

The legislative council shall establish a two-year interim study committee beginning during the 1985 interim to review and monitor actions taken by the commissioner of human services, department of human services, mental health and mental retardation commission, council on human services, division of mental health, mental retardation, and developmental disabilities, the advisory committee, and other agencies affected by this Act regarding the bill of rights pursuant to sections 225C.25 through 225C.28, and to review and propose alternatives to the present funding methods for the mandated services.

Sec. 8. There is appropriated from the general fund of the state to the department of human services for each fiscal year for the fiscal period beginning July 1, 1985 and ending June 30, 1987, the sum of one hundred nine thousand (109,000) dollars, or so much thereof as is necessary, for five full-time equivalent positions, to carry out the intent of this Act.

Sec. 9. This Act takes effect July 1, 1985 except section 5 which takes effect July 1, 1987, providing that legislation is enacted by the general assembly before July 1, 1987, which provides a fair and equitable funding formula for the implementation of section 5 of this Act.

Approved May 31, 1985

CHAPTER 250
REAL ESTATE FORECLOSURE
S.F. 459

AN ACT relating to real property which is subject to foreclosure.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 654.15, Code 1985, is amended to read as follows:
654.15 MORATORIUM CONTINUANCE.

1. In all actions for the foreclosure of real estate mortgages, deeds of trust of real property, and contracts for the purchase of real estate, when the owner or owners enter enters an appearance and file files an answer admitting some indebtedness and breach of the terms of the above designated instrument, (which admissions cannot be withdrawn or denied after a continuance is granted hereunder, be withdrawn or denied) such, the owner or owners may apply for a continuance of the foreclosure action when and where if the default or inability of such party or parties the owner to pay or perform is mainly due or brought about by reason of drought, flood, heat, hail, storm, or other climatic conditions or by reason of the infestation of pests which affect the land in controversy, or when the governor of the state of Iowa by reason of a depression shall have by proclamation declared a state of emergency to exist within this state. Said applications The application must be in writing and filed at or before final decree. Upon the filing of such the application the court shall set a day for hearing of on the same application and provide by order for notice, to be given to the plaintiff, of the time fixed for said the hearing. If the court shall on said hearing find finds that the application is made in good faith, and the same is supported by competent evidence showing that default in payment or inability to pay is due to drought, flood, heat, hail, storm, or other climatic conditions or due to infestation of pests or when the governor of the state of Iowa by reason of a depression shall have by proclamation declared a state of emergency to exist within this state, the court may in its discretion continue said the foreclosure proceeding or proceedings as follows:

1 a. If the default or breach of terms of the written instrument ~~or instruments~~ on which the action is based ~~occur~~ occurs on or before the first day of March of any year by reason of any of the causes ~~hereinbefore~~ specified in this subsection, causing the loss and failure of crops on the land involved in the previous year, ~~then~~ the continuance shall end on the first day of March of the succeeding year.

2 b. If the default or breach of terms of ~~said~~ the written instrument ~~occur~~ occurs after the first day of March, but during that crop year and that year's crop fails by reason of any of the causes ~~hereinbefore~~ set out in this subsection, ~~then~~ the continuance shall end on the first day of March of the second succeeding year.

3 c. Only one ~~such~~ continuance shall be granted, except upon a showing of extraordinary circumstances in which event the court may in its discretion grant a second continuance for ~~such~~ a further period as ~~to~~ the court ~~may seem~~ deems just and equitable, not to exceed one year.

4 d. The order shall provide for the appointment of a receiver to take charge of the property and to rent the ~~same and the property~~. ~~The owner or party person in possession shall be given preference in the occupancy thereof and the of the property~~. ~~The receiver, who may be the owner or person in possession, shall collect the rents and income and distribute the proceeds as follows:~~

a. (1) For the payment of the costs of receivership.

b. (2) For the payment of taxes due or becoming due during the period of receivership.

e. (3) For the payment of insurance on the buildings on the premises.

d. (4) ~~The balance remaining balance~~ shall be paid to the owner of the written instrument upon which the foreclosure is based, to be credited ~~thereon~~ on the instrument.

Sec. 2. Section 654.15, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 2. In all actions for the foreclosure of real estate mortgages, deeds of trust of real property, and contracts for the purchase of real estate, an owner of real estate may apply for a moratorium as provided in this subsection if the governor declares a state of economic emergency. The declaration by the governor of a state of economic emergency shall be valid for no more than one year for the purposes of this subsection. The governor shall state in the declaration whether a moratorium is applicable to real estate used for farming, real estate not used for farming, or all real estate. Only property of the type specified in the declaration which is subject to a mortgage, deed of trust, or contract for purchase entered into before the date of the declaration is eligible for a moratorium. In an action for the foreclosure of a mortgage, deed of trust, or contract for purchase of real property eligible for a moratorium, the owner may apply for a continuation of the foreclosure if the owner has entered an appearance and filed an answer admitting some indebtedness and breach of the terms of the designated instrument. The admissions cannot be withdrawn or denied after a continuance is granted. Upon the filing of an application as provided in this subsection, the court shall set a date for hearing and provide by order for notice to the parties of the time for the hearing. If the court finds that the application is made in good faith and the owner is unable to pay or perform, the court may continue the foreclosure proceeding as follows:

a. If the application is made in regard to real estate used for farming, and if the default or breach of terms of the written instrument occurs on or before the first day of March of the year in which the governor declares a state of economic emergency, then the continuance shall terminate on the first day of March of the succeeding year.

b. Only one continuance shall be granted the applicant or petitioner for each written instrument or contract under each declaration. Except as provided in paragraph "a", the continuance shall not exceed one year.

c. The court shall appoint a receiver to take charge of the property and to rent the property. The owner or person in possession of the property shall be given preference in the occupancy of the property. The receiver, who may be the owner or person in possession, shall collect the rents and income and distribute the proceeds as follows:

- (1) For the payment of the costs of receivership.
- (2) For the payment of taxes due or becoming due during the period of receivership.
- (3) For the payment of insurance on the buildings on the premises.
- (4) The remaining balance shall be paid to the owner of the written instrument upon which the foreclosure was based, to be credited against the written instrument.

d. A continuance granted under this subsection may be terminated if the court finds, after notice and hearing, all of the following:

(1) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to restructure the debt obligations of the applicant.

(2) The party seeking foreclosure has made reasonable efforts in good faith to work with the applicant to utilize state and federal programs designed and implemented to provide debtor relief options. For the purposes of subparagraphs (1) and (2), the determination of reasonableness shall take into account the financial condition of the party seeking foreclosure, and the financial strength and the long-term financial survivorship potential of the applicant.

(3) The applicant has failed to pay interest due on the written instrument.

Sec. 3. The legislative council shall study the short and long-term effects of the implementation of a phase-in of interest payments. The legislative council shall report the results of the study to the governor and to the general assembly within a reasonable time.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Belle Plaine Union*, a newspaper published in Belle Plaine, Iowa, and in *The Schleswig Leader*, a newspaper published in Schleswig, Iowa.

Approved May 31, 1985

I hereby certify that the foregoing Act was published in *The Schleswig Leader*, Schleswig, Iowa on June 13, 1985 and in *The Belle Plaine Union*, Belle Plaine, Iowa on June 19, 1985.

MARY JANE ODELL, *Secretary of State*