 b. Any minimum terms or limitations imposed upon  
15 the auction.

16 3. The grantee is not required to offer the  
17 mortgagor financing for the purchase of the  
18 agricultural land.

19 4. The mortgagor has ten business days after being  
20 given notice of the terms and price of the proposed  
21 sale or disposition, other than a public auction, in  
22 which to exercise the right to repurchase the  
23 agricultural land by submitting a binding offer to the  
24 grantee on the same terms as the proposed sale or  
25 other disposition, with closing to occur within thirty  
26 days after the offer unless otherwise agreed by the  
27 grantee. After the expiration of either the period  
28 for offer or the period for closing, without  
29 submission of an offer or a closing occurring, the  
30 grantee may sell or otherwise dispose of the  
31 agricultural land to any other person on the terms  
32 upon which it was offered to the mortgagor.

33 5. Notice of the mortgagor's right of first  
34 refusal, a proposed sale, auction, or other  
35 disposition, or the submission of a binding offer by  
36 the mortgagor, is considered given on the date that  
37 notice or offer is personally served on the other  
38 party or on the date that notice or offer is mailed to  
39 the other party's last known address by registered or  
40 certified mail, return receipt requested. The right  
41 of first refusal provided in this section is not  
42 assignable, but may be exercised by the mortgagor's  
43 successor in interest, receiver, personal  
44 representative, executor, or heir only in case of  
45 bankruptcy, receivership, or death of the mortgagor."

46 4. Page 6, by striking lines 7 through 10.

47 5. Page 6, lines 11 and 12, by striking the words  
48 and figure "section 3 of".

49 6. Page 6, lines 17 and 18, by striking the words  
50 and figure "section 4 of".



AUSA, CH.  
SCOTT  
SOORHOLTZ

SSB 256  
AGRICULTURE

SENATE FILE 390  
BY (PROPOSED COMMITTEE  
ON AGRICULTURE BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to agricultural land used for farming, including  
2 a mortgagor's right of redemption and right of first refusal,  
3 and providing effective and retroactive applicability dates.

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

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1 Section 1. Section 524.910, subsection 2, Code 1989, is  
2 amended to read as follows:

3 2. Real property purchased by a state bank at sales upon  
4 foreclosure of mortgages or deeds of trust owned by it, or  
5 acquired upon judgments or decrees obtained or rendered for  
6 debts due it, or real property conveyed to it in satisfaction  
7 of debts previously contracted in the course of its business,  
8 or ~~real-property~~ obtained by it through redemption as a junior  
9 mortgagee or judgment creditor, shall be sold or otherwise  
10 disposed of by the state bank within five years after title is  
11 vested in the state bank, unless the time is extended by the  
12 superintendent. Agricultural land held by a state bank  
13 pursuant to this subsection shall be valued on the books of  
14 the bank at a value determined by obtaining the per acre  
15 average of the valuations for the current year and the four  
16 previous years for agricultural land in the county in which  
17 the agricultural land is located as published by Iowa state  
18 university of science and technology. If an appraisal  
19 conducted by an independent real estate appraiser is available  
20 for the current year, the five-year county average shall be  
21 adjusted by either adding or subtracting from the five-year  
22 average the percentage by which the particular farm's current  
23 appraised value exceeds or is less than the current year's  
24 county average value. To the extent permitted by federal law,  
25 national banks may value agricultural land on the same basis  
26 as state banks. ~~Before-the-state-bank-sells-or-otherwise~~  
27 ~~disposes-of-agricultural-land-held-pursuant-to-this~~  
28 ~~subsection,-the-state-bank-shall-first-offer-the-prior-owner~~  
29 ~~the-opportunity-to-repurchase-the-agricultural-land,-on-the~~  
30 ~~terms-the-state-bank-proposes-to-sell-or-dispose-of-the~~  
31 ~~agricultural-land-~~

32 Sec. 2. Section 654.16, Code 1989, is amended to read as  
33 follows:

34 654.16 SEPARATE REDEMPTION OF HOMESTEAD.

35 If a foreclosure sheriff's sale is ordered on agricultural

1 land used for farming, as defined in section 175.2, the  
2 mortgagor may, by a date set by the court but not later than  
3 ten days before the sale, designate to the court the portion  
4 of the land which the mortgagor claims as a homestead. The  
5 homestead may be any contiguous portion of forty acres or less  
6 of the real estate subject to the foreclosure sheriff's sale.  
7 The homestead shall contain the residence of the mortgagor and  
8 shall be as compact as practicable.

9 ~~If the designated a homestead is sold-at-a-foreclosure-sale~~  
10 ~~in-order-to-satisfy-the-judgment~~ designated, the court shall  
11 determine the fair market value of the designated homestead  
12 before the sheriff's sale. The court may consult with the  
13 county appraisers appointed pursuant to section 450.24, or  
14 with one or more independent appraisers, to determine the fair  
15 market value of the designated homestead.

16 The mortgagor may redeem the designated homestead by  
17 tendering the lesser of either the amount bid at the sheriff's  
18 sale plus interest and costs, and other redemptions plus  
19 interest and costs, of the homestead, pursuant to chapter 628,  
20 or the fair market value, as determined pursuant to this  
21 section, of the designated homestead plus interest at the  
22 contract rate from the date of sale plus costs, at any time  
23 within two-years one year from the date of the foreclosure  
24 sale, pursuant to the procedures set forth in chapter 628.  
25 ~~However, this paragraph shall not apply to a member~~  
26 ~~institution which has purchased a designated homestead at a~~  
27 ~~foreclosure sale.~~

28 ~~The mortgagor may redeem the designated homestead from a~~  
29 ~~member institution, which has purchased the designated~~  
30 ~~homestead at a foreclosure sale, by tendering the fair market~~  
31 ~~value of the designated homestead within one year from the~~  
32 ~~date of the foreclosure sale, pursuant to the procedures set~~  
33 ~~forth in chapter 628.~~

34 If the ~~member institution which has purchased~~ mortgagor  
35 does not redeem the designated homestead ~~at a foreclosure sale~~

1 ~~is-not-a-state-bank-as-defined-in-section-524-103~~, the  
2 following shall apply:

3 1. At Not later than the time the sheriff's deed is issued  
4 recorded, the institution grantee in the sheriff's sale shall  
5 notify the mortgagor of the mortgagor's right of first  
6 refusal. A copy of this unnumbered paragraph and subsections  
7 1 through 5 and, titled "Notice of Right of First Refusal" is  
8 sufficient notice.

9 2. If within one year after a sheriff's deed is ~~issued-to~~  
10 ~~the-institution~~ recorded, the institution grantee proposes to  
11 sell or otherwise dispose of the designated homestead, in a  
12 transaction other than a public auction, the institution  
13 grantee shall first offer the mortgagor the opportunity to  
14 repurchase the designated homestead on the same terms the  
15 institution grantee proposes to sell or dispose of the  
16 designated homestead. If the institution grantee seeks to  
17 sell or otherwise dispose of the designated homestead by  
18 public auction within one year after a sheriff's deed is  
19 ~~issued-to-the-institution~~ recorded, the mortgagor must be  
20 given sixty days' notice of all of the following:

21 a. The date, time, place, and procedures of the auction  
22 sale.

23 b. Any minimum terms or limitations imposed upon the  
24 auction.

25 3. The institution grantee is not required to offer the  
26 mortgagor financing for the purchase of the homestead.

27 4. The mortgagor has ten business days after being given  
28 notice of the terms of the proposed sale or disposition, other  
29 than a public auction, in which to exercise the right to  
30 repurchase the homestead by submitting a binding offer to the  
31 institution grantee on the same terms as the proposed sale or  
32 other disposition, with closing to occur within thirty days  
33 after the offer unless otherwise agreed by the institution  
34 grantee. After the expiration of either the period for offer  
35 or the period for closing, without submission of an offer or a

1 closing occurring, the institution grantee may sell or  
 2 otherwise dispose of the designated homestead to any other  
 3 person on the terms upon which it was offered to the  
 4 mortgagor.

5 5. Notice of the mortgagor's right of first refusal, a  
 6 proposed sale, auction, or other disposition, or the  
 7 submission of a binding offer by the mortgagor, is considered  
 8 given on the date ~~the~~ that notice or offer is personally  
 9 served on the other party or on the date ~~the~~ that notice or  
 10 offer is mailed to the other party's last known address by  
 11 registered or certified mail, return receipt requested. The  
 12 right of first refusal provided in this section is not  
 13 assignable, but may be exercised by the mortgagor's successor  
 14 in interest, receiver, personal representative, executor, or  
 15 heir only in case of bankruptcy, receivership, or death of the  
 16 mortgagor.

17 ~~As-used-in-this-section,-"member-institution"-means-any~~  
 18 ~~lending-institution-that-is-a-member-of-the-federal-deposit~~  
 19 ~~insurance-corporation,-the-federal-savings-and-loan-insurance~~  
 20 ~~corporation,-the-national-credit-union-administration,-or-an~~  
 21 ~~affiliate-of-such-institution-~~

22 Sec. 3. This Act, being deemed of immediate importance,  
 23 takes effect upon enactment.

24 Sec. 4. Sections 524.910 and 654.16, Code 1989, as amended  
 25 by sections 1 and 2 of this Act, apply to all foreclosure  
 26 actions filed on or after the effective date of this Act, and  
 27 apply retroactively to all foreclosure actions for which a  
 28 sheriff's sale has not been held on the effective date of this  
 29 Act.

30 EXPLANATION

31 This bill amends section 524.910 (providing that a state  
 32 bank is required to sell agricultural land within five years)  
 33 by eliminating a requirement that the bank must offer the  
 34 prior owner the opportunity to repurchase the land.

35 The bill amends section 654.16 to provide the following:

1 1. A homestead on agricultural land as designated by a  
2 court, under the section, may be sold at foreclosure for fair  
3 market value. The bill provides that the mortgagor may redeem  
4 the homestead by paying, in addition to the fair market value  
5 as provided in the section, interest at the contract rate from  
6 the date of the sale plus costs. The bill provides the  
7 mortgagor may, if the amount is less, redeem the homestead by  
8 paying the amount bid at the sheriff's sale plus interest and  
9 costs, plus paying off other liens with interest and costs as  
10 provided under section 628.5.

11 2. The time for redemption is reduced from two years to  
12 one year for all mortgagees. The Iowa supreme court, in  
13 Federal Land Bank of Omaha v. Arnold, 426, N.W. 2d 153 (Iowa  
14 1988), decided that allowing some mortgagees to provide less  
15 than two years' time for redemption is unconstitutional if  
16 other mortgagees must provide two years. All mortgagees must  
17 under Arnold provide two years of redemption under the  
18 section.

19 3. The provision in section 654.16 requires a "member  
20 institution" to extend a one-year first right of refusal to  
21 the mortgagor in lieu of the two-year redemption requirement.  
22 The Arnold case held that the "member institution" distinction  
23 is inapplicable. This bill provides that all grantees in a  
24 sheriff's sale must offer the mortgagor the opportunity to  
25 repurchase the land within one year after a sheriff's deed is  
26 recorded.

27 4. The distinctions made between types of mortgagors are  
28 eliminated to conform with the Arnold case.

29 5. The amendments to sections 524.910 and 654.16 apply to  
30 all foreclosure actions filed on the effective date of this  
31 Act and apply retroactively to all foreclosure actions for  
32 which a sheriff's sale has not been held on the effective date  
33 of the Act.

34

35

SENATE FILE 390

AN ACT

RELATING TO THE TRANSFER OF AGRICULTURAL LAND, BY RESTRICTING THE TIME LAND CAN BE HELD BY FINANCIAL AND INSURANCE INSTITUTIONS, PROVIDING FOR VALUATION OF LAND, THE OPPORTUNITY TO REPURCHASE LAND, FOR REDEMPTION, AND PROVIDING EFFECTIVE DATES AND DATES OF APPLICABILITY.

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

Section 1. Section 524.910, subsection 2, Code 1989, is amended to read as follows:

2. Real property purchased by a state bank at sales upon foreclosure of mortgages or deeds of trust owned by it, or acquired upon judgments or decrees obtained or rendered for debts due it, or real property conveyed to it in satisfaction of debts previously contracted in the course of its business, or real property obtained by it through redemption as a junior mortgagee or judgment creditor, shall be sold or otherwise disposed of by the state bank within five years after title is vested in the state bank, unless the time is extended by the superintendent. Agricultural land held by a state bank pursuant to this subsection shall be valued on the books of the bank at a value determined by obtaining the per acre average of the valuations for the current year and the four previous years for agricultural land in the county in which the agricultural land is located as published by Iowa state

university of science and technology. If an appraisal conducted by an independent real estate appraiser is available for the current year, the five-year county average shall be adjusted by either adding or subtracting from the five-year average the percentage by which the particular farm's current appraised value exceeds or is less than the current year's county average value. To the extent permitted by federal law, national banks may value agricultural land on the same basis as state banks. ~~Before the state bank sells or otherwise disposes of agricultural land held pursuant to this subsection, the state bank shall first offer the prior owner the opportunity to repurchase the agricultural land on the terms the state bank proposes to sell or dispose of the agricultural land.~~

Sec. 2. Section 654.16, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

654.16 SEPARATE REDEMPTION OF HOMESTEAD.

If a sheriff's 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 sheriff's sale. The homestead shall contain the residence of the mortgagor and shall be as compact as practicable.

If a homestead is designated, the court shall determine the fair market value of the designated homestead before the sheriff's sale. The court may consult with the county appraisers appointed pursuant to section 450.24, or with one or more independent appraisers, to determine the fair market value of the designated homestead.

The mortgagor may redeem the designated homestead by tendering the lesser of either any amount separately bid for the designated homestead at the sheriff's sale pursuant to

procedures set forth in chapter 628, or the fair market value, as determined pursuant to this section, of the designated homestead at any time within one year from the date of the sheriff's sale, pursuant to the procedures set forth in chapter 628.

Sec. 3. NEW SECTION. 654.16A RIGHT OF FIRST REFUSAL FOLLOWING RECORDING OF SHERIFF'S DEED TO AGRICULTURAL LAND.

1. Not later than the time a sheriff's deed to agricultural land used for farming, as defined in section 175.2, is recorded, the grantee recording the sheriff's deed shall notify the mortgagor of the mortgagor's right of first refusal. The grantee shall record the sheriff's deed within one year and sixty days from the date of the sheriff's sale. A copy of this section, titled "Notice of Right of First Refusal" is sufficient notice.

2. If, after a sheriff's deed is recorded, the grantee proposes to sell or otherwise dispose of the agricultural land, in a transaction other than a public auction, the grantee shall first offer the mortgagor the opportunity to repurchase the agricultural land on the same terms and at the same price that the grantee proposes to sell or dispose of the agricultural land. If the grantee seeks to sell or otherwise dispose of the agricultural land by public auction, the mortgagor must be given sixty days' notice of all of the following:

a. The date, time, place, and procedures of the auction sale.

b. Any minimum terms or limitations imposed upon the auction.

3. The grantee is not required to offer the mortgagor financing for the purchase of the agricultural land.

4. The mortgagor has ten business days after being given notice of the terms and price of the proposed sale or disposition, other than a public auction, in which to exercise the right to repurchase the agricultural land by submitting a

binding offer to the grantee on the same terms as the proposed sale or other disposition, with closing to occur within thirty days after the offer unless otherwise agreed by the grantee. After the expiration of either the period for offer or the period for closing, without submission of an offer or a closing occurring, the grantee may sell or otherwise dispose of the agricultural land to any other person on the terms upon which it was offered to the mortgagor.

5. Notice of the mortgagor's right of first refusal, a proposed sale, auction, or other disposition, or the submission of a binding offer by the mortgagor, is considered given on the date that notice or offer is personally served on the other party or on the date that notice or offer is mailed to the other party's last known address by registered or certified mail, return receipt requested. The right of first refusal provided in this section is not assignable, but may be exercised by the mortgagor's successor in interest, receiver, personal representative, executor, or heir only in case of bankruptcy, receivership, or death of the mortgagor.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 5. Section 524.910, Code 1989, as amended by this Act, applies to all foreclosure actions filed on or after March 30, 1990, and as applied to a prior owner's opportunity to repurchase agricultural land is retroactive to all foreclosure actions for which a sheriff's sale has not been held on March 30, 1990.

Sec. 6. Section 654.16, Code 1989, as amended by this Act, applies to all foreclosure actions filed on or after the effective date of this Act, and is retroactive to all foreclosure actions for which a sheriff's sale has not been held on the effective date of this Act.

Sec. 7.

Section 654.16A applies to all foreclosure actions filed on or after the effective date of this Act, and is retroactive to



all foreclosure actions for which a sheriff's sale has not been held on the effective date of this Act.

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JO ANN ZIMMERMAN  
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 390, Seventy-third General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved Moyle, 1990

**SF 390**

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TERRY E. BRANSTAD  
Governor