

128-69

IOWA STATE BAR ASSOCIATION
Official Form No. 116

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



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

FILED NO. 1191

BOOK 135 PAGE 100

TO WHOM IT MAY CONCERN:

REC 20.00

95 OCT 27 PM 3: 20

STATE OF IOWA

AUD \$

MICHELLE UTSELL
RECORDER
MADISON COUNTY, IOWA

COUNTY OF MADISON } ss:

R.M.F. \$ 1.00

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.

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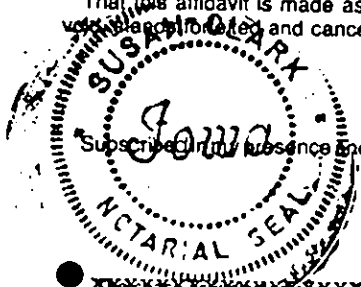
That, as shown by such returns, more than 30 days have passed since the service of such Notice.

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)' 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, rescinded and cancelled and is of no force and effect whatsoever.



Samuel H. Bland
Samuel H. Bland, Attorney for Vendors, Affiant

Subscribed in my presence and sworn to (or affirmed) before me by the said Affiant this 17th day of October, 19 95.

Susan Clark
(Susan Clark) Notary Public in and for The State of Iowa.

Iowa Code Chapter 656

RECORDER'S CERTIFICATE

STATE OF IOWA, COUNTY OF MADISON, ss:

The undersigned Recorder in and for said County in the State aforesaid, hereby certifies that the foregoing affidavit together with Notice and returns thereto attached was filed in the said Recorder's Office by the party or parties causing said Notice to be served as shown by the Notice, on the 27 day of October, 19 95.

Michelle Utzell
Recorder



NOTICE OF FORFEITURE OF REAL ESTATE CONTRACT

TO:

Gene Gardner and Fran Gardner

R. R. 1, Box 121

Winterset, IA 50273

You and each of you are hereby notified:

(1) The written contract dated August 3, 19 90, and executed by Ben W. Johnson and Terri J. Johnson, husband and wife, as Vendors, and

Gene Garner and Fran Gardner, husband and wife, as joint tenants with full rights of survivorship, and not as tenants in common, as Vendees, for the sale of the following described real estate:

See Legal Description attached hereto and by this reference incorporated herein,

has not been complied with in the following particulars:

(a) Payment due April 1, 1995 is unpaid. -----	279.40
(b) Payment due August 1, 1995 is unpaid. -----	21,421.72
(c) Real Estate taxes due March 31, 1995 are unpaid. ----	843.00
(d) Failure to insure improvements. -----	219.00
Total	22,763.12

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

Ben W. Johnson

Terri J. Johnson

Vendors
(or Successors in Interest)

By

Samuel H. Braland

Their Attorney -

Address: P.O. Box 370

Earlham, IA 50072

Telephone (515) 758-2267

Chapter 656, The Code

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

_____	_____	_____
_____	_____	_____
_____	_____	_____

MEMO AND AFFIDAVIT OF SERVICE

STATE OF IOWA

County of Madison } SS.

The undersigned, first being duly sworn, upon oath deposes and states that he 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
<u>Fran Gardner</u>	<u>8</u>	<u>8</u>	<u>95</u>	<u>RR 1 Winterset</u>	<u>Madison</u>	<u>Ia</u>



Joseph Carney
 Subscribed in my presence and sworn to before me by said affiant this 10th day of August, 1995.

Susan Ardek
 (SUSAN ARDEK)
 Notary Public in and for said County and State

STATE OF IOWA :
 : SS
 MADISON COUNTY :

The undersigned, being first duly sworn, upon oath deposes and states that he served the notice on the obverse side hereof on Gene Gardner at his dwelling house or usual place of abode at R. R. 1, Winterset, Madison County, Iowa, by there delivering a copy thereof to Fran Gardner, a person residing therein who was then at least eighteen years old. Said service was made on August 8, 1995.

Joseph Carney
 Joseph Carney

Subscribed in my presence and sworn to before me by said affiant this 22nd day of September, 1995.



Susan Clark
 Notary Public in and for said County and State

LEGAL DESCRIPTION

A parcel of land located in the Northeast Quarter of the Northeast Quarter Section 15, Township 75 North, Range 27 West of the 5th Principal Meridian, Madison County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Section 15, T75N, R27W of the 5th P.M., Madison County, Iowa; thence, along the East line of said Section 15, South 00°10'21" West 387.03 feet; thence South 90°00'00" West 562.74 feet; thence North 00°10'21" East 387.03 feet to the North line of said Section 15; thence, along said North line, North 90°00'00" East 562.74 feet to the Point of Beginning. Said parcel of land contains 5.000 acres, including 1.084 acres of County Road Right-of-Way.