

134-423

THE IOWA STATE BAR ASSOCIATION
Form No. 116

ISBA# 04132 Jordan, Oliver & Walters, P.C.
Winterset, Iowa

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



AFFIDAVIT IN SUPPORT OF FORFEITURE OF REAL ESTATE CONTRACT

FILED NO. 1897

TO WHOM IT MAY CONCERN:

STATE OF IOWA

COUNTY OF MADISON

ss:

REC. \$ 10.00
ADD.
R.M.F. \$ 1.00

BOOK 135 PAGE 513

96 JAN - 8 PM 4: 00

MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA

The undersigned, first being duly sworn upon oath to support the truth, 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.

COMPUTER
RECORDED
COMPARED

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

Subscribed in my presence and sworn to ~~(as true)~~ before me by the said Affiant this 8th day of January, 19 96.



Kathy D. Nicholl
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 _____, 19 _____, 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 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 8 day of January, 19 96.

Michelle Utsher Recorder
Shirley G. Henry Deputy

IOWA STATE BAR ASSOCIATION
Form No. 115

ISBA# 04132 Jordan, Oliver & Walters, P.C.
Winterset, Iowa

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



NOTICE OF FORFEITURE OF REAL ESTATE CONTRACT

TO:
DONALD A. BOLTON, ADMINISTRATOR OF THE ESTATE OF MICHAEL GILBERT,
DECEASED, MADISON COUNTY PROBATE NO. 10230

You and each of you are hereby notified:

(1) The written contract dated July 1, 19 95, and executed by
as amended by the Amendment to Real Estate Contract dated 7-15-95

~~as Vendors, and~~
and executed by Paul M. Havick and Diane E. Havick, husband and
wife, as Vendors, and Michael Gilbert as Vendee

as Vendees, for the sale of the following described real estate:

The Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) and the East One-fourth (E $\frac{1}{4}$) of the Southwest
Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Seven (7), Township Seventy-six (76) North, Range
Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, except Parcels "A" and "C" located in the South
Half (S $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Seven (7), Township Seventy-six (76) North, Range
Twenty-eight (28) West of the 5th P.M., Madison County, Iowa,

has not been complied with in the following particulars:

- (a) The payments due on 9-15-95, 10-1-95, 10-15-95, 11-1-95 and 11-15-95, 1,200.80
 - (b) each in the amount of \$240.16, have not been paid
 - (c) _____
 - (d) _____
- Total 1,200.80

(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.

Paul M. Havick and Diane E. Havick

Vendors
(or Successors in Interest)

By Jerrold B. Oliver
Jerrold B. Oliver Their Attorney

Address: P.O. Box 230
Winterset, Iowa 50273
Telephone: (515) 462-3731

Chapter 65B, 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.

<u>Donald A. Bolton</u>	Date of Service	Place of Service
Donald A. Bolton, Administrator of	<u>November 21, 1995</u>	<u>Winterset, Iowa</u>
the Estate of Michael Gilbert, deceased	_____	_____
_____	_____	_____