



Document 2009 3480

Book 2009 Page 3480 Type 03 014 Pages 4

Date 11/17/2009 Time 10:15 AM

Rec Amt \$24.00 Aud Amt \$5.00

INDX ✓  
ANNO ✓  
SCAN

LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

CHEK



# AFFIDAVIT IN SUPPORT OF FORFEITURE OF REAL ESTATE CONTRACT

THE IOWA STATE BAR ASSOCIATION  
Official Form No. 176

Recorder's Cover Sheet

**Preparer Information:** (Name, address and phone number)

Jerrold B. Oliver, P.O. Box 230, Winterset, IA 50273, Phone: (515) 462-3731

**Taxpayer Information:** (Name and complete address)

**Return Document To:** (Name and complete address)

Jerrold B. Oliver, P.O. Box 230, Winterset, IA 50273, Phone: (515) 462-3731

**Grantor:**

Jerrold B. Oliver

**Grantee:**

*Jerry Mitchell  
Branda Mitchell*

**Legal description:** See Page 2

**Document or instrument number of previously recorded documents:**



### AFFIDAVIT IN SUPPORT OF FORFEITURE OF REAL ESTATE CONTRACT

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

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.

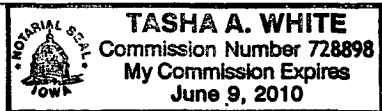
That the Real Estate Contract mentioned in said Notice specifically provides for the forfeiture of the vendee's(s)' rights in such contract in accordance with Code Chapter 656.

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.

Jerrold B. Oliver  
Jerrold B. Oliver Affiant

Signed and sworn to (or affirmed) before me on November 16, 2009 by Jerrold B. Oliver



Tasha A. White  
Notary Public

● 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



### NOTICE OF FORFEITURE OF REAL ESTATE CONTRACT

TO: Jerry Mitchell and Brenda Mitchell, 901 W South St., Winterset, IA 50273

You and each of you are hereby notified:

(1) The written contract dated August 22, 2008, and executed by  
Marjorie C. Lathrum by Scott Emerson her Attorney-in-Fact  
as Vendors, and  
Jerry Mitchell and Brenda Mitchell

\_\_\_\_\_ as Vendees,  
(insert recording data) recorded the 10th day of September, 2008, in the office of the  
Madison County Recorder, recorded as document reference number  
Book 2008, Page 2731 for the sale of the following described real estate:

The East 61 7/8 feet of Lots Five (5) and Eight (8) in Block Two (2) of Adkison's Addition to the  
Town of Winterset, Madison County, Iowa; and, a tract commencing at the southeast corner of said  
Block Two (2) and running thence East 34 3/4 feet; thence North 132 feet; thence West 24 3/4 feet;  
thence South 132 feet to the point of beginning

has not been complied with in the following particulars:

(a) failure to payment due October 1, 2009	\$	<u>800.00</u>
(b) failure to pay property taxes due September 30, 2009	\$	<u>1,515.00</u>
(c)	\$	_____
(d)	\$	_____
<b>Total</b>	\$	<b>2,315.00</b>

(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 \$ 0.00 (not to exceed \$50.00). Payment of the attorney fees is not required to  
comply with this notice in order to prevent forfeiture.

\_\_\_\_\_  
Marjorie C. Lathrum

Vendors  
(or Successors in Interest)

By Jerrold B. Oliver  
Jerrold B. Oliver Their Attorney -  
Address: PO BOX 230, Winterset, IA 50273

**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.

<i>Jerry Mitchell</i>	Date of Service <i>10-7-09</i>	Place of Service
<i>Brenda Mitchell</i>	<i>10-7-09</i>	

**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 \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public in and for said County and State