

HOUSE BILL No. 5676

April 9, 1990, Introduced by Rep. Ciaramitaro and referred to the Committee on Judiciary.

A bill to amend section 3240 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 94 of the Public Acts of 1986, being section 600.3240 of the Michigan Compiled Laws; to add chapter 34; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 3240 of Act No. 236 of the Public Acts
2 of 1961, as amended by Act No. 94 of the Public Acts of 1986,
3 being section 600.3240 of the Michigan Compiled Laws, is amended
4 and chapter 34 is added to read as follows:

5 Sec. 3240. (1) If the mortgagor, the mortgagor's heirs,
6 executors, or administrators, or any person lawfully claiming
7 from or under the mortgagor or them, within the applicable time
8 limit prescribed in this section, redeems the entire premises

1 sold by paying to the purchaser, TO the purchaser's executors,
2 administrators, or assigns, or to the register of deeds in whose
3 office the deed is deposited for the benefit of the purchaser,
4 the sum ~~which~~ THAT was bid for the entire premises sold, with
5 interest from the time of the sale at the rate percent borne by
6 the mortgage ~~—~~ and, if the payment is made to the register of
7 deeds, the sum of \$3.00 as a fee for the care and custody of the
8 redemption money, then the deed ~~shall be~~ IS void and of no
9 effect. If a distinct lot or parcel separately sold is redeemed,
10 leaving a portion of the premises unredeemed, then the deed
11 ~~shall be~~ IS inoperative ~~merely~~ SOLELY to the parcel or par-
12 cels so redeemed, and to those portions not so redeemed ~~shall~~
13 ~~remain~~ REMAINS valid and of full effect.

14 (2) If the purchaser, following the sale, pays ~~any sum or~~
15 ~~sums as~~ taxes assessed against the property or premiums ~~upon~~
16 ~~any~~ FOR AN insurance policy covering any buildings located on
17 the property which, under the terms of the mortgage, ~~it~~
18 PREMIUMS would have been the duty of the mortgagor to ~~have paid~~
19 PAY had the mortgage not been foreclosed, and which premiums are
20 necessary to keep the policy in force until the expiration of the
21 period of redemption, and the purchaser, or someone in his or her
22 behalf having knowledge of the facts, makes an affidavit of the
23 payment showing the amount and items paid, together with the
24 receipt evidencing the payment of the taxes or insurance premiums
25 ~~—, together with~~ AND an affidavit of an insurance agent of the
26 insurance company stating the making of the payment and also what
27 portion of the payment covers the premium for the period prior to

1 the expiration of the period of redemption, all of which are
2 filed with the register of deeds with whom the deed is deposited,
3 the register of deeds shall indorse on the documents filed the
4 time they are received. The register of deeds shall record at
5 length the affidavit of the purchaser only and shall preserve in
6 his or her files the recorded affidavit, together with the tax
7 and insurance receipts and insurance agent's affidavit, until
8 expiration of the period of redemption. After a filing under
9 this subsection, redemption shall only be made upon payment of
10 the sum ~~above~~ specified IN SUBSECTION (1) plus the amount shown
11 by the affidavits and receipts to have been ~~so~~ paid, with
12 interest on that amount, from the date of the payment to the date
13 of redemption, at the rate specified in the mortgage.

14 (3) For a mortgage executed on or after January 1, 1965, on
15 commercial or industrial property, or multifamily residential
16 property in excess of 4 units, the redemption period ~~shall be~~
17 IS 6 months from the time of the sale. IN ANY OTHER CASE, THE
18 REDEMPTION PERIOD IS 1 YEAR FROM THE DATE OF THE SALE.

19 ~~(4) For a mortgage executed on or after January 1, 1965, on~~
20 ~~residential property not exceeding 4 units and not more than 3~~
21 ~~acres in size, if the amount claimed to be due on the mortgage at~~
22 ~~the date of the notice of foreclosure is more than 66 2/3% of the~~
23 ~~original indebtedness secured by the mortgage, the redemption~~
24 ~~period shall be 6 months.~~

25 ~~(5) For a mortgage on residential property not exceeding 4~~
26 ~~units and not more than 3 acres in size, if the property is~~

~~1 abandoned as determined pursuant to section 3241, the redemption
2 period shall be 3 months.~~

~~3 (6) For a mortgage on residential property not exceeding 4
4 units and not more than 3 acres in size, if the amount claimed to
5 be due on the mortgage at the date of the notice of foreclosure
6 is more than 66 2/3% of the original indebtedness secured by the
7 mortgage and the property is abandoned as determined pursuant to
8 section 3241, the redemption period shall be 1 month.~~

~~9 (7) If the property is abandoned as determined pursuant to
10 section 3241a, the redemption period shall be 30 days.~~

~~11 (8) In any other case, the redemption period shall be 1 year
12 from the date of the sale.~~

13 CHAPTER 34

14 SEC. 3401. AS USED IN THIS CHAPTER:

15 (A) "COMMITMENT TO PURCHASE" MEANS EARNEST MONEY OF NOT LESS
16 THAN 5% OF THE AMOUNT OF THE BID IN THE FORM OF A CERTIFIED CHECK
17 OR MONEY ORDER PAYABLE TO THE PARTY IN WHOSE NAME THE SALE IS
18 BEING MADE AND A WRITTEN COMMITMENT FROM A LENDER TO FINANCE A
19 SPECIFIED AMOUNT THAT IS NOT LESS THAN THE AMOUNT OF THE BID
20 MINUS THE EARNEST MONEY.

21 (B) "PLAIN LANGUAGE" MEANS WRITTEN IN A CLEAR AND COHERENT
22 MANNER USING WORDS AND PHRASES WITH COMMON AND EVERYDAY MEANINGS,
23 APPROPRIATELY DIVIDED AND CAPTIONED BY ITS VARIOUS SECTIONS.

24 (C) "RESIDENTIAL PROPERTY" MEANS REAL PROPERTY NOT MORE THAN
25 3 ACRES IN SIZE USED FOR RESIDENTIAL PURPOSES ON WHICH IS LOCATED
26 1 OR MORE BUILDINGS CONTAINING NOT MORE THAN 4 RESIDENTIAL UNITS
27 IN TOTAL.

1 SEC. 3402. UPON DEFAULT IN A CONDITION OF A MORTGAGE ON
2 RESIDENTIAL PROPERTY THAT CONTAINS A POWER OF SALE, THE MORTGAGE
3 MAY BE FORECLOSED BY ADVERTISEMENT AS SPECIFIED IN THIS CHAPTER.
4 THIS CHAPTER DOES NOT APPLY TO MORTGAGES OF RESIDENTIAL PROPERTY
5 HELD BY THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY UNDER
6 THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, ACT NO. 346
7 OF THE PUBLIC ACTS OF 1966, BEING SECTIONS 125.1401 TO 125.1498F
8 OF THE MICHIGAN COMPILED LAWS.

9 SEC. 3404. (1) A PARTY SHALL NOT FORECLOSE ON A MORTGAGE AS
10 PROVIDED IN THIS CHAPTER, UNLESS ALL OF THE FOLLOWING REQUIRE-
11 MENTS ARE MET:

12 (A) A DEFAULT IN A CONDITION OF THE MORTGAGE OCCURS BY WHICH
13 THE POWER TO SELL BECOMES OPERATIVE.

14 (B) AN ACTION HAS NOT BEEN INSTITUTED TO RECOVER THE DEBT OR
15 A PART OF THE DEBT REMAINING SECURED BY THE MORTGAGE, OR IF AN
16 ACTION HAS BEEN INSTITUTED, THE ACTION IS DISCONTINUED OR AN EXE-
17 CUTION UPON THE JUDGMENT RENDERED IN THAT ACTION OR PROCEEDING IS
18 RETURNED UNSATISFIED, IN WHOLE OR IN PART.

19 (C) THE MORTGAGE CONTAINING THE POWER OF SALE IS RECORDED,
20 AND IF THE MORTGAGE HAS BEEN ASSIGNED, EACH ASSIGNMENT IS
21 RECORDED.

22 (2) FOR A MORTGAGE GIVEN TO SECURE THE PAYMENT OF MONEY BY
23 INSTALLMENTS, EACH INSTALLMENT MENTIONED IN THE MORTGAGE AFTER
24 THE FIRST INSTALLMENT SHALL BE CONSIDERED AS A SEPARATE AND INDE-
25 PENDENT MORTGAGE, AND THE MORTGAGE FOR EACH INSTALLMENT MAY BE
26 FORECLOSED IN THE SAME MANNER AND WITH THE LIKE EFFECT AS IF A
27 SEPARATE MORTGAGE IS GIVEN FOR EACH SUBSEQUENT INSTALLMENT. A

1 CURE OF THE DEFAULT BY THE MORTGAGOR OR A PURCHASE AT A SALE
2 UNDER THIS CHAPTER BY THE MORTGAGOR OR ANOTHER PERSON SHALL HAVE
3 THE LIKE EFFECT AS IF THE CURE OF THE DEFAULT OR THE SALE FOR THE
4 INSTALLMENTS IS MADE UPON AN INDEPENDENT PRIOR MORTGAGE.

5 SEC. 3406. (1) IF THE REQUIREMENTS OF SECTION 3404 ARE MET
6 AND THE MORTGAGEE INTENDS TO FORECLOSE UNDER THIS CHAPTER, NOTICE
7 THAT THE MORTGAGE WILL BE FORECLOSED BY A SALE OF THE MORTGAGED
8 RESIDENTIAL PROPERTY OR A PART OF THAT PROPERTY SHALL BE GIVEN BY
9 PUBLISHING THE NOTICE IN A NEWSPAPER PUBLISHED IN THE COUNTY
10 WHERE THE RESIDENTIAL PROPERTY, OR A PART OF THAT PROPERTY,
11 INCLUDED IN THE MORTGAGE AND INTENDED TO BE SOLD IS SITUATED. IF
12 A NEWSPAPER IS NOT PUBLISHED IN THE COUNTY, THE NOTICE SHALL BE
13 PUBLISHED IN A NEWSPAPER THAT IS CIRCULATED IN THE COUNTY OR THAT
14 IS PUBLISHED OR CIRCULATED IN AN ADJACENT COUNTY. WITHIN 15 DAYS
15 AFTER THE FIRST PUBLICATION OF THE NOTICE, A TRUE COPY SHALL BE
16 POSTED IN A CONSPICUOUS PLACE UPON THE RESIDENTIAL PROPERTY
17 DESCRIBED IN THE NOTICE.

18 (2) WITHIN 3 DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE,
19 THE MORTGAGEE SHALL SEND A COPY OF THE NOTICE BY CERTIFIED MAIL,
20 RETURN RECEIPT REQUESTED, TO THE MORTGAGOR AND ALL OTHER PERSONS
21 THAT HAVE A RECORDED INTEREST IN THE RESIDENTIAL PROPERTY.

22 (3) A NOTICE PUBLISHED, POSTED, OR SENT UNDER THIS SECTION
23 SHALL COMPLY WITH SECTIONS 3416 AND 3417.

24 SEC. 3408. (1) EXCEPT AS PROVIDED IN SUBSECTION (3) AND
25 SECTION 3412, IF THE AMOUNT DUE ON THE MORTGAGE ON THE DATE OF
26 THE FIRST PUBLICATION OF THE NOTICE UNDER SECTION 3406 IS LESS
27 THAN 66.6% OF THE ORIGINAL INDEBTEDNESS SECURED BY THE MORTGAGE,

1 THE MORTGAGE INDEBTEDNESS SHALL NOT BE ACCELERATED LESS THAN 200
2 DAYS AFTER THAT DATE OF PUBLICATION, AND THE PERIOD FOR CURE OF A
3 DEFAULT SHALL BE 1 YEAR AFTER THAT DATE OF PUBLICATION.

4 (2) EXCEPT AS PROVIDED IN SECTIONS 3409 AND 3412, IF THE
5 AMOUNT DUE ON THE MORTGAGE ON THE DATE OF THE FIRST PUBLICATION
6 OF THE NOTICE UNDER SECTION 3406 IS EQUAL TO OR MORE THAN 66.6%
7 OF THE ORIGINAL INDEBTEDNESS SECURED BY THE MORTGAGE, THE MORT-
8 GAGE INDEBTEDNESS SHALL NOT BE ACCELERATED LESS THAN 100 DAYS
9 AFTER THAT DATE OF PUBLICATION, AND THE PERIOD FOR CURE OF A
10 DEFAULT SHALL BE 180 DAYS AFTER THAT DATE OF PUBLICATION.

11 (3) EXCEPT AS PROVIDED IN SECTION 3412, IF THE AMOUNT DUE ON
12 THE MORTGAGE ON THE DATE OF THE FIRST PUBLICATION OF THE NOTICE
13 UNDER SECTION 3406 IS LESS THAN 66.6% OF THE ORIGINAL INDEBTED-
14 NESS SECURED BY THE MORTGAGE AND THE RESIDENTIAL PROPERTY IS
15 ABANDONED AS PROVIDED IN SECTION 3414, THE MORTGAGE INDEBTEDNESS
16 SHALL NOT BE ACCELERATED LESS THAN 60 DAYS AFTER THAT DATE OF
17 PUBLICATION, AND THE PERIOD FOR CURE OF A DEFAULT SHALL BE 90
18 DAYS AFTER THAT DATE OF PUBLICATION OR 30 DAYS AFTER THE MORTGA-
19 GEE MAILES THE NOTICE REQUIRED BY SECTION 3414, WHICHEVER IS
20 LATER.

21 (4) BEFORE A MORTGAGE INDEBTEDNESS IS ACCELERATED OR RESI-
22 DENTIAL PROPERTY IS SOLD UNDER THIS SECTION, A NOTICE WITH THE
23 CONTENTS PRESCRIBED IN SECTION 3416 SHALL BE GIVEN IN ACCORDANCE
24 WITH THE FOLLOWING SCHEDULE:

25 (A) NOT MORE THAN 20 AND NOT LESS THAN 10 DAYS BEFORE THE
26 MORTGAGE INDEBTEDNESS IS ACTUALLY ACCELERATED.

1 (B) NOT MORE THAN 30 AND NOT LESS THAN 10 DAYS BEFORE THE
2 DATE OF SALE.

3 (C) NOT MORE THAN 10 AND NOT LESS THAN 5 DAYS BEFORE THE
4 DATE OF SALE.

5 SEC. 3409. (1) EXCEPT AS PROVIDED IN SECTION 3412, IF THE
6 AMOUNT DUE ON THE MORTGAGE ON THE DATE OF THE FIRST PUBLICATION
7 OF THE NOTICE UNDER SECTION 3406 IS EQUAL TO OR MORE THAN 66.6%
8 OF THE ORIGINAL INDEBTEDNESS SECURED BY THE MORTGAGE AND THE RES-
9 IDENTIAL PROPERTY IS ABANDONED AS PROVIDED IN SECTION 3414, THE
10 MORTGAGE INDEBTEDNESS SHALL NOT BE ACCELERATED LESS THAN 30 DAYS
11 AFTER THAT DATE OF PUBLICATION, AND THE PERIOD FOR CURE OF A
12 DEFAULT SHALL BE 30 DAYS AFTER THAT DATE OF PUBLICATION OR 30
13 DAYS AFTER THE MORTGAGEE MAILES THE NOTICE REQUIRED BY SECTION
14 3414, WHICHEVER IS LATER.

15 (2) IF A MORTGAGE IS ACCELERATED OR RESIDENTIAL PROPERTY IS
16 SOLD UNDER THIS SECTION, A NOTICE AS PROVIDED IN SECTION 3416
17 SHALL BE GIVEN IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

18 (A) NOT MORE THAN 10 AND NOT LESS THAN 5 DAYS BEFORE THE
19 MORTGAGE INDEBTEDNESS IS ACTUALLY ACCELERATED.

20 (B) NOT MORE THAN 10 AND NOT LESS THAN 5 DAYS BEFORE THE
21 DATE OF SALE.

22 (3) A SINGLE NOTICE MAY BE USED FOR BOTH NOTICES UNDER SUB-
23 SECTION (2) IF THE SINGLE NOTICE OTHERWISE COMPLIES WITH THE
24 NOTICE SCHEDULE.

25 SEC. 3410. (1) THERE IS NO RIGHT OF REDEMPTION FOR RESIDEN-
26 TIAL PROPERTY FORECLOSED UPON AND SOLD UNDER THIS CHAPTER. AFTER
27 THE DATE OF THE FIRST PUBLICATION OF THE NOTICE REQUIRED BY

1 SECTION 3406, A DEFAULT IN THE MORTGAGE MAY BE CURED UNTIL THE
2 DATE OF SALE OF THE MORTGAGED PREMISES AS PROVIDED IN THIS
3 CHAPTER. A SALE UNDER THIS CHAPTER SHALL NOT BE HELD UNTIL AFTER
4 THE EXPIRATION OF THE PERIOD FOR THE CURE OF A DEFAULT AS PRO-
5 VIDED IN SECTION 3408 OR 3409. A DEFAULT MAY BE CURED ON A DIS-
6 TINCT LOT OR PARCEL THAT MAY BE SEPARATELY SOLD, LEAVING THE
7 DEFAULT ON A PORTION OF THE RESIDENTIAL PROPERTY NOT CURED.

8 (2) BEFORE THE MORTGAGE INDEBTEDNESS IS ACCELERATED, THE
9 MORTGAGEE SHALL ACCEPT AN OFFER TO CURE A DEFAULT IF THE AMOUNT
10 TENDERED IS NOT LESS THAN THE SUM OF THE AMOUNT OF PRINCIPAL AND
11 INTEREST DUE ON THE MORTGAGE BEFORE ACCELERATION AND THE AMOUNT
12 PAID BY THE MORTGAGEE FOR TAXES ASSESSED AGAINST THE RESIDENTIAL
13 PROPERTY AND FOR PREMIUMS FOR INSURANCE COVERING THE RESIDENTIAL
14 PROPERTY, WHICH TAXES AND INSURANCE IT WOULD HAVE BEEN THE DUTY
15 OF THE MORTGAGOR TO PAY. AFTER THE MORTGAGE INDEBTEDNESS IS
16 ACCELERATED IN COMPLIANCE WITH SECTION 3408 OR 3409, THE MORTGA-
17 GEE MAY REJECT AN OFFER TO CURE A DEFAULT UNLESS THE MORTGAGEE IS
18 TENDERED AN AMOUNT THAT IS EQUAL TO NOT LESS THAN THE SUM OF THE
19 PRINCIPAL AND INTEREST DUE ON THE MORTGAGE AFTER ACCELERATION,
20 THE INTEREST THAT ACCRUES AFTER ACCELERATION AT THE RATE PROVIDED
21 IN THE MORTGAGE ON THE ORIGINAL INDEBTEDNESS, AND THE AMOUNT PAID
22 BY THE MORTGAGEE FOR TAXES ASSESSED AGAINST THE RESIDENTIAL PROP-
23 ERTY AND FOR PREMIUMS FOR INSURANCE COVERING THE RESIDENTIAL
24 PROPERTY, WHICH TAXES AND INSURANCE IT WOULD HAVE BEEN THE DUTY
25 OF THE MORTGAGOR TO PAY.

26 (3) THE MORTGAGEE SHALL MAKE AN AFFIDAVIT OF THE PAYMENT OF
27 TAXES OR INSURANCE PREMIUMS. THE AFFIDAVIT SHALL INCLUDE A

1 RECEIPT EVIDENCING THE PAYMENT OF THE TAXES OR INSURANCE PREMIUMS
2 AND AN AFFIDAVIT OF AN INSURANCE AGENT OF THE INSURANCE COMPANY
3 STATING THE MAKING OF THE PAYMENT. THE AFFIDAVIT SHALL BE GIVEN
4 TO THE PERSON WHO CURES THE DEFAULT.

5 (4) IF, UPON TENDER OF A SUFFICIENT AMOUNT TO CURE A
6 DEFAULT, A PERSON ENTITLED TO RECEIVE THE PAYMENT REFUSES TO
7 ACCEPT AND ACKNOWLEDGE THE PAYMENT, THE PERSON SHALL BE LIABLE TO
8 THE PERSON AGGRIEVED BY THE REFUSAL IN THE SUM OF \$100.00 DAMAGES
9 OVER AND ABOVE ALL THE ACTUAL DAMAGES SUSTAINED.

10 SEC. 3412. A MORTGAGE THAT IS FORECLOSED UNDER THE PROCE-
11 DURES OF THIS CHAPTER MAY BE ACCELERATED AFTER 30 DAYS AFTER THE
12 FIRST PUBLICATION OF THE NOTICE REQUIRED BY SECTION 3406 OR AS
13 PROVIDED IN THE MORTGAGE, WHICHEVER IS LATER, IF ANY OF THE FOL-
14 LOWING ARE TRUE:

15 (A) NOT INCLUDING THE DEFAULT IN QUESTION, A DEFAULT IN A
16 CONDITION OF THE MORTGAGE HAS OCCURRED NOT LESS THAN 3 TIMES IN A
17 5-YEAR PERIOD AND NOT LESS THAN 3 OF THOSE DEFAULTS WERE NOT
18 CURED UNTIL AFTER THE PUBLICATION OF THE NOTICE REQUIRED BY SEC-
19 TION 3406.

20 (B) A DEFAULT IN A CONDITION OF THE MORTGAGE HAS OCCURRED
21 MORE THAN 6 MONTHS BEFORE THE FIRST PUBLICATION OF THE NOTICE
22 REQUIRED BY SECTION 3406, THE MORTGAGOR HAS BEEN NOTIFIED OF THE
23 DEFAULT, AND THE DEFAULT IS NOT CURED.

24 SEC. 3414. FOR PURPOSES OF THIS CHAPTER, RESIDENTIAL PROP-
25 ERTY SHALL BE CONCLUSIVELY PRESUMED ABANDONED AT THE TIME THE
26 MORTGAGEE NORMALLY CLOSES FOR BUSINESS THE DAY BEFORE THE DATE OF
27 SALE IF THE FOLLOWING REQUIREMENTS ARE SATISFIED:

1 (A) THE MORTGAGEE MAKES A PERSONAL INSPECTION OF THE
 2 MORTGAGED RESIDENTIAL PROPERTY, AND THE INSPECTION DOES NOT
 3 REVEAL THAT THE MORTGAGOR OR PERSONS CLAIMING UNDER THE MORTGAGOR
 4 ARE PRESENTLY OCCUPYING OR INTEND TO OCCUPY THE RESIDENTIAL
 5 PROPERTY.

6 (B) NOT LESS THAN 30 DAYS BEFORE THE DATE OF SALE, THE MORT-
 7 GAGEE MAELS BY BOTH FIRST-CLASS AND CERTIFIED MAIL, RETURN
 8 RECEIPT REQUESTED, NOTICE TO THE MORTGAGOR AT THE MORTGAGOR'S
 9 LAST KNOWN ADDRESS. THE NOTICE SHALL BE WRITTEN IN PLAIN LAN-
 10 GUAGE AND INCLUDE ALL OF THE FOLLOWING:

11 (i) THE MORTGAGEE'S ADDRESS AND TELEPHONE NUMBER.

12 (ii) A STATEMENT THAT THE MORTGAGEE CONSIDERS THE RESIDEN-
 13 TIAL PROPERTY ABANDONED.

14 (iii) A STATEMENT THAT THE PERIOD FOR CURE OF THE DEFAULT
 15 WILL BE SHORTENED TO 30 DAYS UNLESS THE MORTGAGOR, THE
 16 MORTGAGOR'S HEIRS, THE MORTGAGOR'S EXECUTOR, OR THE MORTGAGOR'S
 17 ADMINISTRATOR, OR A PERSON LAWFULLY CLAIMING FROM OR UNDER 1 OF
 18 THEM INTENDS TO OCCUPY THE RESIDENTIAL PROPERTY.

19 (iv) THE ACTIONS THE MORTGAGOR MUST TAKE TO PRESERVE THE
 20 MORTGAGOR'S LEGAL RIGHTS.

21 (v) A SUGGESTION THAT THE MORTGAGOR SEEK LEGAL ASSISTANCE.

22 (vi) A STATEMENT SUBSTANTIALLY STATING THE FOLLOWING:

23 "THE _____ (MORTGAGEE) _____ HAS INSPECTED THIS HOME AT
 24 _____ (STREET ADDRESS) _____ ON _____ (DATE) _____. WE BELIEVE
 25 THIS PROPERTY HAS BEEN ABANDONED.

26 IF THE OWNERS _____ (NAMES OF MORTGAGORS) _____ OR ANYONE ELSE
 27 WHO HAS RIGHTS TO THIS PROPERTY, INCLUDING A RIGHT TO LIVE ON

1 THIS PROPERTY, DOES NOT CONTACT _____ (MORTGAGEE) _____ BY
2 _____ (DAY AND DATE 30 DAYS AFTER DATE OF NOTICE) _____, WE
3 CAN SELL THE PROPERTY.

4 AFTER THE SALE, ON _____ (DATE) _____, THE PROPERTY WILL
5 BELONG TO NEW OWNERS AND _____ (NAMES OF MORTGAGORS) _____
6 WILL NOT OWN OR HAVE A RIGHT TO LIVE ON THE PROPERTY.

7 IF THIS HOUSE IS NOT ABANDONED, OR IF SOMEONE PLANS TO RETURN TO
8 THE HOUSE, THE OWNER OR ANYONE WITH A RIGHT TO THIS PROPERTY, OR
9 A RIGHT TO LIVE ON THIS PROPERTY, MUST NOTIFY _____ (MORTGAGEE)
10 AT _____ (NAME AND ADDRESS OF MORTGAGEE) _____ TO TELL THEM
11 THE HOUSE IS NOT ABANDONED.

12 THEY MUST NOTIFY _____ (MORTGAGEE) _____ BEFORE _____ (DATE
13 NOTICE MUST BE RECEIVED) _____ TO PROTECT THEIR LEGAL
14 RIGHTS.

15 THEY MAY ALSO WANT TO CONTACT A LAWYER TO HELP THEM PROTECT THEIR
16 PROPERTY RIGHTS.

17 IF YOU KNOW THE OWNERS OR THEIR FAMILY, PLEASE TELL THEM ABOUT
18 THIS NOTICE."

19 (C) THE MORTGAGEE POSTS A COPY OF THE NOTICE REQUIRED BY
20 SUBDIVISION (B) IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROP-
21 ERTY DESCRIBED IN THE NOTICE.

22 (D) BEFORE THE TIME THE MORTGAGEE NORMALLY CLOSSES FOR BUSI-
23 NESS THE DAY BEFORE THE DATE OF SALE OF THE RESIDENTIAL PROPERTY,
24 THE MORTGAGOR, THE MORTGAGOR'S HEIRS, THE MORTGAGOR'S EXECUTOR,
25 OR THE MORTGAGOR'S ADMINISTRATOR, OR A PERSON LAWFULLY CLAIMING
26 FROM OR UNDER 1 OF THEM, DOES NOT GIVE NOTICE TO THE MORTGAGEE

1 THAT THE MORTGAGOR OR A PERSON CLAIMING UNDER THE MORTGAGOR IS
2 OCCUPYING OR INTENDS TO OCCUPY THE RESIDENTIAL PROPERTY.

3 SEC. 3416. A NOTICE PUBLISHED UNDER SECTION 3406, 3408, OR
4 3409 SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING WRITTEN IN PLAIN
5 LANGUAGE:

6 (A) THE NAMES OF THE MORTGAGOR AND OF THE MORTGAGEE, AND THE
7 ASSIGNEE OF THE MORTGAGE, IF ANY.

8 (B) THE DATE OF THE MORTGAGE, AND THE DATE ON WHICH IT WAS
9 RECORDED.

10 (C) THE AMOUNT CLAIMED TO BE DUE ON THE MORTGAGE ON THE DATE
11 OF THE NOTICE.

12 (D) A DESCRIPTION OF THE RESIDENTIAL PROPERTY, CONFORMING
13 SUBSTANTIALLY WITH THAT CONTAINED IN THE MORTGAGE; AND THE STREET
14 ADDRESS OF THE PROPERTY OR, IF THERE IS NOT A STREET ADDRESS, A
15 STATEMENT OF THE RESIDENTIAL PROPERTY'S RELATIONSHIP TO THE MAJOR
16 STREETS OR ROADS IN THE VICINITY OF THE RESIDENTIAL PROPERTY REA-
17 SONABLY CALCULATED TO ENABLE A READER OF THE NOTICE TO LOCATE THE
18 RESIDENTIAL PROPERTY.

19 (E) THE MINIMUM LENGTH OF THE PERIOD FOR CURE OF THE DEFAULT
20 AS DETERMINED UNDER SECTION 3408, 3409, OR 3412.

21 SEC. 3417. IN ADDITION TO THE REQUIREMENTS OF SECTION 3416,
22 A NOTICE REQUIRED TO BE SENT TO THE MORTGAGOR BY SECTION 3406
23 SHALL INCLUDE ALL OF THE FOLLOWING WRITTEN IN PLAIN LANGUAGE:

24 (A) A STATEMENT EXPLAINING THE MORTGAGOR'S RIGHTS AND
25 RESPONSIBILITIES UNDER THIS CHAPTER INCLUDING AT LEAST ALL OF THE
26 FOLLOWING:

1 (i) THE RIGHT TO CURE THE DEFAULT BY PAYMENT OF THE
2 INSTALLMENTS CURRENTLY DUE UNDER THE MORTGAGE AND THE AMOUNT OF
3 THAT PAYMENT.

4 (ii) THE DATE AFTER WHICH THE MORTGAGEE MAY ACCELERATE THE
5 MORTGAGE INDEBTEDNESS AND THE MINIMUM AMOUNT THAT THE MORTGAGOR
6 WOULD HAVE TO PAY TO CURE THE DEFAULT AFTER AN ACCELERATION.

7 (iii) THE RIGHT OF THE MORTGAGOR TO REMAIN ON THE RESIDEN-
8 TIAL PROPERTY UNTIL THE SALE OF THE RESIDENTIAL PROPERTY.

9 (B) A LIST OF THE HOUSING COUNSELING OR CREDIT COUNSELING
10 AGENCIES IN THE AREA.

11 (C) A STATEMENT THAT, IF THE DEFAULT IS NOT CURED, THE RESI-
12 DENTIAL PROPERTY WILL BE SOLD TO PAY FOR THE DEBT.

13 SEC. 3420. (1) A SALE UNDER THIS CHAPTER SHALL BE AT PUBLIC
14 SALE BETWEEN 9 A.M. AND 4 P.M. AT THE PLACE OF HOLDING CIRCUIT
15 COURT WITHIN THE COUNTY IN WHICH THE RESIDENTIAL PROPERTY TO BE
16 SOLD OR A PART OF THAT PROPERTY IS SITUATED. A SALE SHALL BE
17 MADE BY THE PERSON APPOINTED FOR THAT PURPOSE IN THE MORTGAGE OR
18 BY THE SHERIFF, THE UNDERSHERIFF, OR A DEPUTY SHERIFF OF THE
19 COUNTY. A SALE SHALL BE MADE BY SEALED BID ONLY. EACH SEALED
20 BID SHALL INCLUDE A COMMITMENT TO PURCHASE. A BID SUBMITTED
21 WITHOUT A COMMITMENT TO PURCHASE SHALL NOT BE ACCEPTED. EXCEPT
22 AS PROVIDED IN SUBSECTION (2), SALE SHALL BE MADE TO THE HIGHEST
23 BIDDER.

24 (2) IF THE MORTGAGOR OFFERS A SEALED BID EQUAL TO OR GREATER
25 THAN THE AMOUNT OF THE DEBT AND EXPENSES FOR WHICH THE RESIDEN-
26 TIAL PROPERTY IS BEING SOLD, THE PERSON MAKING THE SALE SHALL
27 ACCEPT THAT BID AND NO OTHER.

1 SEC. 3422. (1) A SALE UNDER THIS CHAPTER MAY BE ADJOURNED
2 FROM TIME TO TIME BY THE SHERIFF OR OTHER OFFICER OR PERSON
3 APPOINTED TO MAKE THE SALE AT THE REQUEST OF THE PARTY IN WHOSE
4 NAME THE NOTICE OF SALE IS PUBLISHED BY POSTING A NOTICE OF THE
5 ADJOURNMENT BEFORE OR AT THE TIME OF AND AT THE PLACE WHERE THE
6 SALE IS TO BE MADE. IF AN ADJOURNMENT IS FOR MORE THAN 10 DAYS
7 AT A TIME, THE NOTICE OF THE ADJOURNMENT, APPENDED TO THE ORIGI-
8 NAL NOTICE OF SALE, SHALL ALSO BE PUBLISHED IN THE NEWSPAPER IN
9 WHICH THE ORIGINAL NOTICE WAS PUBLISHED, THE FIRST PUBLICATION TO
10 BE WITHIN 10 DAYS AFTER THE DATE FROM WHICH THE SALE WAS
11 ADJOURNED AND, AFTER THE DATE OF THIS FIRST PUBLICATION, ONCE
12 EACH WEEK DURING THE TIME FOR WHICH THE SALE IS ADJOURNED. AN
13 ORAL ANNOUNCEMENT OF AN ADJOURNMENT IS NOT NECESSARY.

14 (2) THE MORTGAGEE SHALL SEND NOTICE OF AN ADJOURNMENT OF A
15 SALE TO THE MORTGAGOR AND EACH OTHER PERSON REQUIRED TO BE NOTI-
16 FIED UNDER SECTION 3406.

17 SEC. 3424. IF THE MORTGAGED RESIDENTIAL PROPERTY CONSISTS
18 OF DISTINCT TRACTS OR LOTS NOT OCCUPIED AS 1 PARCEL, THEY SHALL
19 BE SOLD SEPARATELY, AND MORE TRACTS OR LOTS SHALL NOT BE SOLD
20 THAN ARE NECESSARY TO SATISFY THE AMOUNT DUE ON THE MORTGAGE ON
21 THE DATE OF THE NOTICE OF SALE, WITH INTEREST AND THE COST AND
22 EXPENSES ALLOWED BY LAW. IF DISTINCT LOTS ARE OCCUPIED AS 1
23 PARCEL, THOSE LOTS MAY BE SOLD TOGETHER.

24 SEC. 3426. A MORTGAGEE, THE MORTGAGEE'S ASSIGNS, OR LEGAL
25 REPRESENTATIVES OF THE MORTGAGEE OR ASSIGNS MAY PURCHASE, FAIRLY
26 AND IN GOOD FAITH, THE RESIDENTIAL PROPERTY ADVERTISED UNDER THIS
27 CHAPTER OR A PART OF THAT PROPERTY AT A SALE UNDER THIS CHAPTER.

1 SEC. 3428. (1) THE EARNEST MONEY TENDERED UNDER SECTION
2 3420 SHALL BE HELD IN A NONINTEREST BEARING ESCROW ACCOUNT. UPON
3 THE CLOSING OF THE SALE, THE EARNEST MONEY SHALL BE RETURNED TO
4 THE PURCHASER AND TO ALL PERSONS WHO SUBMITTED AN ACCEPTED BID
5 EQUAL TO THE AMOUNT OF THE DEPOSIT.

6 (2) IF A SALE UNDER A COMMITMENT TO PURCHASE IS NOT CLOSED
7 WITHIN 60 DAYS AFTER THE DATE OF THE SALE, THE SALE SHALL GO TO
8 THE NEXT HIGHEST BIDDER.

9 (3) ON THE DATE OF A SALE OF RESIDENTIAL PROPERTY AT WHICH A
10 COMMITMENT TO PURCHASE IS ACCEPTED, THE RESIDENTIAL PROPERTY
11 SHALL BE CONSIDERED FORECLOSED UPON AND SOLD FOR ALL PURPOSES
12 REGARDLESS OF WHETHER THE SALE IS ACTUALLY CONSUMMATED, INCLUDING
13 THE RIGHT TO POSSESSION BY THE MORTGAGEE.

14 SEC. 3430. (1) THE OFFICER OR PERSON MAKING A SALE UNDER
15 THIS CHAPTER SHALL IMMEDIATELY EXECUTE, ACKNOWLEDGE, AND, EXCEPT
16 AS PROVIDED IN SUBSECTION (2), DELIVER TO EACH PURCHASER A DEED
17 OF THE RESIDENTIAL PROPERTY BID OFF BY THAT PERSON. IF THE RESI-
18 DENTIAL PROPERTY IS SITUATED IN SEVERAL COUNTIES, THE OFFICER OR
19 OTHER PERSON SHALL MAKE A SEPARATE DEED OF THE RESIDENTIAL PROP-
20 ERTY IN EACH COUNTY AND SHALL SPECIFY IN THE DEED THE PRECISE
21 AMOUNT FOR WHICH EACH PARCEL OF RESIDENTIAL PROPERTY DESCRIBED IN
22 THE DEED IS SOLD.

23 (2) IF RESIDENTIAL PROPERTY SUBJECT TO A SALE UNDER THIS
24 CHAPTER IS SOLD UNDER A COMMITMENT TO PURCHASE AS PROVIDED IN
25 SECTION 3428, A DEED EXECUTED AND ACKNOWLEDGED UNDER THIS SECTION
26 SHALL BE DELIVERED AT THE TIME OF THE SALE TO THE PARTY IN WHOSE

1 NAME THE SALE IS MADE. AT THE TIME OF THE CLOSING OF THE SALE,
2 THAT PARTY SHALL DELIVER THE DEED TO THE PURCHASER.

3 SEC. 3432. A DEED EXECUTED, ACKNOWLEDGED, AND DELIVERED TO
4 A PURCHASER UNDER SECTION 3430 IS OPERATIVE FROM THE TIME OF
5 DELIVERY AND SHALL VEST IN THE GRANTEE NAMED IN THE DEED, AND HIS
6 OR HER HEIRS OR ASSIGNS, ALL THE RIGHT, TITLE, AND INTEREST THAT
7 THE MORTGAGOR HAD AT THE TIME OF THE EXECUTION OF THE MORTGAGE OR
8 AT ANY TIME AFTER THE EXECUTION OF THE MORTGAGE. A PERSON HAVING
9 ANY VALID SUBSISTING LIEN UPON THE MORTGAGED RESIDENTIAL PROPERTY
10 OR A PART OF THAT PROPERTY, CREATED BEFORE THE LIEN OF THAT MORT-
11 GAGE TOOK EFFECT, SHALL NOT BE PREJUDICED BY A SALE UNDER THIS
12 CHAPTER, NOR SHALL THAT PERSON'S RIGHTS OR INTERESTS BE IN ANY
13 WAY AFFECTED BY THE SALE.

14 SEC. 3434. IF, AFTER A SALE UNDER THIS CHAPTER, THE OFFICER
15 OR OTHER PERSON MAKING THE SALE HAS SURPLUS MONEY AFTER SATISFY-
16 ING THE MORTGAGE ON WHICH THE RESIDENTIAL PROPERTY IS SOLD, AND
17 PAYMENT OF THE COSTS AND EXPENSES OF THE FORECLOSURE AND SALE,
18 THE OFFICER OR OTHER PERSON SHALL PAY THE SURPLUS ON DEMAND TO
19 THE MORTGAGOR, OR THE MORTGAGOR'S LEGAL REPRESENTATIVES OR
20 ASSIGNS, UNLESS AT THE TIME OF THE SALE OR BEFORE THE SURPLUS IS
21 PAID OVER, A CLAIMANT FILES WITH THE PERSON MAKING THE SALE A
22 CLAIM IN WRITING DULY VERIFIED BY THE OATH OF THE CLAIMANT, OR
23 THE CLAIMANT'S AGENT OR ATTORNEY, STATING THAT THE CLAIMANT HAS A
24 SUBSEQUENT MORTGAGE OR LIEN ENCUMBERING THE RESIDENTIAL PROPERTY
25 OR A PART OF THE PROPERTY, STATING THE AMOUNT UNPAID, AND SETTING
26 FORTH THE FACTS AND NATURE OF THE CLAIM. IMMEDIATELY UPON
27 RECEIVING THE CLAIM, THE PERSON MAKING THE SALE SHALL PAY THE

1 SURPLUS TO, AND FILE THE WRITTEN CLAIM WITH, THE CLERK OF THE
2 CIRCUIT COURT FOR THE COUNTY IN WHICH THE SALE IS MADE. A PERSON
3 INTERESTED IN THE SURPLUS MAY APPLY TO THE COURT FOR AN ORDER TO
4 TAKE PROOFS OF THE FACTS AND CIRCUMSTANCES CONTAINED IN THE CLAIM
5 FILED. AFTER AN APPLICATION, THE COURT SHALL SUMMON ALL PARTIES
6 INTERESTED IN THE SURPLUS TO APPEAR BEFORE THE COURT AT A TIME
7 AND PLACE NAMED BY THE COURT, AND SHALL ATTEND THE TAKING OF THE
8 PROOF. A PARTY INTERESTED WHO APPEARS MAY EXAMINE WITNESSES AND
9 PRODUCE PROOF AS THE PARTY SEES FIT. THE COURT SHALL MAKE AN
10 ORDER DIRECTING THE DISPOSITION OF THE SURPLUS MONEY IN ACCORD-
11 ANCE WITH THE RIGHTS OF THE PERSONS INTERESTED.

12 Section 2. Section 3241a of the revised judicature act of
13 1961, Act No. 236 of the Public Acts of 1961, being section
14 600.3241a of the Michigan Compiled Laws, is repealed.