

**Senate Study Bill 1041 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON FRAISE)

**A BILL FOR**

1 An Act relating to the foreclosure of a real estate mortgage.

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

1 Section 1. Section 654.5, subsection 2, Code 2011, is  
2 amended to read as follows:

3 2. a. A special execution shall issue under such conditions  
4 as the decree may prescribe, and the sale under the special  
5 execution is subject to redemption as in cases of sale under  
6 general execution unless the plaintiff has elected foreclosure  
7 without redemption under section 654.20.

8 b. A successful bidder at the sale who is not affiliated  
9 with the judgment creditor may elect to receive, in lieu  
10 of a sheriff's deed or sheriff's certificate of sale, an  
11 assignment without recourse by operation of law of all of the  
12 judgment creditor's interest in the judgment, the underlying  
13 indebtedness, and any policies of title, property, and any  
14 other similar insurance or guaranty owned by the judgment  
15 creditor relating to the affected property. Except for a sale  
16 that is subject to redemption, an assignment under this section  
17 shall bar junior interests in the property as if an assignment  
18 had not been elected. If the sale is subject to redemption,  
19 the period to redeem shall commence on the date of the sale  
20 resulting in the assignment.

21 EXPLANATION

22 This bill relates to the foreclosure of a real estate  
23 mortgage.

24 Current law relating to foreclosure with redemption provides  
25 a statutory right of redemption to the debtor of the foreclosed  
26 property which allows the debtor to reclaim the debtor's  
27 foreclosed property by making payment in full of the unpaid  
28 loan plus costs (Code section 628.3). This right of redemption  
29 also applies to creditors, under some circumstances, if the  
30 debtor does not exercise the debtor's right to redeem (Code  
31 sections 628.5 and 628.8). Once the redemption period expires  
32 (generally, one year from the day of the sale) without a  
33 party redeeming the property, the purchaser is entitled to a  
34 sheriff's deed which conveys title only as it existed when the  
35 mortgage was executed.

1 This bill allows a successful bidder at a sheriff's sale  
2 who is not affiliated with the judgment creditor to elect to  
3 receive, in lieu of a sheriff's deed or sheriff's certificate  
4 of sale, an assignment of all of the judgment creditor's  
5 interest in the judgment, the underlying indebtedness, and any  
6 policies of title, property, and any other similar insurance  
7 or guaranty owned by the judgment creditor relating to the  
8 affected property. Except for a sale that is subject to  
9 redemption, an assignment under the bill bars junior interests  
10 in the property as if an assignment had not been elected. If  
11 the sale is subject to redemption, the period to redeem begins  
12 on the date of the sale resulting in the assignment.