

HOUSE RESEARCH

Bill Summary

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Overview

This bill provides several modifications to law related to abandoned and problem properties, including specifying certain notice requirements, permitting a political subdivision to request reduction of the redemption period on a foreclosed abandoned property, and classifying the sale or gift of alcohol in an abandoned property as a public nuisance in certain circumstances.

The bill also contains a provision permitting a foreclosure sale to be postponed by a borrow if certain requirements are met.

Section

- 1 Order to secure building; notice.** Specifies content requirements for the notice provided by a municipality related to a vacant or unoccupied property that has been deemed hazardous. The notice must include a statement that costs may be assessed against the property if the building is not secured, that a hearing may be requested, and that the holder of a sheriff's certificate has a duty to protect the premises if there is evidence of abandonment, as described in law.
- 2 Securing of building by city.** Modifies the existing law permitting a municipality to secure a building under certain circumstances. This section extends the deadline for action by the owner of the property from 6 to 14 days from being ordered to secure the premises, and adds a failure to act by the holder of a sheriff's certificate to the circumstances permitting municipal action.
- 3 Limitation on lease.** Adds a summons and complaint filed due to a foreclosure by court action to the list of circumstances that restrict the types of leases a landlord may enter into with a tenant.

This section applies to leases entered into on or after August 1, 2009.
- 4 Withholding rent.** Adds a reference to chapter 581 (mortgage foreclosures by court action)

to prohibition on a tenant's withholding of rent in certain circumstances.

- 5** **Applicability; foreclosure prevention counseling.** Specifies that foreclosures occurring by court action are subject to the foreclosure prevention counseling requirements provided in section 580.021.
- 6** **Notice of sale.** Modifies the requirements for the notice of sale of a foreclosed premises. The notice must include the commonly used street address for the premises, and requires the inclusion of a statement related to the possibility of a reduced redemption period for all properties that are abandoned.
- 7** **Applicability; owner's foreclosure advice notice.** Specifies that foreclosures occurring by court action are subject to the foreclosure advice notice requirements for an owner under section 580.041.
- 8** **Applicability; tenant's foreclosure advice notice.** Specifies that foreclosures occurring by court action are subject to the foreclosure advice notice requirements for a tenant under section 580.042.
- 9** **Postponement of foreclosure sale.**
- Subd. 1. Postponement by mortgagee.** Makes no change. This existing provision allows the lender to postpone a foreclosure sale, which has always been allowed for any reason.
- Subd. 2. Postponement by mortgagor or owner.** Permits the borrower to postpone a foreclosure sale if the property is classified as homestead and has one to four dwelling units. Permits postponement of the sale to a date that is five months after the originally scheduled date of the sale. Reduces the post-sale redemption period from six months to five weeks, to keep the total time involved roughly the same. Describes in detail the procedure for postponing the sale, including how this postponement is dealt with for purposes of avoiding future real estate title problems.
- Subd. 3. Affidavit form.** Provides a form for the affidavit required in subdivision 2 as part of the process of getting the sale postponed. The affidavit recites that the borrower meets the requirements provided in this section for getting the sale postponed. An affidavit is a written statement signed under oath.
- Effective date:** Makes the bill effective one month after final enactment and apply to foreclosure sales scheduled to take place on or after that date.
- 10** **Duty to protect premises.** Provides that an affidavit of a licensing, regulatory, or inspection authority of the municipality in which the property is located stating that the property is vacant and unoccupied is prima facie evidence of the statements in the affidavit and may be recorded. Current law permits this same affidavit to be submitted by the sheriff.
- This section also provides that if the holder of a sheriff's certificate knows there is prima facie evidence of abandonment of a property as described in law, the holder has a duty to enter the premises and secure and protect it. This includes changing or installing locks on doors, verifying that window locks are operable, and the option to board windows, install a security system, or otherwise take action to prevent or minimize potential damage to the property. Costs incurred may be added to the costs required for redemption of the property.
- Upon changing locks, the holder of the sheriff's certificate must provide a key to the

mortgagor.

The duties required by this section only apply to the holder of a sheriff's certificate if the holder otherwise holds five or more properties.

- 11 **Prior to foreclosure sale.** Makes a technical reference correction to reflect changes made elsewhere in the bill.
- 12 **Summons and complaint.** Permits a political subdivision to initiate an action to reduce the redemption period for an abandoned property, if the property was foreclosed by advertisement.
- 13 **Order to show cause.** Permits a political subdivision to intervene in a foreclosure by action to request a reduced redemption period for an abandoned property.
- 14 **Trespass signage.** Modifies the requirements for posting notices and warnings related to trespassing, based on the size of the property subject to the warning.
- 15 **Owner.** Modifies the definition of "owner" for purposes of enforcing the public nuisance law.
- 16 **Possessor.** Modifies the definition of "possessor" for purposes of enforcing the public nuisance law.
- 17 **Acts constituting a nuisance.** Provides that multiple sales or gifts of alcoholic beverages constitutes a public nuisance when done in a building that is not occupied by the owner, or a tenant, lessee, or occupant.
- 18 **Notice of nuisance.** Requires that all owners of a property receive notice from a prosecutor upon decision by the prosecutor to seek abatement of a public nuisance.