

**Senate Study Bill 3053 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON CHAPMAN)

**A BILL FOR**

1 An Act relating to shortening the periods of time for redeeming  
2 real property from foreclosure and delaying sale of  
3 foreclosed property.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 535.8, subsection 4, paragraph e,  
2 subparagraph (1), Code 2018, is amended to read as follows:

3 (1) Notwithstanding [section 628.3](#) when a foreclosure of a  
4 mortgage on real property results from the enforcement of a  
5 due-on-sale clause, the mortgagor may redeem the real property  
6 at any time within ~~three years~~ eighteen months from the day of  
7 sale under the levy, and the mortgagor shall, in the meantime,  
8 be entitled to the possession thereof; and for the first  
9 ~~thirty~~ fifteen months thereafter such right of redemption is  
10 exclusive. Any real property redeemed by the debtor shall  
11 thereafter be free and clear from any liability for any unpaid  
12 portion of the judgment under which the real property was  
13 sold. The right of redemption established by this paragraph  
14 is not subject to waiver by the mortgagor and the period of  
15 redemption established by this paragraph shall not be reduced.  
16 The times for redemption by creditors provided in sections  
17 628.5, [628.15](#), and [628.16](#) shall be extended to ~~thirty-three~~  
18 sixteen months in any case in which the mortgagor's period  
19 for redemption is extended by this paragraph. This paragraph  
20 does not apply to foreclosure of a mortgage if for any reason  
21 other than enforcement of a due-on-sale clause. As used in  
22 this paragraph, "*due-on-sale clause*" means any type of covenant  
23 which gives the mortgagee the right to demand payment of the  
24 outstanding balance or a major part thereof upon a transfer by  
25 the mortgagor to a third party of an interest of the mortgagor  
26 in property covered by the mortgage. This paragraph applies to  
27 any foreclosure occurring on or after May 10, 1980. However,  
28 this paragraph does not apply if the lender establishes, based  
29 on reasonable criteria which are not more restrictive than  
30 those used to evaluate new mortgage-loan applications, that the  
31 security interest or the likelihood of repayment is impaired as  
32 a result of the transfer of interest.

33 Sec. 2. Section 628.3, Code 2018, is amended to read as  
34 follows:

35 **628.3 Redemption by debtor.**

1 The debtor may redeem real property at any time within  
2 ~~one year~~ six months from the day of sale, and will, in the  
3 meantime, be entitled to the possession thereof; and for the  
4 first ~~six~~ three months thereafter such right of redemption is  
5 exclusive. Any real property redeemed by the debtor shall  
6 thereafter be free and clear from any liability for any unpaid  
7 portion of the judgment under which said real property was  
8 sold.

9 Sec. 3. Section 628.5, Code 2018, is amended to read as  
10 follows:

11 **628.5 Redemption by creditors.**

12 If no redemption is made by the debtor as above provided,  
13 thereafter, and at any time within ~~nine~~ four months from the  
14 day of sale, said redemption may be made by a mortgagee before  
15 or after the debt secured by the mortgage falls due, or by any  
16 creditor whose claim becomes a lien prior to the expiration of  
17 the time allowed for such redemption.

18 Sec. 4. Section 628.15, Code 2018, is amended to read as  
19 follows:

20 **628.15 ~~After nine~~ Creditors after four months.**

21 After the expiration of ~~nine~~ four months from the day of  
22 sale, the creditors can no longer redeem from each other,  
23 except as hereinafter provided.

24 Sec. 5. Section 628.16, Code 2018, is amended to read as  
25 follows:

26 **628.16 Who gets property.**

27 Unless the defendant redeems, the purchaser, or the creditor  
28 who has last redeemed ~~prior to the expiration of the nine~~  
29 within four months ~~afesaid~~ from the day of sale, will hold  
30 the property absolutely.

31 Sec. 6. Section 628.26, Code 2018, is amended to read as  
32 follows:

33 **628.26 Agreement to reduce period of redemption.**

34 The mortgagor and the mortgagee of real property consisting  
35 of less than ten acres in size may agree and provide in the

1 mortgage instrument that the period of redemption after sale  
2 on foreclosure of said mortgage as set forth in [section 628.3](#)  
3 be reduced to ~~six~~ three months, provided the mortgagee waives  
4 in the foreclosure action any rights to a deficiency judgment  
5 against the mortgagor which might arise out of the foreclosure  
6 proceedings. In such event the debtor will, in the meantime,  
7 be entitled to the possession of said real property; and if  
8 such redemption period is so reduced, for the first ~~three~~  
9 ~~months~~ month after sale such right of redemption shall be  
10 exclusive to the debtor, and the time periods in sections  
11 628.5, [628.15](#), and [628.16](#), shall be reduced to ~~four~~ two months.

12 Sec. 7. Section 654.20, subsection 1, Code 2018, is amended  
13 to read as follows:

14 1. If the mortgaged property is not used for an agricultural  
15 purpose as defined in [section 535.13](#), the plaintiff in an  
16 action to foreclose a real estate mortgage may include in the  
17 petition an election for foreclosure without redemption. The  
18 election is effective only if the first page of the petition  
19 contains the following notice in capital letters of the same  
20 type or print size as the rest of the petition:

21 NOTICE

22 THE PLAINTIFF HAS ELECTED FORECLOSURE WITHOUT REDEMPTION.  
23 THIS MEANS THAT THE SALE OF THE MORTGAGED PROPERTY WILL OCCUR  
24 PROMPTLY AFTER ENTRY OF JUDGMENT UNLESS YOU FILE WITH THE COURT  
25 A WRITTEN DEMAND TO DELAY THE SALE. IF YOU FILE A WRITTEN  
26 DEMAND, THE SALE WILL BE DELAYED UNTIL ~~TWELVE~~ SIX MONTHS  
27 (or ~~SIX~~ THREE MONTHS if the petition includes a waiver of  
28 deficiency judgment) FROM ENTRY OF JUDGMENT IF THE MORTGAGED  
29 PROPERTY IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY  
30 DWELLING OR UNTIL TWO MONTHS FROM ENTRY OF JUDGMENT IF THE  
31 MORTGAGED PROPERTY IS NOT YOUR RESIDENCE OR IS YOUR RESIDENCE  
32 BUT NOT A ONE-FAMILY OR TWO-FAMILY DWELLING. YOU WILL HAVE  
33 NO RIGHT OF REDEMPTION AFTER THE SALE. THE PURCHASER AT THE  
34 SALE WILL BE ENTITLED TO IMMEDIATE POSSESSION OF THE MORTGAGED  
35 PROPERTY. YOU MAY PURCHASE AT THE SALE.



1 cannot redeem from each other. Unless the defendant-debtor  
2 redeems, the purchaser, or the creditor who last redeemed  
3 within four months of the day of sale, will hold the property  
4 absolutely.

5 Under current law, a mortgagor and mortgagee can agree to  
6 reduce the period of redemption from foreclosure as described  
7 in the mortgage instrument to a period of six months. The bill  
8 would allow the mortgagor and mortgagee to agree to reduce  
9 the period of redemption by the debtor to three months. The  
10 debtor's right of redemption would be exclusive the first  
11 month, as opposed to three months. Under the bill, the time  
12 for redemption by creditors would be shortened from four months  
13 to two months.

14 The bill also alters Code chapter 654. The bill changes  
15 the notice requirement and rule for foreclosure without  
16 redemption by changing the length of time a sale can be  
17 delayed when a defendant-mortgagor makes a written demand to a  
18 plaintiff-mortgagee to delay sale. The bill delays the sale by  
19 six months from entry of judgment as opposed to the current 12  
20 months. If a plaintiff-mortgagee's petition includes a waiver  
21 of deficiency judgment, a defendant-mortgagor's written demand  
22 will only result in a three-month rather than a six-month delay  
23 of sale following entry of judgment.

24 Notwithstanding Code section 628.3 when a foreclosure of  
25 a mortgage on real property results from enforcement of a  
26 due-on-sale clause, the bill amends Code section 535.8(4)(e)(1)  
27 to shorten the period that a mortgagor may redeem the real  
28 property from any time within three years to anytime within  
29 18 months from the day of sale under the levy. The bill also  
30 shortens the period during which the mortgagor's right of  
31 redemption is exclusive from the first 30 months to the first  
32 15 months and the period during which creditors may redeem  
33 under Code sections 628.5, 628.15, and 628.16 from 33 months  
34 to 16 months.