

2/26/96 Do Pass
3/25/96 Referred to Commerce

JAN 8 1996
COMMERCE - REDEMPTION

HOUSE FILE 2030
BY MILLAGE

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

A BILL FOR

1 An Act relating to the redemption rights of mortgagors and
2 lienholders in actions of judicial foreclosure without rights
3 of redemption, when the federal government is one of the
4 junior lienholders.

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

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1 Section 1. Section 654.23, Code 1995, is amended to read
2 as follows:

3 654.23 NO REDEMPTION RIGHTS AFTER SALE.

4 1. The mortgagor has no right to redeem after a sale
5 conducted pursuant to section 654.20, except as provided in
6 subsection 2. Junior lienholders have no right to redeem
7 after a sale conducted pursuant to section 654.20, except as
8 provided in subsection 2. The mortgagor or a junior
9 lienholder may purchase at the sale and, if so, acquire the
10 same title as would any other purchaser. If the mortgagor at
11 the sale bids an amount equal to the judgment, the property
12 shall be sold to the mortgagor even though other persons may
13 bid an amount which is more than the judgment. If the
14 mortgagor purchases at the sale, the liens of junior
15 lienholders shall not be extinguished. If a person other than
16 the mortgagor purchases at the sale, the liens of junior
17 lienholders are extinguished.

18 2. a. If the United States is named in a foreclosure
19 action filed under section 654.20, and the sale is made to
20 satisfy a lien that is prior in interest to one or more liens
21 held by the United States, such that the United States
22 possesses a right to redeem the property under 28 U.S.C. §
23 2410 or other federal law, the mortgagor or any junior
24 lienholder may exercise a right to redeem during any
25 redemption period available to the United States, unless the
26 United States has consented to the sale of the property free
27 of its liens.

28 b. The provisions of chapter 628 govern redemption rights
29 among competing lienholders in a foreclosure subject to
30 paragraph "a", except that:

31 (1) Sections 628.1A, 628.2, 628.3, 628.5, 628.15, 628.16,
32 628.26, 628.26A, 628.27, 268.28, and 628.29 shall not apply.

33 (2) Section 628.11 shall not apply to the terms payable
34 for redemption of the property by the United States, unless
35 the applicable federal law fails to specify the redemption

1 amount to be paid by the United States.

2 (3) Any section of chapter 628 that is inconsistent with
3 federal law shall not apply.

4 EXPLANATION

5 Under section 654.20, a lienholder may elect a procedure
6 that pursues a judicial foreclosure, against nonagricultural
7 land, in which neither the mortgagor nor the junior
8 lienholders possess any redemption rights. However, if the
9 federal government is a junior lienholder, it would retain a
10 right to redeem (for up to one year, depending upon the type
11 of lien held by the government), pursuant to 28 U.S.C. § 2410
12 and case law under that statute and the supremacy clause, in
13 spite of the prohibition of such a right under the Iowa
14 statute. Because a redemption right exists for a federal
15 lienholder in such circumstances, and thereby has already
16 defeated the benefits of quick, clear title that this
17 procedure normally permits a senior lienholder to pursue, this
18 bill makes the right of redemption equally available to the
19 nonfederal junior lienholders during that time period.

20 The bill also applies chapter 628 to these redemptions, in
21 order to provide a mechanism for regulating the interests of
22 competing lienholders. Chapter 628 governs redemption rights
23 in foreclosures, but is excluded, in section 654.25, from
24 application to foreclosures without redemption conducted under
25 section 654.20. However, because case law under the federal
26 statute has held the federal provisions supreme over
27 conflicting state statutory provisions on redemption, certain
28 sections of chapter 628 that conflict with the federal
29 statute, as well as those sections that conflict with the new
30 redemption rights created under section 654.20, have been
31 excluded from application to these redemptions.

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