

Act No. 397
Public Acts of 1994
Approved by the Governor
December 29, 1994
Filed with the Secretary of State
December 29, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Rep Randall

ENROLLED HOUSE BILL No. 5721

AN ACT to amend sections 3204 3212 and 3240 of Act No 236 of the Public Acts of 1961 entitled as amended An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state the powers and duties of such courts and of the judges and other officers thereof the forms and attributes of civil claims and actions the time within which civil actions and proceedings may be brought in said courts pleading evidence practice and procedure in civil and criminal actions and proceedings in said courts to provide remedies and penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act section 3240 as amended by Act No 94 of the Public Acts of 1986 being sections 600 3204 600 3212 and 600 3240 of the Michigan Compiled Laws

The People of the State of Michigan enact)

Section 1 Sections 3204 3212 and 3240 of Act No 236 of the Public Acts of 1961 section 3240 as amended by Act No 94 of the Public Acts of 1986 being sections 600 3204 600 3212 and 600 3240 of the Michigan Compiled Laws are amended to read as follows

Sec 3204 (1) A party may foreclose by advertisement if all of the following circumstances exist

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

(b) A suit or proceeding has not been instituted at law to recover the debt then remaining secured by the mortgage or any part of the mortgage or if a suit or proceeding has been instituted the suit or proceeding has been discontinued or an execution upon the judgment rendered in a suit or proceeding has been returned unsatisfied in whole or in part

(c) The mortgage containing the power of sale has been properly recorded and if the party foreclosing is not the original mortgagee a record chain of title exists evidencing the assignment of the mortgage to the party foreclosing the mortgage

(d) The party foreclosing the mortgage is either the owner of the indebtedness or of an interest in the indebtedness secured by the mortgage or the serving agent of the mortgage

(2) When mortgages are given to secure the payment of money by installments each of the installments mentioned in the mortgage after the first shall be taken and considered to be a separate and independent mortgage The mortgage for each of the installments may be foreclosed in the same manner and with the same effect as if a separate mortgage were given for each subsequent installment A redemption of a sale by the mortgagor shall have the same effect as if the sale for the installment had been made upon an independent prior mortgage

Sec 3212 Every notice of foreclosure by advertisement shall include all of the following

- (a) The names of the mortgagor the mortgagee and the foreclosing assignee of a recorded assignment of the mortgage
- (b) The date of the mortgage and the date the mortgage was recorded
- (c) The amount claimed to be due on the mortgage on the date of the notice
- (d) A description of the mortgaged premises that substantially conforms with the description contained in the mortgage
- (e) For a mortgage executed on or after January 1 1965 the length of the redemption period as determined under section 3240

Sec 3240 (1) If the mortgagor the mortgagor's heirs executors or administrators or any person lawfully claiming under the mortgagor the mortgagor's heirs executors or administrators redeems the entire premises sold by paying to the purchaser within the applicable time limit prescribed in this section the purchaser's executors administrators or assigns or to the register of deeds in whose office the deed is deposited for the benefit of the purchaser the sum that was bid for the entire premises sold with interest from the time of the sale at the rate percent borne by the mortgage and an additional \$3.00 as a fee for the care and custody of the redemption money if the payment is made to the register of deeds then the deed shall be void. If a distinct lot or parcel separately sold is redeemed leaving a portion of the premises unredeemed the deed shall be inoperative only to the redeemed parcel or parcels and to those portions that have not been redeemed the deed shall remain valid.

(2) If after the sale the purchaser the purchaser's heirs executors or administrators or any person lawfully claiming under the purchaser the purchaser's heirs executors or administrators pays taxes assessed against the property amounts necessary to redeem senior liens from foreclosure or premiums on an insurance policy covering any buildings located on the property that under the terms of the mortgage it would have been the duty of the mortgagor to pay if the mortgage had not been foreclosed and that are necessary to keep the policy in force until the expiration of the period of redemption redemption shall be made only upon payment of the sum specified in subsection (1) plus the amounts specified in this subsection with interest on the amounts specified in this subsection from the date of the payment to the date of redemption at the rate specified in the mortgage if all of the following are filed with the register of deeds with whom the deed is deposited:

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

(b) The receipt or copy of the canceled check evidencing the payment of the taxes amounts necessary to redeem senior liens from foreclosure or insurance premiums

(c) An affidavit of an insurance agent of the insurance company stating that the payment was made and what portion of the payment covers the premium for the period prior to the expiration of the period of redemption

(3) If the redemption payment in subsection (2) includes an amount used to redeem a senior lien from a nonjudicial foreclosure the mortgagor shall have the same defenses against the purchaser with respect to the amount used to redeem the senior lien as the mortgagor would have had against the senior lien

(4) The register of deeds shall indorse on the documents filed pursuant to subsection (2) the time they are received. The register of deeds shall record the affidavit of the purchaser only and shall preserve in his or her files the recorded affidavit receipts insurance receipts and insurance agent's affidavit until expiration of the period of redemption

(5) For a mortgage executed on or after January 1 1965 on commercial or industrial property or multifamily residential property in excess of 4 units the redemption period shall be 6 months from the time of the sale

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

(7) For a mortgage on residential property not exceeding 4 units and not more than 3 acres in size if the property is abandoned as determined pursuant to section 3241 the redemption period shall be 3 months

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

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

(10) In any other case the redemption period shall be 1 year from the date of the sale

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor