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BILL SUMMARY

S.F. No. 2338 – Mortgage foreclosure; surplus; redemption; tax liens; disputed claims (as proposed to be amended by the SCS2338A-1 amendment)

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S.F. 2338 modifies laws governing mortgage foreclosures and clarifies when a lien is created if a person, other than the owner, pays delinquent taxes.

Section 1 (272.45; Taxes paid by tenant, occupants, or other person become lien upon notice filed with county recorder or registrar of titles) makes clarifying changes to a current law that provides that a lien is created when a person with an interest in the land pays delinquent taxes that should have been paid by the owner or other party. This section clarifies that the person who pays the delinquent taxes must have a legal or equitable interest in the land and must provide a sworn statement and a copy of the payment receipt, and that the lien is created from the date of recording of the sworn statement.

Section 2 (580.10; Surplus) provides for the use of surplus money after a sheriff's sale on a foreclosure and allows the money to be held and used for the redemption of the property or paid to a junior creditor. This section requires the sheriff to notify the owner if there is a surplus after the sheriff's sale and provide the owner with information about redemption and surplus. The owner may submit a written request to the sheriff to have the amount from the sheriff's sale applied to the redemption amount. If a surplus is less than $100, the sheriff may pay the amount to the owner. If there are competing claims or any claim is not meritorious, the sheriff may petition the court to address the claims.

Section 3 (580.225; Satisfaction of mortgage) makes a technical change to the headnote.

Section 4 (580.24; Redemption by creditor) extends the time creditors have to redeem a mortgage from seven days to 14 days after a mortgagor's redemption period ends. This section also sets a default interest rate of six percent if no rate is stated on the certificate of sale and the creditor's affidavit. If the sheriff determines there is a dispute or question of validity, the sheriff may accept the amount required to redeem without executing a certificate of redemption and file an action with the court to address the issue. A creditor may also commence an action to address the issue. This section is effective for redemptions occurring after January 1, 2026.

Section 5 (580.25; Creditor redemption, how made) makes clarifying changes to the process for creditors to redeem. This section is effective for redemptions occurring after January 1, 2026.

Section 6 (580.26; Certificate of redemption; record) clarifies terms that must be included in a certificate of redemption and extends the time to record the certificate from four days to one week after the redemption. This section is effective for redemptions occurring after January 1, 2026.

Section 7 (580.28; Action to set aside mortgage; foreclosure; redemption) clarifies that a dispute regarding redemption rights or the rights to any surplus may be brought in an action under chapter 580 and clarifies how to provide a deposit for that action. This section is effective for redemptions occurring after January 1, 2026.

Section 8 (582.03, subdivision 1; Allowable costs collectable upon redemption) clarifies the interest rate by setting a default interest rate of six percent if no rate is stated on the certificate of sale. This section is effective for affidavits filed with the sheriff after January 1, 2026.

Section 9 (582.03, subdivision 2; Affidavit of allowable costs) clarifies that the date of payment of each allowable costs must be provided on the affidavit. This section is effective for affidavits filed with the sheriff after January 1, 2026.

Section 10 (582.043, subdivision 6; Dual tracking) provides that if a servicer is required to halt a foreclosure sale upon receipt of a loss mitigation application, the servicer may cancel or postpone the sale, but must not conduct the sale unless 60 days have passed since the servicer's final determination that the mortgagor is not eligible for a loss mitigation option, the mortgagor fails to accept a loss mitigation offer, or the mortgagor declines a loss mitigation offer.