

**Senate Study Bill 3132 - Introduced**

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

**A BILL FOR**

1 An Act relating to civil actions relating to real estate,  
2 including mortgage foreclosure actions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 617.11, Code 2011, is amended to read as  
2 follows:

3 **617.11 Lis pendens.**

4 1. ~~When so indexed said action~~ When a petition or municipal  
5 infraction citation affecting real estate is indexed pursuant  
6 to section 617.10, either action shall be considered pending so  
7 as to charge all third persons with notice of its pendency, and  
8 while pending no interest can be acquired by third persons in  
9 the subject matter thereof as against the plaintiff's rights.

10 2. If a claim of interest against the property is acquired  
11 prior to the indexing of the petition or citation and such  
12 claim is not filed of record prior to indexing, it is subject  
13 to the pending action as provided in subsection 1, unless any  
14 of the following occurs:

15 a. The claimant intervenes in the pending action prior to  
16 entry of judgment.

17 b. The claimant, prior to transfer of an interest in the  
18 property to a bona fide third-party transferee, records an  
19 affidavit showing that the party seeking relief under the  
20 pending action had, prior to the indexing of the petition or  
21 citation, actual notice of the claim of interest and of the  
22 identity of the claimant.

23 3. This subsection does not apply to a mechanic's lien filed  
24 pursuant to chapter 572 or to a person who has taken possession  
25 of the property for value prior to the indexing of the petition  
26 or citation.

27 Sec. 2. Section 654.4A, unnumbered paragraph 1, Code 2011,  
28 is amended to read as follows:

29 In addition to any other form of service authorized by  
30 law, where in rem relief is the only relief requested in a  
31 foreclosure action or nonjudicial foreclosure under section  
32 654.18 or chapter 655A against either a party or a person to be  
33 served with a notice pursuant to section 654.15B, all of the  
34 following shall apply:

35 Sec. 3. Section 654.18, subsection 1, paragraph e, Code

1 2011, is amended to read as follows:

2 e. (1) The mortgagee shall send by certified mail a  
3 notice of the election to all junior lienholders as of the  
4 date of the conveyance under paragraph "a", stating that the  
5 junior lienholders have thirty days from the date of mailing  
6 to exercise any rights of redemption. The notice may also be  
7 given in the manner prescribed in section 656.3 in which case  
8 the junior lienholders have thirty days from the completion of  
9 publication to exercise the rights of redemption.

10 (2) In addition to any other form of service authorized by  
11 law, service of process in an alternative nonjudicial voluntary  
12 foreclosure procedure filed pursuant to this section where in  
13 rem relief is the only relief requested shall be served in the  
14 manner provided in section 654.4A.

15 Sec. 4. Section 655A.3, subsection 1, paragraph b, Code  
16 2011, is amended to read as follows:

17 b. The notice shall contain the following in capital letters  
18 of the same type or print size as the rest of the notice:

19 WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU  
20 MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE  
21 WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY  
22 IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR  
23 REJECTION ON THE MORTGAGEE IN THE MANNER PROVIDED BY ~~THE RULES~~  
24 ~~OF CIVIL PROCEDURE FOR SERVICE OF ORIGINAL NOTICES~~ IN SECTION  
25 655A.4. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT  
26 AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.

27 IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE  
28 WITHIN THE THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE  
29 AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE  
30 FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED  
31 PROPERTY WILL BE EXTINGUISHED.

32 Sec. 5. Section 655A.4, Code 2011, is amended to read as  
33 follows:

34 **655A.4 Service.**

35 Notice under this chapter shall be served as provided in

1 the rules of civil procedure for service of original notice  
2 or as provided in section 654.4A. Rejection of notice under  
3 this chapter shall be served by ordinary or electronic mail  
4 addressed as provided in the notice, or if no address is  
5 provided, to the last address of the mortgagee known to the  
6 mortgagor.

7

EXPLANATION

8 Current law provides that when a petition or municipal  
9 infraction citation affecting real estate is indexed pursuant  
10 to Code section 617.10, either action is considered pending,  
11 placing third parties on notice of its pendency, and while  
12 pending no interest can be acquired by third persons. The bill  
13 provides that if a claim of interest against real estate is  
14 acquired prior to the indexing of a petition or citation and  
15 such claim is not filed of record prior to indexing, it is  
16 subject to the pending action unless the claimant intervenes in  
17 the pending action prior to entry of judgment or the claimant,  
18 or prior to transfer of an interest in the property to a bona  
19 fide third-party transferee, the claimant records an affidavit  
20 showing that the party seeking relief under the pending action  
21 had, prior to the indexing of the petition or citation, actual  
22 notice of the claim of interest and of the identity of the  
23 claimant. The bill does not apply to a mechanic's lien filed  
24 pursuant to Code chapter 572 or to a person who has taken  
25 possession of the property for value prior to indexing of the  
26 petition or citation.

27 The bill extends service of process requirements currently  
28 in effect for foreclosure actions to nonjudicial voluntary  
29 foreclosures and nonjudicial foreclosures of nonagricultural  
30 mortgages and makes conforming Code changes.