

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5277**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3204, 3240, and 3278 (MCL 600.3204, 600.3240,
and 600.3278), section 3204 as amended by 2013 PA 103, section 3240
as amended by 2013 PA 104, and section 3278 as added by 2011 PA
301, and by adding sections 3237 and 3238; and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3204. (1) ~~Subject to subsections (4) and (6), a~~ A party
2 may foreclose a mortgage by advertisement if all of the following
3 circumstances exist:

4 (a) A default in a condition of the mortgage has occurred, by
5 which the power to sell became operative.

6 (b) An action or proceeding has not been instituted, at law,

1 to recover the debt secured by the mortgage or any part of the
2 mortgage ~~or~~, if an action or proceeding has been instituted,
3 **EITHER** the action or proceeding has been discontinued ~~or~~ an
4 execution on a judgment rendered in ~~an~~ **THE** action or proceeding has
5 been returned unsatisfied, in whole or in part.

6 (c) The mortgage containing the power of sale has been
7 properly recorded.

8 (d) The party foreclosing the mortgage is either the owner of
9 the indebtedness or of an interest in the indebtedness secured by
10 the mortgage or the servicing agent of the mortgage.

11 (2) If a mortgage is given to secure the payment of money by
12 installments, each of the installments mentioned in the mortgage
13 after the first shall be treated as a separate and independent
14 mortgage. The mortgage for each of the installments may be
15 foreclosed in the same manner and with the same effect as if a
16 separate mortgage were given for each subsequent installment. A
17 redemption of a sale by the mortgagor has the same effect as if the
18 sale for the installment had been made upon an independent prior
19 mortgage.

20 (3) If the party foreclosing a mortgage by advertisement is
21 not the original mortgagee, a record chain of title ~~shall~~ **MUST**
22 exist ~~prior to~~ **BEFORE** the date of sale under section 3216
23 evidencing the assignment of the mortgage to the party foreclosing
24 the mortgage.

25 ~~—— (4) A party shall not commence proceedings under this chapter~~
26 ~~to foreclose a mortgage of property claimed as a principal~~
27 ~~residence exempt from tax under section 7cc of the general property~~

~~tax act, 1893 PA 206, MCL 211.7cc, if 1 or more of the following apply:~~

~~—— (a) Notice has not been mailed to the mortgagor as required by section 3205a.~~

~~—— (b) After a notice is mailed to the mortgagor under section 3205a, the time has not expired for the mortgagor to request, either directly or through a housing counselor, a meeting under section 3205b with the person designated under section 3205a(1)(c).~~

~~—— (c) Within 30 days after a notice is mailed to the mortgagor under section 3205a, the mortgagor has requested a meeting under section 3205b with the person designated under section 3205a(1)(c) and 90 days have not passed after the notice was mailed. This subdivision does not apply if the mortgagor has failed to provide documents as required under section 3205b(2).~~

~~—— (d) Documents have been requested under section 3205b(2) and the time for producing the documents has not expired.~~

~~—— (e) The mortgagor has requested a meeting under section 3205b with the person designated under section 3205a(1)(c), the mortgagor has provided documents as required under section 3205b(2), and the person designated under section 3205a(1)(c) has not met or negotiated with the mortgagor under this chapter.~~

~~—— (f) The mortgagor and mortgagee have agreed to modify the mortgage loan and the mortgagor is not in default under the modified agreement.~~

~~—— (g) Calculations under section 3205c(1) show that the mortgagor is eligible for a loan modification and foreclosure under this chapter is not allowed under section 3205c(7).~~

~~———— (5) Subsection (4) applies only to proceedings under this chapter in which the first notice under section 3208 is published after July 5, 2009 and before January 10, 2014.~~

~~———— (6) After January 9, 2014, a party to which section 3206 applies shall not commence proceedings under this chapter to foreclose a mortgage of property claimed as a principal residence exempt from tax under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, unless the party has complied with section 3206.~~

~~———— (7) Subsections (4) and (6) do not apply to a mortgage of property used for agricultural purposes if the mortgage is subject to borrower's rights under the federal acts and is subject to the restructuring of distressed loans or the debt restructuring and loan servicing provisions of the federal acts, if the applicable period to apply for a restructuring required under the federal acts is longer than the period within which a borrower may request a meeting under section 3205b, and if compliance with the federal acts will not result in proceedings being commenced under this chapter within 90 days after a default under the mortgage. As used in this subsection, "federal acts" means the farm credit act of 1971, Public Law 92-181, as amended, or the consolidated farm and rural development act, Public Law 87-128, and rules and regulations promulgated under those acts.~~

SEC. 3237. (1) AFTER A FORECLOSURE SALE UNDER THIS CHAPTER, IF THE PURCHASER AT THE SALE INTENDS TO CONDUCT AN INTERIOR INSPECTION OF THE PROPERTY UNDER SECTION 3238 DURING THE REDEMPTION PERIOD, THE PURCHASER SHALL PROVIDE AN INITIAL NOTICE TO THE MORTGAGOR AND

1 ANY OTHER PERSON THAT HAS POSSESSION OF THE PROPERTY IN WRITING
2 THAT CONTAINS ALL OF THE FOLLOWING:

3 (A) THE IDENTITY OF THE PURCHASER.

4 (B) THE RESIDENCE OR BUSINESS ADDRESS, MAILING ADDRESS,
5 TELEPHONE NUMBER, AND, IF APPLICABLE, ELECTRONIC MAIL ADDRESS AT
6 WHICH THE PURCHASER MAY BE CONTACTED.

7 (C) THE DATE OF THE SALE, THE AMOUNT OF THE SALE, AND THE
8 ESTIMATED DATE THE REDEMPTION PERIOD EXPIRES.

9 (D) THE DETAILS OF THE PURCHASER'S RIGHTS OF INSPECTION UNDER
10 SECTION 3238.

11 (E) ONE OR MORE ALTERNATIVE METHODS FOR SURRENDERING CONTROL
12 OF THE PROPERTY UNDER SECTION 3278.

13 (F) A STATEMENT THAT IF THE MORTGAGOR INTENDS TO VACATE THE
14 PROPERTY AT ANY TIME AFTER THE SALE, HE OR SHE MUST NOTIFY THE
15 PURCHASER AS REQUIRED BY SECTION 3278, AND THAT IF THE MORTGAGOR
16 DOES NOT DO SO, HE OR SHE MAY RISK HEIGHTENED LIABILITY FOR DAMAGE
17 TO THE PROPERTY.

18 (2) THE PURCHASER SHALL PROVIDE NOTICE UNDER THIS SECTION BY
19 CERTIFIED MAIL, PHYSICAL POSTING ON THE PROPERTY, OR ANY OTHER
20 METHOD REASONABLY CALCULATED TO ACHIEVE ACTUAL NOTICE.

21 SEC. 3238. (1) AFTER A FORECLOSURE SALE UNDER THIS CHAPTER AND
22 PROVIDING NOTICE UNDER SECTION 3237, THE PURCHASER AT THE SALE MAY
23 INSPECT THE PROPERTY, INCLUDING THE EXTERIOR AND INTERIOR OF ANY
24 STRUCTURES ON THE PROPERTY AS PROVIDED IN THIS SECTION.

25 (2) THE PURCHASER MAY CONDUCT AN INITIAL INSPECTION OF THE
26 INTERIOR OF ANY STRUCTURES ON THE PROPERTY. IN ADDITION TO THE
27 NOTICE PROVIDED IN SECTION 3237, THE PURCHASER SHALL PROVIDE NOTICE

1 TO THE MORTGAGOR BY CERTIFIED MAIL, PHYSICAL POSTING ON THE
2 PROPERTY, OR IN ANY MANNER REASONABLY CALCULATED TO ACHIEVE ACTUAL
3 NOTICE OF THE PURCHASER'S INTENT TO INSPECT THE PROPERTY AT LEAST
4 72 HOURS IN ADVANCE AND SHALL SET THE TIME OF THE INSPECTION AT A
5 REASONABLE TIME OF DAY, IN COORDINATION WITH THE MORTGAGOR IF
6 POSSIBLE.

7 (3) THE PURCHASER MAY CONDUCT ANY NUMBER OF EXTERIOR
8 INSPECTIONS OF THE PROPERTY AND ANY STRUCTURES ON THE PROPERTY
9 DURING THE REDEMPTION PERIOD.

10 (4) AFTER THE INITIAL INSPECTION DESCRIBED IN SUBSECTION (2),
11 THE PURCHASER MAY REQUEST BY CERTIFIED MAIL, PHYSICAL POSTING ON
12 THE PROPERTY, OR IN ANY MANNER REASONABLY CALCULATED TO ACHIEVE
13 ACTUAL NOTICE THAT THE MORTGAGOR PROVIDE INFORMATION ON OR EVIDENCE
14 OF THE CONDITION OF THE INTERIOR OF ANY STRUCTURES ON THE PROPERTY,
15 IN ANY FORM REASONABLY NECESSARY TO ASSESS THE CONDITION OF THE
16 PROPERTY. THE PURCHASER SHALL NOT MAKE SUCH A REQUEST MORE THAN
17 ONCE IN A CALENDAR MONTH OR MORE OFTEN THAN 3 TIMES IN ANY 6 MONTHS
18 OF THE REDEMPTION PERIOD, UNLESS THE PURCHASER HAS REASONABLE CAUSE
19 TO BELIEVE THAT DAMAGE TO THE PROPERTY IS IMMINENT OR HAS OCCURRED.

20 (5) IF THE MORTGAGOR REFUSES TO PROVIDE INFORMATION OR
21 EVIDENCE REQUESTED UNDER SUBSECTION (4) WITHIN 5 BUSINESS DAYS
22 AFTER RECEIPT OF THE REQUEST, OR IF THE INFORMATION OR EVIDENCE
23 PROVIDED REVEALS THAT DAMAGE HAS OCCURRED OR IS IMMINENT, THE
24 MORTGAGOR MAY SCHEDULE AN INSPECTION OF THE INTERIOR OF ANY
25 STRUCTURES ON THE PROPERTY. FOR AN INSPECTION UNDER THIS
26 SUBSECTION, THE PURCHASER SHALL PROVIDE NOTICE AS DESCRIBED IN
27 SUBSECTION (2) OF THE PURCHASER'S INTENT TO INSPECT THE PROPERTY AT

1 LEAST 72 HOURS IN ADVANCE, AND SHALL SET THE TIME OF THE INSPECTION
2 AT A REASONABLE TIME OF DAY, IN COORDINATION WITH THE MORTGAGOR IF
3 POSSIBLE. IF THE MORTGAGOR PROVIDES THE INFORMATION OR EVIDENCE
4 REQUESTED UNDER SUBSECTION (4) AND DAMAGE HAS NOT OCCURRED OR DOES
5 NOT APPEAR IMMINENT, THE PURCHASER SHALL NOT CONDUCT AN INTERIOR
6 INSPECTION UNDER THIS SUBSECTION RELATED TO THAT REQUEST.

7 (6) IF AN INSPECTION UNDER THIS SECTION IS UNREASONABLY
8 REFUSED OR IF DAMAGE TO THE PROPERTY IS IMMINENT OR HAS OCCURRED,
9 THE PURCHASER MAY IMMEDIATELY COMMENCE SUMMARY PROCEEDINGS FOR
10 POSSESSION OF THE PROPERTY UNDER CHAPTER 57 OR FILE AN ACTION FOR
11 ANY OTHER RELIEF NECESSARY TO PROTECT THE PROPERTY FROM DAMAGE. IF
12 A PURCHASER COMMENCES AN ACTION FOR POSSESSION OR ANY OTHER RELIEF
13 UNDER THIS SECTION, THE PURCHASER MAY ALSO NAME AS A PARTY TO THE
14 ACTION ANY PERSON WHO MAY REDEEM THE PROPERTY UNDER SECTION 3240.

15 (7) BEFORE COMMENCING SUMMARY PROCEEDINGS FOR POSSESSION OF
16 THE PROPERTY UNDER THIS SECTION, THE PURCHASER SHALL PROVIDE NOTICE
17 TO THE MORTGAGOR BY CERTIFIED MAIL, PHYSICAL POSTING ON THE
18 PROPERTY, OR IN ANY OTHER MANNER REASONABLY CALCULATED TO ACHIEVE
19 ACTUAL NOTICE, THAT THE PURCHASER INTENDS TO COMMENCE SUMMARY
20 PROCEEDINGS IF THE DAMAGE OR CONDITION CAUSING REASONABLE BELIEF
21 THAT DAMAGE IS IMMINENT IS NOT REPAIRED OR CORRECTED WITHIN 7 DAYS
22 AFTER RECEIPT OF THE NOTICE.

23 (8) A PURCHASER SHALL NOT COMMENCE SUMMARY PROCEEDINGS FOR
24 POSSESSION UNDER THIS SECTION IF EITHER OF THE FOLLOWING CONDITIONS
25 EXISTS:

26 (A) THE DAMAGE OR CONDITION CAUSING REASONABLE BELIEF THAT
27 DAMAGE IS IMMINENT IS REPAIRED OR CORRECTED WITHIN THE 7-DAY PERIOD

1 DESCRIBED IN THE NOTICE OF INTENT UNDER SUBSECTION (7) .

2 (B) THE MORTGAGOR AND THE PURCHASER AGREE ON PROCEDURES AND A
3 TIMELINE TO REPAIR THE DAMAGE OR CORRECT THE CONDITION CAUSING
4 REASONABLE BELIEF THAT DAMAGE IS IMMINENT AND THE PROCEDURES ARE
5 COMPLETED BY THE ORIGINAL DATE AGREED TO BY THE MORTGAGOR AND
6 PURCHASER OR BY AN EXTENDED DATE THAT IS AGREED TO BY THE MORTGAGOR
7 AND PURCHASER.

8 (9) IN DETERMINING WHETHER TO ENTER JUDGMENT FOR POSSESSION IN
9 FAVOR OF THE PURCHASER IN SUMMARY PROCEEDINGS UNDER THIS SECTION,
10 THE JUDGE SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES
11 SURROUNDING THE DAMAGE OR CONDITION THAT THREATENS IMMINENT DAMAGE,
12 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

13 (A) THE CAUSE OF THE DAMAGE OR CONDITION.

14 (B) WHETHER THE MORTGAGOR HAS TAKEN APPROPRIATE STEPS TO
15 REPAIR THE DAMAGE OR CORRECT THE CONDITION AND TO SECURE THE
16 PROPERTY FROM FURTHER DAMAGE.

17 (C) WHETHER THE MORTGAGOR HAS PROMPTLY CONTACTED THE PURCHASER
18 AND ANY PROPERTY INSURER REGARDING THE DAMAGE OR CONDITION.

19 (D) WHETHER ANY DELAY IN REPAIRS OR CORRECTIONS IS
20 AFFIRMATIVELY CAUSED BY THE PURCHASER OR THE PROPERTY INSURER.

21 (10) IF A JUDGMENT FOR POSSESSION IS ENTERED IN FAVOR OF THE
22 PURCHASER IN AN ACTION UNDER CHAPTER 57 AS DESCRIBED IN SUBSECTION
23 (6), THE RIGHT OF REDEMPTION UNDER SECTION 3240 IS EXTINGUISHED AND
24 TITLE TO THE PROPERTY VESTS IN THE PURCHASER AS PROVIDED IN SECTION
25 3236 AS TO ALL PERSONS AGAINST WHOM JUDGMENT WAS ENTERED.

26 (11) AS USED IN THIS SECTION, "DAMAGE" INCLUDES, BUT IS NOT
27 LIMITED TO, ANY OF THE FOLLOWING:

1 (A) THE FAILURE TO COMPLY WITH LOCAL ORDINANCES REGARDING
2 MAINTENANCE OF THE PROPERTY OR BLIGHT PREVENTION, IF THE FAILURE IS
3 THE SUBJECT OF ENFORCEMENT ACTION BY THE APPROPRIATE GOVERNMENTAL
4 UNIT.

5 (B) AN EXTERIOR CONDITION THAT PRESENTS A SIGNIFICANT RISK TO
6 THE SECURITY OF THE PROPERTY OR SIGNIFICANT RISK OF CRIMINAL
7 ACTIVITY OCCURRING ON THE PROPERTY.

8 (C) STRIPPED PLUMBING, ELECTRICAL WIRING, SIDING, OR OTHER
9 METAL MATERIAL.

10 (D) MISSING OR DESTROYED STRUCTURAL ASPECTS OR FIXTURES,
11 INCLUDING, BUT NOT LIMITED TO, A FURNACE, WATER HEATER, AIR-
12 CONDITIONING UNIT, COUNTERTOP, CABINETRY, FLOORING, WALL, CEILING,
13 ROOFING, TOILET, OR ANY OTHER FIXTURES. AS USED IN THIS
14 SUBDIVISION, "FIXTURES" MEANS THAT TERM AS DEFINED IN SECTION 9102
15 OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.9102.

16 (E) DETERIORATION BELOW, OR BEING IN IMMINENT DANGER OF
17 DETERIORATING BELOW, COMMUNITY STANDARDS FOR PUBLIC SAFETY AND
18 SANITATION THAT ARE ESTABLISHED BY STATUTE OR LOCAL ORDINANCE.

19 (F) A CONDITION THAT WOULD JUSTIFY RECOVERY OF THE PREMISES
20 UNDER SECTION 5714 (1) (D) .

21 Sec. 3240. (1) A purchaser's deed under section 3232 is void
22 if the mortgagor, the mortgagor's heirs or personal representative,
23 or any person **THAT HAS A RECORDED INTEREST IN THE PROPERTY** lawfully
24 claiming under the mortgagor or the mortgagor's heirs or personal
25 representative redeems the entire premises sold by paying the
26 amount required under subsection (2) and any amount required under
27 subsection (4), within the applicable time limit prescribed in

1 subsections (7) to (12), to the purchaser or the purchaser's
2 personal representative or assigns, or to the register of deeds in
3 whose office the deed is deposited for the benefit of the
4 purchaser.

5 (2) The amount required to be paid under subsection (1) is the
6 amount that was bid for the entire premises sold, interest from the
7 date of the sale at the interest rate provided for by the mortgage,
8 the amount of the sheriff's fee paid by the purchaser under section
9 2558(2)(q), and an additional \$5.00 as a fee for the care and
10 custody of the redemption money if the payment is made to the
11 register of deeds. Except as provided in subsection ~~(15)~~, **(14)**, the
12 register of deeds shall not determine the amount necessary for
13 redemption. The purchaser shall provide an affidavit with the deed
14 to be recorded under this section that states the exact amount
15 required to redeem the property under this subsection, including
16 any daily per diem amounts, and the date by which the property must
17 be redeemed shall be stated on the certificate of sale. The
18 purchaser may include in the affidavit the name of a designee
19 responsible on behalf of the purchaser to assist the person
20 redeeming the property in computing the exact amount required to
21 redeem the property. The designee may charge a fee as stated in the
22 affidavit and may be authorized by the purchaser to receive
23 redemption money. The purchaser shall accept the amount computed by
24 the designee.

25 (3) If a distinct lot or parcel separately sold is redeemed,
26 leaving a portion of the premises unredeemed, the deed is void only
27 to the redeemed parcel or parcels.

1 (4) If, after a sale under section ~~3220~~, **3216**, the purchaser,
2 the purchaser's heirs or personal representative, or any person
3 lawfully claiming under the purchaser or the purchaser's heirs or
4 personal representative pays taxes assessed against the property,
5 amounts necessary to redeem senior liens from foreclosure,
6 condominium assessments, homeowner association assessments,
7 community association assessments, or premiums on an insurance
8 policy covering any buildings located on the property that under
9 the terms of the mortgage it would have been the duty of the
10 mortgagor to pay if the mortgage had not been foreclosed and that
11 are necessary to keep the policy in force until the expiration of
12 the period of redemption, redemption shall be made only upon
13 payment of the sum specified in subsection (2) plus the amounts
14 specified in this subsection with interest on the amounts specified
15 in this subsection from the date of the payment to the date of
16 redemption at the interest rate specified in the mortgage. This
17 subsection does not apply unless all of the following are filed
18 with the register of deeds with whom the deed is deposited:

19 (a) An affidavit by the purchaser or someone in his or her
20 behalf who has knowledge of the facts of the payment showing the
21 amount and items paid.

22 (b) The receipt or copy of the canceled check evidencing the
23 payment of the taxes, amounts necessary to redeem senior liens from
24 foreclosure, condominium assessments, homeowner association
25 assessments, community association assessments, or insurance
26 premiums.

27 (c) An affidavit of an insurance agent of the insurance

1 company stating that the payment was made and what portion of the
2 payment covers the premium for the period before the expiration of
3 the period of redemption.

4 (5) If the redemption payment in subsection (4) includes an
5 amount used to redeem a senior lien from a nonjudicial foreclosure,
6 the mortgagor has the same defenses against the purchaser with
7 respect to the amount used to redeem the senior lien as the
8 mortgagor would have had against the senior lien.

9 (6) The register of deeds shall indorse on documents filed
10 under subsection (4) the time they are received. The register of
11 deeds shall record the affidavit of the purchaser only and shall
12 preserve in his or her files the recorded affidavit, receipts,
13 insurance receipts, and insurance agent's affidavit until
14 expiration of the period of redemption.

15 (7) Subject to ~~subsection (13),~~ **SECTION 3238**, for a mortgage
16 executed on or after January 1, 1965, of commercial or industrial
17 property, or multifamily residential property in excess of 4 units,
18 the redemption period is 6 months from the date of the sale.

19 (8) Subject to subsections (9) to (11) and ~~(13),~~ **SECTION 3238**,
20 for a mortgage executed on or after January 1, 1965, of residential
21 property not exceeding 4 units, if the amount claimed to be due on
22 the mortgage at the date of the notice of foreclosure is more than
23 66-2/3% of the original indebtedness secured by the mortgage, the
24 redemption period is 6 months.

25 (9) For a mortgage of residential property not exceeding 4
26 units, if the property is abandoned as determined under section
27 3241, the redemption period is 1 month.

1 (10) If the property is abandoned as determined under section
2 3241a, the redemption period is 1 month or until the time to
3 provide the notice required by section 3241a(c) expires, whichever
4 is later.

5 (11) Subject to ~~subsection (13),~~ **SECTION 3238**, for a mortgage
6 of property that is used for agricultural purposes, the redemption
7 period is 1 year from the date of the sale.

8 (12) If subsections (7) to (11) do not apply, and subject to
9 ~~subsection (13),~~ **SECTION 3238**, the redemption period is 1 year from
10 the date of the sale.

11 ~~—— (13) After the sale under section 3220 and periodically~~
12 ~~throughout the redemption period, the purchaser at the sale may~~
13 ~~inspect the exterior and interior of the property and all ancillary~~
14 ~~structures. If inspection is unreasonably refused or if damage to~~
15 ~~the property is imminent or has occurred, the purchaser may~~
16 ~~immediately commence summary proceedings for possession of the~~
17 ~~property under chapter 57 or file an action for any other relief~~
18 ~~necessary to protect the property from damage. A court shall not~~
19 ~~enter a judgment for possession in an action under chapter 57 if,~~
20 ~~before the hearing for possession, the mortgagor repairs any damage~~
21 ~~to the property that was the basis for the action. If a judgment~~
22 ~~for possession is entered in favor of the purchaser, the right of~~
23 ~~redemption is extinguished and full title to the property vests in~~
24 ~~the purchaser. As used in this subsection, "damage" includes, but~~
25 ~~is not limited to, any of the following:~~

26 ~~—— (a) The failure to comply with local ordinances regarding~~
27 ~~maintenance of the property, if the failure is the subject of~~

1 ~~enforcement action by the appropriate governmental unit.~~

2 ~~—— (b) A boarded up or closed off window or entrance.~~

3 ~~—— (c) Multiple broken and unrepaired window panes.~~

4 ~~—— (d) A smashed through, broken off, or unhinged door.~~

5 ~~—— (e) Accumulated rubbish, trash, or debris.~~

6 ~~—— (f) Stripped plumbing, electrical wiring, siding, or other~~
7 ~~metal material.~~

8 ~~—— (g) Missing fixtures, including, but not limited to, a~~
9 ~~furnace, water heater, or air conditioning unit.~~

10 ~~—— (h) Deterioration below, or being in imminent danger of~~
11 ~~deteriorating below, community standards for public safety and~~
12 ~~sanitation.~~

13 ~~—— (i) A condition that would justify recovery of the premises~~
14 ~~under section 5714(1)(d).~~

15 (13) ~~(14)~~ The amount stated in any affidavits recorded under
16 this section shall be the amount necessary to satisfy the
17 requirements for redemption under this section.

18 (14) ~~(15)~~ The register of deeds of a county with a population
19 of more than 750,000 and less than 1,500,000, at the request of a
20 person entitled to redeem the property under this section, shall
21 determine the amount necessary for redemption. In determining the
22 amount, the register of deeds shall consider only the affidavits
23 recorded under subsections (2) and (4). A county, register of
24 deeds, or employee of a county or register of deeds is not liable
25 for damages proximately caused by an incorrect determination of an
26 amount necessary for redemption under subsection (2).

27 (15) ~~(16)~~ A register of deeds may charge not more than \$50.00

1 for determining the amount necessary for redemption under this
2 section.

3 (16) ~~(17)~~—For purposes of this section, there is a presumption
4 that the property is used for agricultural purposes if, before the
5 foreclosure sale under this chapter, the mortgagor provides the
6 party foreclosing the mortgage and the foreclosing party's attorney
7 proof that the mortgagor filed a schedule F to the mortgagor's
8 federal income tax form 1040 for the year preceding the year in
9 which the proceedings to foreclose the mortgage were commenced and
10 records an affidavit with the register of deeds for the county in
11 which the property is located stating that the proof has been
12 delivered. If the mortgagor fails to provide proof and record an
13 affidavit as required by this subsection before the foreclosure
14 sale, there is a presumption that the property is not used for
15 agricultural purposes. The party foreclosing the mortgage or the
16 mortgagor may file a civil action to produce evidence to rebut a
17 presumption created by this subsection. An action under this
18 section shall be filed before the expiration of the redemption
19 period that would apply if the property is determined not to be
20 used for agricultural purposes.

21 Sec. 3278. (1) During the period of redemption following a
22 foreclosure sale of property under this chapter, the mortgagor and
23 any other person liable on the mortgage is liable to the purchaser
24 at the sale, or the mortgagee, payee, or other holder of the
25 obligation secured by the mortgage if the mortgagee, payee, or
26 other holder takes or has taken title to the property at the sale
27 either directly or indirectly, for any physical injury to the

1 property beyond wear and tear resulting from the normal use of the
2 property if the physical injury is caused by or at the direction of
3 the mortgagor or other person liable on the mortgage.

4 (2) IF THE PURCHASER HAS PROVIDED NOTICE TO THE MORTGAGOR
5 UNDER SECTION 3237 AND THE MORTGAGOR INTENDS TO MOVE FROM THE
6 PROPERTY AT ANY TIME AFTER THE FORECLOSURE SALE OF PROPERTY UNDER
7 THIS CHAPTER, THE MORTGAGOR SHALL INFORM THE PURCHASER BY
8 ELECTRONIC MAIL, CERTIFIED MAIL, OR ANY OTHER METHOD REASONABLY
9 CALCULATED TO ACHIEVE ACTUAL NOTICE, AT LEAST 10 DAYS BEFORE
10 VACATING THE PROPERTY SO THAT THE PROPERTY MAY BE SECURED. IF THE
11 PURCHASER HAS PROVIDED NOTICE TO THE MORTGAGOR UNDER SECTION 3237,
12 BOTH OF THE FOLLOWING APPLY:

13 (A) THERE IS A REBUTTABLE PRESUMPTION THAT THE MORTGAGOR IS
14 LIABLE TO THE PURCHASER AT THE FORECLOSURE SALE FOR ALL DAMAGE TO
15 THE PROPERTY THAT OCCURS BEFORE THE EXPIRATION OF THE REDEMPTION
16 PERIOD IF THE MORTGAGOR DOES ANY OF THE FOLLOWING:

17 (i) SUBJECT TO SECTION 3238, FAILS TO CONSENT TO AN INITIAL
18 INSPECTION, COMPLY WITH A REQUEST FOR INFORMATION ON THE CONDITION
19 OF THE PROPERTY, OR CONSENT TO AN INSPECTION OF THE PROPERTY AFTER
20 THE INITIAL INSPECTION, IF REQUESTED.

21 (ii) FAILS TO PROVIDE TIMELY NOTICE TO THE PURCHASER UNDER THIS
22 SUBSECTION.

23 (iii) FAILS TO SURRENDER CONTROL OF THE PROPERTY IN A MANNER
24 THAT REASONABLY PROVIDES THE PURCHASER WITH THE OPPORTUNITY TO
25 SECURE IT.

26 (B) THERE IS A REBUTTABLE PRESUMPTION THAT THE MORTGAGOR IS
27 NOT LIABLE FOR DAMAGE TO THE PROPERTY THAT OCCURS AFTER THE

1 MORTGAGER SURRENDERS CONTROL OF THE PROPERTY IF THE MORTGAGOR DOES
2 ALL OF THE FOLLOWING:

3 (i) SUBJECT TO SECTION 3238, CONSENTS TO AN INITIAL INSPECTION,
4 COMPLIES WITH A REQUEST FOR INFORMATION ON THE CONDITION OF THE
5 PROPERTY, AND CONSENTS TO INSPECTIONS OF THE PROPERTY AFTER THE
6 INITIAL INSPECTION, IF REQUESTED.

7 (ii) PROVIDES TIMELY NOTICE TO THE PURCHASER UNDER THIS
8 SUBSECTION.

9 (iii) SURRENDERS CONTROL OF THE PROPERTY IN A MANNER THAT
10 REASONABLY PROVIDES THE PURCHASER WITH THE OPPORTUNITY TO SECURE
11 IT.

12 (3) FOR PURPOSES OF SUBSECTION (2) (A) (iii) AND (B) (iii), THE
13 PURCHASER SHALL DESIGNATE 1 OR MORE ALTERNATIVE METHODS FOR
14 SURRENDER OF CONTROL OF THE PROPERTY.

15 (4) ~~(2)~~—In an action for damages under this section, the
16 amount of damages may be determined by any measure of damages
17 applicable under law, including, but not limited to, the method
18 provided under section 5739(2).

19 (5) ~~(3)~~—An action for damages under this section may be joined
20 with an action for possession of the premises under chapter 57.

21 Enacting section 1. Sections 3205, 3205e, and 3206 of the
22 revised judicature act of 1961, 1961 PA 236, MCL 600.3205,
23 600.3205e, and 600.3206, are repealed.

24 Enacting section 2. This amendatory act takes effect 30 days
25 after the date it is enacted into law.