

Senate File 494 - Reprinted

SENATE FILE 494
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1041)

(As Amended and Passed by the Senate March 15, 2011)

A BILL FOR

1 An Act relating to the foreclosure of a real estate mortgage.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 654.5, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. a. A special execution shall issue under such conditions
4 as the decree may prescribe, and the sale under the special
5 execution is subject to redemption as in cases of sale under
6 general execution unless the plaintiff has elected foreclosure
7 without redemption under section 654.20.

8 b. (1) A successful bidder at the sale who is not
9 affiliated with the judgment creditor may, with the written
10 consent of the mortgagor filed with the court prior to the sale
11 and in lieu of a sheriff's deed or sheriff's certificate of
12 sale, elect to receive an assignment by court order without
13 recourse of all of the judgment creditor's in rem interest in
14 the judgment, the underlying indebtedness net of any deficiency
15 judgment, and any policies of title, property, and any other
16 similar insurance or guaranty owned by the judgment creditor
17 relating to the affected property. Except for a sale that
18 is subject to redemption, an assignment under this section
19 shall bar junior interests in the property as if an assignment
20 had not been elected. If the sale is subject to redemption,
21 the period to redeem shall commence on the date of the sale
22 resulting in the assignment.

23 (2) An assignment under this paragraph "b" shall not affect
24 the right of the judgment creditor to enforce a deficiency
25 judgment against other property of the judgment debtor, nor
26 shall it bar a subsequent rescision or execution against the
27 property on the judgment assigned by the assignee.

28 (3) An assignee under this paragraph "b" is subject to the
29 applicable provisions of chapters 535B, 714E, and 714F unless
30 the assignee is related to the mortgagor or the mortgagor's
31 spouse within the third degree of consanguinity or affinity.

32 Sec. 2. Section 654.4B, subsection 2, paragraph b, Code
33 2011, is amended to read as follows:

34 b. This subsection is repealed July 1, ~~2011~~ 2012.