

ORIGINAL HOUSE
BILL NO. 0189

ENROLLED ACT NO. 82, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to real property; specifying conditions under which a foreclosure sale may be rescinded; amending redemption periods for agricultural land; amending the manner in which foreclosed distinct lots or tracts are sold; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming;

Section 1. W.S. 1-18-115 is created to read:

1-18-115. Rescission of foreclosure sale.

(a) A judicial or nonjudicial foreclosure sale may be rescinded in accordance with this section at any time after the sale but before the sheriff's deed has been recorded.

(b) If the purchaser at the foreclosure sale was the foreclosing mortgagee, then the foreclosing mortgagee may rescind the sale for any reason by executing and recording a notice of foreclosure sale rescission in the office of the county clerk of the county where the real estate is located.

(c) If the purchaser at the foreclosure sale was not the foreclosing mortgagee, then the foreclosing mortgagee and the certificate holder may agree to rescind the foreclosure sale for any reason. In order to rescind such a foreclosure sale, the foreclosing mortgagee shall refund to the certificate holder either an amount agreed upon by the foreclosing mortgagee and the certificate holder, or the foreclosure sale bid amount plus ten percent (10%) interest per annum, calculated daily. In addition, both the foreclosing mortgagee and the certificate holder shall execute a notice of foreclosure sale rescission which shall be recorded in the office of the county clerk of the county where the real estate is located.

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(d) If the purchaser at the foreclosure sale was not the foreclosing mortgagee, and the certificate holder will not agree to rescind the foreclosure sale, then the foreclosing mortgagee may still rescind the sale if the statutory requirements for the foreclosure sale were not fulfilled or if the foreclosure sale did not comply with applicable federal or state law. In order to rescind such a foreclosure sale, the foreclosing mortgagee shall refund to the certificate holder the purchase price, plus ten percent (10%) interest per annum, calculated daily, and the foreclosing mortgagee shall execute and record a notice of foreclosure sale rescission in the office of the county clerk of the county where the real estate is located which shall recite that the foreclosure sale is being rescinded pursuant to this subsection. The refund of the certificate holder's bid amount, plus interest, shall be the certificate holder's only remedy notwithstanding any other provision of law.

(e) Upon recording a notice of foreclosure sale rescission:

(i) The mortgage and power of sale which are the subject of the rescinded sale are revived and the mortgage may be properly foreclosed in a subsequent foreclosure sale in compliance with applicable law, and all junior liens and rights of junior lienholders are revived with the same lien priority as if no foreclosure sale had taken place;

(ii) The certificate of sale is rendered null and void as if no foreclosure sale had taken place; and

(iii) The mortgagor's indebtedness to the foreclosing mortgagee and all evidence thereof are revived as of the date of the foreclosure sale and as if no

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certificate of sale had been issued, or as otherwise agreed to by the mortgagor and mortgagee.

Section 2. W.S. 1-18-104(b) and (e) and 34-4-107 are amended to read:

1-18-104. Redemption by judgment creditors and others; manner prescribed; subsequent redemptions; possession, rents and profits, common carriers excepted.

(b) The redemptioner shall pay to the purchaser or to the officer conducting the sale, either an amount agreed upon by the purchaser and the redemptioner, or the amount bid with interest at ten percent (10%) per annum from the date of sale, and the amount of any assessments or taxes and the amount due on any prior lien which the purchaser may have paid after the purchase, with interest. If the purchaser also has a lien prior to that of the redemptioner, the redemptioner shall also pay the amount of the lien with interest.

(e) The execution debtor in case of a sale on execution, and the mortgagor or owner in case of a mortgage foreclosure, is entitled to possession of the lands sold and to the rents and profits for a period of three (3) months after the sale unless the property is agricultural property in which case the entitlement to possession of the lands sold and to the rents and profits shall be for a period of twelve (12) months after the sale. At the expiration of three (3) months from sale of nonagricultural land and twelve (12) months from sale of agricultural land, the purchaser is entitled to possession and to the rents and profits of the lands until redemption is made from him, and each redemptioner until another redemption is made is likewise entitled to possession and to the rents and profits.

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34-4-107. Manner in which distinct tracts or lots sold.

If the mortgaged premises consist of distinct tracts or lots, ~~they shall be first offered~~ the foreclosing mortgagee may offer for sale separately, ~~and no more sufficient~~ tracts or lots as shall be ~~sold than shall be~~ necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and costs and expenses allowed by law, ~~provided, however, that in the event the aggregate of bids on such distinct tracts or lots is not sufficient to satisfy said amount due, all such distinct tracts or lots shall be offered and~~ or the foreclosing mortgagee may offer all such distinct tracts or lots to be sold as a whole.

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Section 3. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk