

Sen Commerce 3/24/91 (p. 1516) Passed 4/4 (p. 1516)

MAR 20 1991

HOUSE FILE 567
BY COMMITTEE ON COMMERCE

Place On Calendar

(SUCCESSOR TO HSB 183)

Passed House, Date 3/25/91 (p. 1518) Passed Senate, Date 4/16/91 (p. 1257)
Vote: Ayes 98 Nays 0 Vote: Ayes 48 Nays 51
Approved April 23, 1991 (p. 1472)

A BILL FOR

1 An Act relating to the requirements for a notice of right to cure
2 concerning an obligation secured by a deed of trust or
3 mortgage.

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

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HF 567

1 Section 1. Section 654.2B, Code 1991, is amended to read
2 as follows:

3 654.2B REQUIREMENTS OF NOTICE OF RIGHT TO CURE.

4 The notice of right to cure shall be in writing and shall
5 conspicuously state the name, address, and telephone number of
6 the creditor or other person to which payment is to be made, a
7 brief identification of the obligation secured by the deed of
8 trust or mortgage and of the borrower's right to cure the
9 default, a statement of the nature of the right to cure the
10 default, a statement of the nature of the alleged default, a
11 statement of the total payment, including an itemization of
12 any delinquency or deferral charges, or other performance
13 necessary to cure the alleged default, and the exact date by
14 which the amount must be paid or performance tendered and a
15 statement that if the borrower does not cure the alleged
16 default the creditor or a person acting on behalf of the
17 creditor is entitled to proceed with initiating a foreclosure
18 action or procedure. The failure of the notice of right to
19 cure to comply with one or more provisions of this section is
20 not a defense or claim in any action pursuant to this chapter
21 and does not invalidate any procedure pursuant to chapter
22 655A, unless the person asserting the defense, claim, or
23 invalidity proves that the person was substantially prejudiced
24 by such failure.

25 Sec. 2. Section 654.2D, Code 1991, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 10. As used in this section, "creditor"
28 includes a person acting on behalf of a creditor.

29 EXPLANATION

30 This bill provides that the failure of a notice of right to
31 cure to comply with all the requirements of section 654.2B is
32 not a defense or claim in a foreclosure action unless the
33 person asserting the defense or claim proves that the person
34 was substantially prejudiced.

35 The bill also expands the definition of creditor to include

1 a person acting on behalf of the creditor.
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HOUSE FILE 567
BY (PROPOSED COMMITTEE ON COMMERCE)
BILL BY CHAIRPERSON HANSEN)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

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30 This bill provides that the failure of a notice of right to
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HOUSE FILE 567

AN ACT

RELATING TO THE REQUIREMENTS FOR A NOTICE OF RIGHT TO CURE CONCERNING AN OBLIGATION SECURED BY A DEED OF TRUST OR MORTGAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA: Section 1. Section 654.2B, Code 1991, is amended to read as follows:

654.2B REQUIREMENTS OF NOTICE OF RIGHT TO CURE.

The notice of right to cure shall be in writing and shall conspicuously state the name, address, and telephone number of the creditor or other person to which payment is to be made, a brief identification of the obligation secured by the deed of trust or mortgage and of the borrower's right to cure the default, a statement of the nature of the right to cure the default, a statement of the nature of the alleged default, a statement of the total payment, including an itemization of any delinquency or deferral charges, or other performance necessary to cure the alleged default, and the exact date by which the amount must be paid or performance tendered and a statement that if the borrower does not cure the alleged default the creditor or a person acting on behalf of the creditor is entitled to proceed with initiating a foreclosure action or procedure. The failure of the notice of right to cure to comply with one or more provisions of this section is not a defense or claim in any action pursuant to this chapter and does not invalidate any procedure pursuant to chapter 655A, unless the person asserting the defense, claim, or invalidity proves that the person was substantially prejudiced by such failure.

Sec. 2. Section 654.2D, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10. As used in this section, "creditor" includes a person acting on behalf of a creditor.

ROBERT C. ARNOULD
Speaker of the House

JOE J. WELSH
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 567, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 23, 1991

TERRY E. BRANSTAD
Governor

HF 567