

FILED
SENATE FILE **445**
BY COMMITTEE ON JUDICIARY
Substituted for H. F. 577
(SUCCESSOR TO SSB 256)

Passed Senate, Date 3/27/91 (p. 897) Passed House, Date 4/8/91 (p. 1144)
Vote: Ayes 48 Nays 0 Vote: Ayes 98 Nays 0

Approved May 10, 1991 (p. 1242)
Repassed Senate for 6-5575 4/22/91 (p. 1296) 2 yeas 48, Nay 0
Repassed House as further amended by Senate 4/24/91 (p. 1276) yeas 95, Nay 0

A BILL FOR

1 An Act relating to the forfeiture of the rights of junior
2 lienholders with respect to real estate contracts and
3 providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 445

1 Section 1. Section 656.2, subsection 2, Code 1991, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 2. The vendor shall also serve a copy of the notice
5 required in subsection 1 on the person in possession of the
6 real estate, if different than the vendee; on all the vendee's
7 mortgagees of record; and on a person who has a lien upon the
8 vendee's interest, except a government or governmental
9 subdivision or agency holding a lien for real estate taxes or
10 assessments, if the person having a lien upon the vendee's
11 interest has done both of the following:

12 a. Requested, on a form prescribed by the county recorder,
13 that notice of forfeiture be served on the person at an
14 address specified in the request.

15 b. Filed the request form for record in the office of the
16 county recorder at least sixty days prior to the date of
17 recording of the proof and record of service of notice of
18 forfeiture required by section 656.5 and paid a fee of five
19 dollars.

20 The request for notice is valid for a period of five years
21 from the date of filing with the county recorder. The request
22 for notice may be renewed for additional periods of five years
23 by the procedure specified in this subsection. The request
24 for notice may be amended at any time by the procedure
25 specified in this subsection.

26 The vendee's mortgagees of record include all assignees of
27 record for collateral purposes.

28 Sec. 2. NEW SECTION. 656.9 DEFECT IN FORFEITURE
29 PROCEEDINGS.

30 An action shall not be commenced after July 1, 1992, which
31 asserts a claim against real estate previously subject to a
32 forfeiture proceeding, based upon a defect in the forfeiture
33 proceeding, in which the proof and record of service of notice
34 of forfeiture required by section 656.5 has been filed for
35 record in the office of the county recorder prior to July 1,

1 1991.

2 Sec. 3. EFFECTIVE DATE. Section 656.2, as amended by this
3 Act, applies only to forfeiture proceedings for which the
4 proof and record of service of notice required by section
5 656.5 are filed after July 1, 1991.

6 EXPLANATION

7 This bill provides that notice of forfeiture proceedings is
8 to be sent to lienholders who have requested, at least 60 days
9 prior to the service of the notice of the forfeiture
10 proceedings, that notice of forfeiture proceedings be sent to
11 them, for actions filed after July 1, 1991.

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SENATE FILE 445

S-3375

- 1 Amend the House amendment, S-3374, to Senate File
- 2 445, as passed by the Senate as follows:
- 3 1. Page 1, line 15, by striking the figure
- 4 "652.2" and inserting the following: "656.2".
- 5 2. Page 1, line 17, by striking the figures and
- 6 word "656.1 and 656.2" and inserting the following:
- 7 "656.2 and 656.3".

By RICHARD J. VARN

S-3375 FILED APRIL 10, 1991
Adopted 4/22/91 (p. 1376)

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HOUSE AMENDMENT TO
SENATE FILE 445

S-3374

1 Amend Senate File 445, as passed by the Senate, as
2 follows:

3 1. Page 1, line 7, by striking the words "has a
4 lien upon" and inserting the following: "asserts a
5 claim against".

6 2. Page 1, lines 10 and 11, by striking the words
7 "having a lien upon the vendee's interest".

8 3. Page 1, line 12, by striking the words
9 "prescribed by the county recorder," and inserting the
10 following: "which substantially complies with the
11 following form,".

12 4. Page 1, by inserting after line 14 the
13 following:

14 "REQUEST FOR NOTICE PURSUANT TO

*15 IOWA CODE SECTION 652.2, SUBSECTION 2

16 The undersigned requests service of notice under
*17 Iowa Code sections 656.1 and 656.2 to forfeit the con-
18 tract recorded on the ____ day of _____, 19____, in
19 book or roll _____, image or page _____, office of the
20 _____ county recorder, _____
21 county, Iowa, wherein _____ is/are seller(s)
22 and _____ is/are buyer(s), for sale of
23 real estate legally described as:
24 [insert complete legal description]

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ADDRESS

33 CAUTION: Your name and address must be correct. If
34 not correct, you will not receive notice requested
35 because notice need only be served on you at the above
36 address. If your address changes, a new request for
37 notice must be filed.

38 The request for notice shall be indexed pursuant to
39 section 558.50."

40 5. Page 1, line 16, by striking the words "at
41 least sixty days" and inserting the following: "after
42 acquisition of the vendee's interest but".

RECEIVED FROM THE HOUSE

S-3374 FILED APRIL 10, 1991

Senate Amended (S-3374) & Concurred 4/22/91 (p. 396)

SENATE FILE 445

H-3448

Amend Senate File 445, as passed by the Senate, as follows:

1. Page 1, line 7, by striking the words "has a lien upon" and inserting the following: "asserts a claim against".

2. Page 1, lines 10 and 11, by striking the words "having a lien upon the vendee's interest".

3. Page 1, line 12, by striking the words "prescribed by the county recorder," and inserting the following: "which substantially complies with the following form,".

4. Page 1, by inserting after line 14 the following:

"REQUEST FOR NOTICE PURSUANT TO IOWA CODE SECTION 652.2, SUBSECTION 2

The undersigned requests service of notice under Iowa Code sections 656.1 and 656.2 to forfeit the contract recorded on the ___ day of ___, 19___, in book or roll ___, image or page ___, office of the ___ county recorder, ___ county, Iowa, wherein ___ is/are seller(s) and ___ is/are buyer(s), for sale of real estate legally described as: [insert complete legal description]

NAME

ADDRESS

CAUTION: Your name and address must be correct. If not correct, you will not receive notice requested because notice need only be served on you at the above address. If your address changes, a new request for notice must be filed.

The request for notice shall be indexed pursuant to section 558.50."

5. Page 1, line 16, by striking the words "at least sixty days" and inserting the following: "after acquisition of the vendee's interest but".

By McNEAL of Hardin

H-3448 FILED APRIL 2, 1991

Adopted 4/5/91 (S. 1145)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 445
H-3796

1 Amend the House amendment, S-3374, to Senate File
2 445, as passed by the Senate as follows:

3 1. Page 1, line 15, by striking the figure
4 "652.2" and inserting the following: "656.2".

5 2. Page 1, line 17, by striking the figures and
6 word "656.1 and 656.2" and inserting the following:
7 "656.2 and 656.3".

RECEIVED FROM THE SENATE

H-3796 FILED APRIL 24, 1991

House concurred 4/27/91 (p 1876)

VARD, CH.
DRAKE
FURMAN

SSB 266
JUDICIARY

SENATE FILE 445
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIRPERSON
STURGEON)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the forfeiture of the rights of junior
2 lienholders with respect to real estate contracts and
3 providing an effective date.

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

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1 Section 1. Section 656.2, subsection 2, Code 1991, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 2. The vendor shall also serve a copy of the notice
5 required in subsection 1 on the person in possession of the
6 real estate, if different than the vendee; on all the vendee's
7 mortgagees of record; and on a person who has a lien upon the
8 vendee's interest, except a government or governmental
9 subdivision or agency holding a lien for real estate taxes or
10 assessments, if the person having a lien upon the vendee's
11 interest has done both of the following:

12 a. Requested, on a form prescribed by the county recorder,
13 that notice of forfeiture be served on the person at an
14 address specified in the request.

15 b. Filed the request form for record in the office of the
16 county recorder at least sixty days prior to the date of
17 recording of the proof and record of service of notice of
18 forfeiture required by section 656.5 and paid a fee of five
19 dollars.

20 The request for notice is valid for a period of five years
21 from the date of filing with the county recorder. The request
22 for notice may be renewed for additional periods of five years
23 by the procedure specified in this subsection. The request
24 for notice may be amended at any time by the procedure
25 specified in this subsection.

26 The vendee's mortgagees of record include all assignees of
27 record for collateral purposes.

28 Sec. 2. NEW SECTION. 656.9 DEFECT IN FORFEITURE
29 PROCEEDINGS.

30 An action shall not be commenced after July 1, 1992, which
31 asserts a claim against real estate previously subject to a
32 forfeiture proceeding, based upon a defect in the forfeiture
33 proceeding, in which the proof and record of service of notice
34 of forfeiture required by section 656.5 has been filed for
35 record in the office of the county recorder prior to July 1,

1 1991.

2 Sec. 3. EFFECTIVE DATE. Section 656.2, as amended by this
3 Act, applies only to forfeiture proceedings for which the
4 proof and record of service of notice required by section
5 656.5 are filed after July 1, 1991.

6 EXPLANATION

7 This bill provides that notice of forfeiture proceedings is
8 to be sent to lienholders who have requested, at least 60 days
9 prior to the service of the notice of the forfeiture
10 proceedings, that notice of forfeiture proceedings be sent to
11 them, for actions filed after July 1, 1991.

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SENATE FILE 445

AN ACT

RELATING TO THE FORFEITURE OF THE RIGHTS OF JUNIOR TENHOLDERS WITH RESPECT TO REAL ESTATE CONTRACTS AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 656.2, subsection 2, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

2. The vendor shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the vendee; on all the vendee's mortgagees of record; and on a person who asserts a claim against the vendee's interest, except a government or governmental subdivision or agency holding a lien for real estate taxes or assessments, if the person has done both of the following:

a. Requested, on a form which substantially complies with the following form, that notice of forfeiture be served on the person at an address specified in the request.

"REQUEST FOR NOTICE PURSUANT TO

IOWA CODE SECTION 656.2, SUBSECTION 2

The undersigned requests service of notice under Iowa Code sections 656.2 and 656.1 to forfeit the contract recorded on the ____ day of _____, 19__, in book or roll ____, page ____ of the _____ county recorder, _____ county, Iowa, wherein _____ is/are seller(s) and _____ is/are buyer(s), for sale of real estate legally described as: [insert complete legal description]

NAME

ADDRESS

CAUTION: Your name and address must be correct. If not correct, you will not receive notice requested because notice need only be served on you at the above address. If your address changes, a new request for notice must be filed.

The request for notice shall be indexed pursuant to section 558.50."

b. Filed the request form for record in the office of the county recorder after acquisition of the vendee's interest but prior to the date of recording of the proof and record of service of notice of forfeiture required by section 656.5 and paid a fee of five dollars.

The request for notice is valid for a period of five years from the date of filing with the county recorder. The request for notice may be renewed for additional periods of five years by the procedure specified in this subsection. The request for notice may be amended at any time by the procedure specified in this subsection.

The vendee's mortgagees of record include all assignees of record for collateral purposes.

Sec. 2. NEW SECTION. 656.9 DEFECT IN FORFEITURE PROCEEDINGS.

An action shall not be commenced after July 1, 1992, which asserts a claim against real estate previously subject to a forfeiture proceeding, based upon a defect in the forfeiture proceeding, in which the proof and record of service of notice of forfeiture required by section 656.5 has been filed for record in the office of the county recorder prior to July 1, 1991.

Sec. 3. EFFECTIVE DATE. Section 656.2, as amended by this Act, applies only to forfeiture proceedings for which the proof and record of service of notice required by section 656.5 are filed after July 1, 1991.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 445, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 10, 1991

TERRY E. BRANSTAD
Governor