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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3474

February 25, 2008

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

March 10, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to mortgages; providing for abandonment of premises under certain
1.3 circumstances; amending Minnesota Statutes 2006, section 582.032, subdivision
1.4 7.

1.5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

1.6 Section 1. Minnesota Statutes 2006, section 582.032, subdivision 7, is amended to read:

1.7 Subd. 7. **Hearing; evidence; order.** At the hearing on the summons and complaint
1.8 or order to show cause, the court shall enter an order reducing the mortgagor's redemption
1.9 period as provided in subdivision 2 or 3, as applicable, if evidence is presented supporting
1.10 the allegations in the complaint or motion and no appearance is made to oppose the relief
1.11 sought. An affidavit by the sheriff or a deputy sheriff of the county in which the mortgaged
1.12 premises are located, or of a building inspector, zoning administrator, housing official, or
1.13 other municipal or county official having jurisdiction over the mortgaged premises, stating
1.14 that the mortgaged premises are not actually occupied and further setting forth any of the
1.15 following supporting facts, is prima facie evidence of abandonment:

1.16 (1) windows or entrances to the premises are boarded up or closed off, or multiple
1.17 window panes are broken and unrepaired;

1.18 (2) doors to the premises are smashed through, broken off, unhinged, or continuously
1.19 unlocked;

1.20 (3) gas, electric, or water service to the premises has been terminated;

1.21 (4) rubbish, trash, or debris has accumulated on the mortgaged premises;

1.22 (5) the police or sheriff's office has received at least two reports of trespassers on the
1.23 premises, or of vandalism or other illegal acts being committed on the premises; or

2.1 (6) the premises are deteriorating and are either below or are in imminent danger of
2.2 falling below minimum community standards for public safety and sanitation.

2.3 An affidavit of the party foreclosing the mortgage or holding the sheriff's certificate,
2.4 or one of their agents or contractors, stating any of the above supporting facts, and that
2.5 the affiant has changed locks on the mortgaged premises under section 582.031 and that
2.6 for a period of ten days no party having a legal possessory right has requested entrance
2.7 to the premises, is also prima facie evidence of abandonment. Either affidavit described
2.8 above, or an affidavit from any other person having knowledge, may state facts supporting
2.9 any other allegations in the complaint or motion and is prima facie evidence of the
2.10 same. Written statements of the mortgagor, the mortgagor's personal representatives or
2.11 assigns, including documents of conveyance, which indicate a clear intent to abandon
2.12 the premises, are conclusive evidence of abandonment. In the absence of affidavits or
2.13 written statements, or if rebuttal evidence is offered by the defendant or a party lawfully
2.14 claiming through the defendant, the court may consider any competent evidence, including
2.15 oral testimony, concerning any allegation in the complaint or motion. A defendant's
2.16 failure to appear at the hearing after service of process in compliance with subdivision
2.17 6 is conclusive evidence of abandonment by the defendant. An order entered under this
2.18 section must contain a legal description of the mortgaged premises.