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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE NO. 1278

February 22, 2007

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to real property; providing for homestead property; amending Minnesota
1.3 Statutes 2006, sections 510.02; 510.05; 550.175, subdivisions 1, 4, by adding a
1.4 subdivision; 550.18; 550.19; 550.22; 550.24; 580.24; proposing coding for new
1.5 law in Minnesota Statutes, chapter 550.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2006, section 510.02, is amended to read:

1.8 **510.02 AREA AND VALUE; HOW LIMITED.**

1.9 The homestead may include any quantity of land not exceeding 160 acres, and not
1.10 included in the laid out or platted portion of any city. If the homestead is within the laid
1.11 out or platted portion of a city, its area must not exceed one-half of an acre. ~~The value of~~
1.12 ~~the homestead exemption~~ amount of the exemption per homestead, whether the exemption
1.13 is claimed ~~jointly or individually~~ by one or more debtors, may not exceed \$200,000
1.14 or, if the homestead is used primarily for agricultural purposes, \$500,000, exclusive of
1.15 the limitations set forth in section 510.05.

1.16 Sec. 2. Minnesota Statutes 2006, section 510.05, is amended to read:

1.17 **510.05 LIMITATIONS.**

1.18 ~~Such~~ The amount of the homestead exemption shall not be reduced by and shall
1.19 not extend to any mortgage lawfully obtained thereon, to any valid lien for taxes or
1.20 assessments, to a claim filed pursuant to section 256B.15 or section 246.53 or, to any
1.21 charge arising under the laws relating to laborers or material suppliers' liens or to any
1.22 charge obtained pursuant to a valid waiver of the homestead exemption.

2.1 Sec. 3. Minnesota Statutes 2006, section 550.175, subdivision 1, is amended to read:

2.2 Subdivision 1. **Order directing sale of real property.** The executing creditor
2.3 must obtain an order from the court directing a sale of the real property that includes
2.4 a homestead before service of the notice of execution on real property containing the
2.5 homestead of the debtor. The order shall contain the following findings:

2.6 (1) whether the real property is the homestead of a nondebtor;

2.7 (2) the amount of the debtor's homestead exemption, if any; and

2.8 (3) whether the fair market value of the real property exceeds the sum of the debtor's
2.9 homestead exemption and the present encumbrances.

2.10 If the court finds that there is no nondebtor with a valid homestead interest in the
2.11 real property and that the fair market value of the homestead real property exceeds the
2.12 sum of the debtor's homestead exemption and the present encumbrances, the court shall
2.13 order a sale of the real property for cash or cash equivalents to the extent of the homestead
2.14 exemption.

2.15 Subd. 1a. Notification of homestead designation. If real property is to be sold on
2.16 execution and the property contains a portion of the homestead of the debtor, the debtor
2.17 must be notified by the executing creditor that the homestead may be sold and redeemed
2.18 separately from the remaining property. The notice in subdivision 2 must be included in
2.19 the notice of execution served on the debtor under section 550.19.

2.20 Sec. 4. Minnesota Statutes 2006, section 550.175, subdivision 4, is amended to read:

2.21 Subd. 4. **Sale of property.** (a) If the sheriff receives a homestead property
2.22 designation under subdivision 3, the sheriff must offer and sell the designated homestead
2.23 property, and the remaining property, separately, unless the executing creditor denies the
2.24 right to the exemption, objects to the property designated, or claims the value exceeds
2.25 the exemption.

2.26 (b) If the executing creditor is dissatisfied with the homestead property designation
2.27 or the debtor's valuation of the property, upon proper motion to the district court of the
2.28 county in which any part of the property is located, the executing creditor is entitled to
2.29 a court approved designation of the homestead and a court determination of value. The
2.30 court shall either approve the debtor's designation or cause the property to be surveyed
2.31 and order a homestead designation consistent with the standards of subdivision 3 and
2.32 require an appraisal of fair market value, as applicable. The court's designation of the
2.33 homestead property must conform to the debtor's request, to the extent not inconsistent
2.34 with the standards of subdivision 3.

3.1 (c) The court, in determining appraised value, shall review any appraisals provided
 3.2 by the debtor and executing creditor and may require a court appointed independent
 3.3 appraisal. The appraisals shall evaluate the property's fair market value, net of reasonable
 3.4 costs of sale.

3.5 (d) If the court determines that the property claimed as a homestead exceeds in value
 3.6 the amount of the homestead exemption or if the court determines that the property cannot
 3.7 be divided without material injury, the court shall order the sale of the entire property,
 3.8 including the designated homestead. ~~Out of the proceeds of the sale, the court shall pay~~
 3.9 ~~the debtor the amount of the homestead exemption and apply the balance of the proceeds~~
 3.10 ~~of the sale on the execution~~ for cash or cash equivalents to the extent of the homestead
 3.11 exemption.

3.12 (e) At the sale, no bid may be accepted unless it exceeds the amount of the
 3.13 homestead exemption. If no bid exceeds the exemption, the homestead is exempt.

3.14 (f) The cost of any court ordered survey or appraisal and of the sale must be collected
 3.15 on the execution, if the debtor designated as the debtor's homestead a greater quantity of
 3.16 property, property of greater value than the debtor was entitled to, or designated a parcel
 3.17 that does not meet the standards of subdivision 3. In all other cases, the costs shall be
 3.18 borne by the executing creditor.

3.19 Sec. 5. Minnesota Statutes 2006, section 550.175, is amended by adding a subdivision
 3.20 to read:

3.21 Subd. 6. **Real property not subject to execution.** Real property that includes a
 3.22 homestead as defined under section 510.01 is not subject to execution under this chapter if
 3.23 there is a nondebtor with:

3.24 (1) homestead rights under sections 507.02 and 510.01 to 510.04;

3.25 (2) rights as a joint tenant or life tenant; or

3.26 (3) rights to take the homestead under section 524.2-402.

3.27 Sec. 6. Minnesota Statutes 2006, section 550.18, is amended to read:

3.28 **550.18 NOTICE OF SALE.**

3.29 Before the sale of property on execution notice shall be given as follows:

3.30 (1) if the sale be of personal property, by giving ten days posted notice of the time
 3.31 and place thereof;

3.32 (2) if the sale be of real property, on execution or on judgment, by six weeks posted
 3.33 and published notice of the time and place thereof, describing the property with sufficient
 3.34 certainty to enable a person of common understanding to identify it.

4.1 (3) A judgment creditor shall record a certified copy of the order directing sale of
 4.2 real property issued pursuant to section 550.175, if the real property is a homestead,
 4.3 with the county recorder or registrar of titles as appropriate in the county in which the
 4.4 real property is located before the first date of publication of the notice of sale required
 4.5 under section 550.18, clause (2).

4.6 An officer who sells without such notice shall forfeit \$100 to the party aggrieved, in
 4.7 addition to paying actual damages; and a person who before the sale or the satisfaction of
 4.8 the execution, and without the consent of the parties, takes down or defaces the notice
 4.9 posted, shall forfeit \$50; but the validity of the sale shall not be affected by either act,
 4.10 either as to third persons or parties to the action.

4.11 Sec. 7. Minnesota Statutes 2006, section 550.19, is amended to read:

4.12 **550.19 SERVICE ON JUDGMENT DEBTOR.**

4.13 ~~At or before the time of posting notice of sale, the officer shall serve a copy of the~~
 4.14 ~~execution and inventory, and of such notice, upon the judgment debtor, if the debtor be a~~
 4.15 ~~resident of the county, in the manner required by law for the service of a summons in a~~
 4.16 ~~civil action.~~ A judgment creditor must, at least four weeks before the appointed time of
 4.17 sale, serve a copy of the notice of sale in like manner as a summons in a civil action in the
 4.18 district court upon the judgment debtor if the judgment debtor is a resident of the county
 4.19 and upon any person in possession of the homestead other than the judgment debtor.
 4.20 In addition, the notice of sale must also be served upon all persons who have recorded
 4.21 a request for notice in accordance with section 580.032.

4.22 **Sec. 8. [550.206] REPORT OF SALE OF HOMESTEAD ON EXECUTION;**
 4.23 **CONFIRMATION; RESALE.**

4.24 Upon sale of a homestead on execution, the sheriff shall file a report of the sale with
 4.25 the court. Upon the filing of the report of sale, the court shall grant an order confirming the
 4.26 sale, or, if it appears upon due examination that justice has not been done, the court may
 4.27 order a resale on terms the court determines are just. Upon confirmation of the sale and
 4.28 execution of the certificate of sale, the sheriff shall pay the judgment debtor the amount of
 4.29 the homestead exemption and apply the balance of the proceeds of the sale to the execution.
 4.30 The sheriff shall pay any surplus thereafter in the manner provided in section 580.09.

4.31 Sec. 9. Minnesota Statutes 2006, section 550.22, is amended to read:

4.32 **550.22 CERTIFICATE OF SALE OF REALTY.**

5.1 When a sale of real property is made upon execution, or pursuant to a judgment or
 5.2 order of a court, unless otherwise specified therein, the officer shall execute and deliver
 5.3 to the purchaser a certificate containing:

5.4 (1) a description of the execution, judgment, or order;

5.5 (2) a description of the property;

5.6 (3) the date of the sale and the name of the purchaser;

5.7 (4) the price paid for each parcel separately;

5.8 (5) if subject to redemption, the time allowed by law therefor;

5.9 (6) the amount of the debtor's homestead exemption, if any, as determined under
 5.10 section 550.175.

5.11 Such certificate shall be executed, acknowledged, and recorded in the manner
 5.12 provided by law for a conveyance of real property, shall be prima facie evidence of the
 5.13 facts ~~therein~~ stated, and, upon expiration of the time for redemption, shall operate as
 5.14 a conveyance to the purchaser of all the right, title, and interest of the person whose
 5.15 property is sold in and to the same, at the date of the lien upon which the same was sold.

5.16 Any person desiring to perpetuate evidence that any real property sold under this section
 5.17 was not homestead real property may procure an affidavit by the person enforcing the
 5.18 judgment, or that person's attorney, or someone having knowledge of the facts, setting
 5.19 forth that the real property was not homestead real property. The affidavit shall be
 5.20 recorded by the county recorder or registrar of titles, and the affidavit and certified copies
 5.21 of the affidavit shall be prima facie evidence of the facts stated in the affidavit.

5.22 Sec. 10. Minnesota Statutes 2006, section 550.24, is amended to read:

5.23 **550.24 REDEMPTION OF REALTY.**

5.24 (a) Upon the sale of real property, if the estate sold is less than a leasehold of two
 5.25 years' unexpired term, the sale is absolute. In all other cases the property sold, or any
 5.26 portion thereof which has been sold separately, is subject to redemption as provided
 5.27 in this section.

5.28 (b) The judgment debtor, the debtor's heirs, successors, legal representatives, or
 5.29 assigns may redeem within one year after the day of sale, or order confirming sale if
 5.30 the property is a homestead, by paying, to the purchaser or the officer making the sale,
 5.31 the amount for which the property was sold with interest at the judgment rate and if the
 5.32 purchaser is a creditor having a prior lien, the amount thereof, with interest at the judgment
 5.33 rate together with any costs as provided in sections 582.03 and 582.031.

5.34 (c) If there is no redemption during the debtor's redemption period, creditors having
 5.35 a lien, legal or equitable, on the property or some part thereof, subsequent to that on

6.1 which it was sold may redeem in the manner provided for redemption by creditors of the
6.2 mortgagor in section 580.24, in the order of their respective liens.

6.3 (d) If the property is abandoned during the judgment debtor's redemption period,
6.4 the person holding the sheriff's certificate may request that the court reduce the judgment
6.5 debtor's redemption period to five weeks using the procedures provided for a foreclosure
6.6 by action in section 582.032, subdivision 5.

6.7 Sec. 11. Minnesota Statutes 2006, section 580.24, is amended to read:

6.8 **580.24 REDEMPTION BY CREDITOR.**

6.9 (a) If no redemption is made by the mortgagor, the mortgagor's personal
6.10 representatives or assigns, the most senior creditor having a legal or equitable lien upon
6.11 the mortgaged premises, or some part of it, subsequent to the foreclosed mortgage, may
6.12 redeem within seven days after the expiration of the redemption period determined
6.13 under section 580.23 or 582.032, whichever is applicable; and each subsequent creditor
6.14 having a lien may redeem, in the order of priority of their respective liens, within seven
6.15 days after the time allowed the prior lienholder by paying the amount required under this
6.16 section. However, no creditor is entitled to redeem unless, within the period allowed for
6.17 redemption by the mortgagor, the creditor:

6.18 (1) records with each county recorder and registrar of titles where the foreclosed
6.19 mortgage is recorded a notice of the creditor's intention to redeem;

6.20 (2) records in each office where the notice is recorded all documents necessary to
6.21 create the lien on the mortgaged premises and to evidence the creditor's ownership of the
6.22 lien; and

6.23 (3) after complying with clauses (1) and (2), delivers to the sheriff who conducted
6.24 the foreclosure sale or the sheriff's successor in office a copy of each of the documents
6.25 required to be recorded under clauses (1) and (2), with the office, date and time of filing
6.26 for record stated on the first page of each document.

6.27 The sheriff shall maintain for public inspection all documents delivered to the sheriff
6.28 and shall note the date of delivery on each document. The sheriff may charge a fee of
6.29 \$100 for the documents delivered to the sheriff relating to each lien. The sheriff shall
6.30 maintain copies of documents delivered to the sheriff for a period of six months after the
6.31 end of the mortgagor's redemption period.

6.32 (b) Saturdays, Sundays, legal holidays, and the first day following the expiration
6.33 of the prior redemption period must be included in computing the seven-day redemption
6.34 period. When the last day of the period falls on Saturday, Sunday, or a legal holiday,
6.35 that day must be omitted from the computation. The order of redemption by judgment

7.1 creditors subsequent to the foreclosed mortgage shall be determined by the order in which
7.2 their judgments were entered as memorials on the certificate of title for the foreclosed
7.3 premises or docketed in the office of the district court administrator if the property is not
7.4 registered under chapter 508 or 508A, regardless of the homestead status of the property.

7.5 All mechanic's lienholders who have coordinate liens shall have one combined seven-day
7.6 period to redeem.

7.7 (c) The amount required to redeem from the holder of the sheriff's certificate of sale
7.8 is the amount required under section 580.23. The amount required to redeem from a
7.9 person holding a certificate of redemption is:

7.10 (1) the amount paid to redeem as shown on the certificate of redemption; plus

7.11 (2) interest on that amount to the date of redemption; plus

7.12 (3) the amount claimed due on the person's lien, as shown on the affidavit under
7.13 section 580.25, clause (3).

7.14 The amount required to redeem may be paid to the holder of the sheriff's certificate
7.15 of sale or the certificate of redemption, as the case may be, or to the sheriff for the holder.