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1977 Assembly Bill 1152

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CHAPTER 304, Laws of 1977

AN ACT to amend 846.10 (2), 846.101 (title) and (1) and 846.102; and to create 846.103 of the statutes, relating to mortgage foreclosure sales.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 846.10 (2) of the statutes is amended to read:

846.10 (2) Any party may become a purchaser. ~~But no such~~ No sale involving a one- to 4-family residence that is owner-occupied at the commencement of the foreclosure action, a farm, a church or a tax-exempt nonprofit charitable organization may be held until the expiration of 12 months from the date when judgment is entered, except a sale under s. 846.101, or 846.102. Notice of the time and place of sale shall be given under ss. 815.31 and 846.16 and may be given within the 12-month period except that the first printing of the notice shall not be made less than 10 months after the date when judgment is entered, except that the sale of a farm shall not be made or advertised until the expiration of one year from the date when such judgment is entered; and when judgment is for instalments due and to become due, and payment is made within the year, of the instalments found due at the date of the judgment, with interest and costs, no sale shall be made or advertised upon any instalment growing due after the date of the judgment until one year after the same becomes due; but in In all cases the parties may, by stipulation, filed with the clerk, consent to an earlier sale. Sales under foreclosure of mortgages given by any railroad corporation may be made immediately after the rendition of the judgment.

SECTION 2. 846.101 (title) and (1) of the statutes are amended to read:

846.101 (title) Foreclosure without deficiency; 20-acre parcels. (1) If the mortgagor has agreed in writing at the time of the execution of the mortgage to the provisions of this section, and the foreclosure action involves a one- to 4-family residence that is owner-occupied at the commencement of the action, a farm, a church or a tax-exempt charitable organization, the plaintiff in a foreclosure action of a mortgage on real estate of ~~3~~ 20 acres or less, which mortgage is recorded subsequent to January 22, 1960, may elect by express allegation in ~~his~~ the complaint to waive judgment for any deficiency which may remain due to ~~him~~ the plaintiff after sale of the mortgaged premises against every party who is personally liable for the debt secured by the mortgage, and to consent that the mortgagor, unless he or she abandons the property, may remain in possession of the mortgaged property and be entitled to all rents, issues and profits therefrom to the date of confirmation of the sale by the court.

SECTION 3. 846.102 of the statutes is amended to read:

846.102 Abandoned premises. In an action for enforcement of a mortgage lien if the court makes an affirmative finding upon proper evidence being submitted that the mortgaged premises have been abandoned by the mortgagor and assigns, judgment shall be entered as provided in s. 846.11 except that the sale of such mortgaged premises shall be made upon the expiration of 2 months from the date when such judgment is entered. Notice of the time and place of sale shall be given under ss. 815.31 and 846.16 and may be given within such 2-month period. In this section "abandoned" means the relinquishment of possession or control of the premises whether or not the mortgagor or the mortgagor's assigns have relinquished equity and title.

SECTION 4. 846.103 of the statutes is created to read:

846.103 Foreclosures of commercial properties and multifamily residences. (1) No foreclosure sale involving real property other than a one- to 4-family residence that is owner-occupied at the commencement of the foreclosure action, a farm, a church or a tax-exempt nonprofit charitable organization may be held until the expiration of 6 months from the date when judgment is entered except a sale under sub. (2). Notice of the time and place of sale shall be given under ss. 815.31 and 846.16 and may be given within the 6-month period except that the first printing of the notice shall not be made less than 4 months after the date when judgment is entered.

(2) If the mortgagor of real property other than a one- to 4-family residence that is owner-occupied at the commencement of the foreclosure action, a farm, a church or a

tax-exempt nonprofit charitable organization has agreed in writing at the time of the execution of the mortgage to the provisions of this section, the plaintiff in a foreclosure action of a mortgage, which mortgage is recorded subsequent to the effective date of this act (1977), may elect by express allegation in the complaint to waive judgment for any deficiency which may remain due to the plaintiff after sale of the mortgaged premises against every party who is personally liable for the debt secured by the mortgage, and to consent that the mortgagor, unless he or she abandons the property, may remain in possession of the mortgaged property and be entitled to all rents, issues and profits therefrom to the date of confirmation of the sale by the court. When the plaintiff so elects, judgment shall be entered as provided in this chapter, except that no judgment for deficiency may be ordered nor separately rendered against any party who is personally liable for the debt secured by the mortgage and the sale of the mortgaged premises shall be made upon the expiration of 3 months from the date when such judgment is entered. Notice of the time and place of sale shall be given under ss. 815.31 and 846.16 and may be given within the 3-month period except that first printing of the notice shall not be made less than one month after the date when judgment is entered.
