THE IOWA STATE BAR ASSOCIATION
Official Form No 176

Carr & Carr Attorneys ISBA # 756

FOR THE LEGAL EFFECT OF THE USE OF THIS FORM, CONSULT YOUR LAWYER

Entered for taxation 25th day
of June A.D. 2004
Sharon McCurdy Auditor
By Deputy
88-181

RECORDER FEE $ 5.00
TRANSFER FEE $ 21.00

2004 JUN 28 PM 1:10
BOOK 2004 PAGE 2347
DEBORAH L. PEYTON
DELAWARE CO RECORDER
DELAWARE COUNTY IOWA
FILED

Preparer Information (X) Carr & Carr Attorneys 117 S. Franklin St. PO Box 333 Manchester, IA 52057, (563) 927-4164
Individual's Name Street Address City Phone

SPACE ABOVE THIS LINE FOR RECORDER

AFFIDAVIT IN SUPPORT OF FORFEITURE OF REAL ESTATE CONTRACT

TO WHOM IT MAY CONCERN: STATE OF IOWA, COUNTY OF DELAWARE

The undersigned, first being duly sworn upon oath (or upon affirmation) deposes and states:

That the relationship of the undersigned to this transaction appears from the **Notice of Forfeiture of Real Estate Contract, hereto attached, together with return(s) of service thereof;** which Notice and return(s) are by this reference made a part of this affidavit as fully as if set forth herein; that by reason of such relationship the facts herein stated are within the personal knowledge of such affiant.

That the parties served, as shown by said returns, included all parties in possession of said real estate at the time of service of said notice.

●

That, as shown by such returns, more than 30 days have passed since the service of such Notice.

That the default~~(s)~~ mentioned in said Notice (has) ~~(have)~~ not been removed nor performed nor paid in any amount by said vendee(s), nor by anyone; and that therefore the terms and conditions as to which there is and has been a default have not been performed within the 30 days mentioned in said Notice, nor at any time by anyone; nor has any sum been offered or tendered by said vendees or anyone; that vendor(s) (~~has~~) (have) retaken possession of said real estate following the expiration of said 30 day period.

That the Real Estate Contract mentioned in said Notice specifically provides for the forfeiture of the vendee's(s') rights in such contract in accordance with Code Chapter 656.

That none of the parties upon whom such Notice of Forfeiture was so served, was at the time of the service of said Notice upon them, or at the time of making this affidavit, in the military service or with the Armed Forces of the United States of America, or are they or any of them in any way entitled to any rights under the Soldiers' and Sailors' Civil Relief Act or similar act or acts amendatory thereof or supplementary thereto.

That this affidavit is made as supporting proof, record and notice, that the contract referred to in said Notice of Forfeiture is now null and void, stands forfeited and cancelled and is of no force and effect whatsoever.

Affiant

Subscribed in my presence and sworn to (or affirmed) before me by the said Affiant this 25 day of June, 2004.

NOTARIAL SEAL IOWA
CAROL A. COOPER
COMMISSION NO. 162921
MY COMMISSION EXPIRES
11-14-06

Carol A Cooper
Carol A. Cooper
Notary Public in and for the State of Iowa.

● The space as indicated above, is reserved to conveniently "tailor" for special situations and to set forth facts to sustain notice by publication or for both of such purposes. See Section 656.3; R.C.P. 60, 60.1 and 62. Suggested: That Personal Service could not and cannot be made upon _____ and _____ in the State of Iowa; that on the _____ day of _____, _____, a copy of said Notice was sent by ordinary mail addressed to said (party) (parties) at their last known mailing address, to-wit: _____

Iowa Code Chapter 656

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23-88-5

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Individual's Name | Street Address | City | Phone

SPACE ABOVE THIS LINE FOR RECORDER

NOTICE OF FORFEITURE OF REAL ESTATE CONTRACT

TO: Burdette Elsbury
Ann Elsbury

You and each of you are hereby notified:

(1) The written contract dated October 15, 2002, and executed by Conrad M. Dunn and Naomi K. Dunn, husband and wife and Robert H. Engelken and Carol A. Engelken, husband and wife, as Vendors, and Burdette Elsbury and Ann Elsbury, husband and wife as Vendees, (insert recording data) recorded the 23rd day of October 2002, in the office of the Delaware County Recorder, recorded as document reference number Book 2002, Page 3886 as Vendees, for the sale of the following described real estate:

Lot 17 Lakeview Estates 1st Addition to Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 215

has not been complied with in the following particulars:

(a) Monthly payments in amounts of $263.31 due Dec. 1, 2003;
(b) Jan. 1, 2004, Feb. 1, 2004, Mar. 1, 2004;
(c) Apr. 1, 2004 and May 1, 2004 have not been paid
(d)

Total $1,579.86

(2) The contract shall stand forfeited unless the parties in default, within 30 days after the completed service of this notice, shall perform the terms and conditions in default, and in addition pay the reasonable costs of serving this notice.

(3) The amount of attorney fees claimed by the Vendors pursuant to Section 656.7 of the Code of Iowa is $ 50.00 (not to exceed $50.00). Payment of the attorney fees is not required to comply with this notice in order to prevent forfeiture.

Conrad M. Dunn and Naomi K. Dunn

Robert H. Engelken and Carol A. Engelken
Vendors (or Successors in Interest)

By _____
E. Michael Carr, Their Attorney -

Address: Carr & Carr Attorneys
117 S. Franklin St., PO Box 333
Manchester, IA 52057

Chapter 656, The Code

NOTE: If the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq., applies to this communication, attach Form No. 172, Notice of Validation of Debt.

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ACKNOWLEDGMENT OF SERVICE

The undersigned hereby acknowledge due, timely and legal service of this notice, and acknowledge receipt of a copy at the time and place set opposite their respective names.

	Date of Service	Place of Service
Linda Elsbury	05/25/04	Richmond Hill, GA
Jim Elsbury	05/25/04	Richmond Hill GA

MEMO AND AFFIDAVIT OF SERVICE

STATE OF ~~IOWA~~

County of _____ } SS.

The undersigned, first being duly sworn, upon oath deposes and states that (he)(she) served the notice on the obverse side hereof on each of the persons to whom said notice is addressed, and named below, by delivering a copy of said notice to each of said persons at the time and place set opposite their respective names, to-wit:

Name	Month	Day	Year	City Town or Township	County	State

_____

Subscribed in my presence and sworn to before me by said affiant this _____ day of _____ , 2004 .

_____

_____

Notary Public in and for said County and State