



HOUSE BILL No. 5721

September 13 1994, Introduced by Rep Randall and referred to the Committee on Business and Finance

A bill to amend sections 3204, 3212, and 3240 of Act No 236 of the Public Acts of 1961, entitled as amended "Revised judicature act 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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 3204, 3212, and 3240 of Act No 236 of
2 the Public Acts of 1961 section 3240 as amended by Act No 94 of
3 the Public Acts of 1986, being sections 600 3204, 600 3212 and
4 600 3240 of the Michigan Compiled Laws, are amended to read as
5 follows

6 Sec 3204 (1) ~~To entitle any party to give a notice as~~
7 ~~hereinafter prescribed, and to make such foreclosure it shall be~~

1 ~~requisite~~ A PARTY MAY FORECLOSE BY ADVERTISEMENT IF ALL OF THE
2 FOLLOWING CIRCUMSTANCES EXIST

3 (A) ~~(1) That some~~ A default in a condition of ~~such~~ THE
4 mortgage ~~shall have~~ HAS occurred, by which the power to sell
5 became operative —

6 (B) ~~(2) That no~~ A suit or proceeding ~~shall have~~ HAS NOT
7 been instituted, at law, to recover the debt then remaining
8 secured by ~~such~~ THE mortgage, or any part ~~thereof~~ OF THE
9 MORTGAGE or if ~~any~~ A suit or proceeding has been instituted,
10 ~~that~~ the ~~same~~ SUIT OR PROCEEDING has been discontinued —
11 or ~~that~~ an execution upon the judgment rendered ~~therein~~ IN A
12 SUIT OR PROCEEDING has been returned unsatisfied, in whole or in
13 part —and—

14 (C) ~~(3) That the~~ THE mortgage containing ~~such~~ THE power
15 of sale has been ~~duly~~ PROPERLY recorded — and, if ~~it shall~~
16 ~~have been assigned that all the assignments thereof~~ THE PARTY
17 FORECLOSING IS NOT THE ORIGINAL MORTGAGEE ALL ASSIGNMENTS TO THE
18 PARTY FORECLOSING THE MORTGAGE shall have been recorded

19 (2) ~~(4) In cases of~~ WHEN mortgages ARE given to secure the
20 payment of money by installments, each of the installments men-
21 tioned in ~~such~~ THE mortgage after the first — shall be taken
22 and ~~deemed~~ CONSIDERED to be — a separate and independent
23 mortgage —and such THE mortgage for each of ~~such~~ THE
24 installments may be foreclosed in the same manner and with the
25 ~~like~~ SAME effect as if ~~such~~ A separate ~~mortgages~~ MORTGAGE
26 were given for each ~~of such~~ subsequent ~~installments and a~~
27 INSTALLMENT A redemption of ~~any such~~ A sale by the mortgagor

1 shall have the ~~like~~ SAME effect as if the sale for ~~such~~
 2 ~~installments~~ THE INSTALLMENT had been made upon an independent
 3 prior mortgage

4 Sec 3212 Every ~~such~~ notice OF FORECLOSURE BY
 5 ADVERTISEMENT shall ~~specify~~ INCLUDE ALL OF THE FOLLOWING

6 (A) ~~(1)~~ The names of the mortgagor, ~~and of~~ the mortga-
 7 gee, and ~~the~~ ANY assignee of A RECORDED ASSIGNMENT OF the
 8 mortgage ~~if any~~

9 (B) ~~(2)~~ The date of the mortgage ~~,~~ and ~~when~~ THE DATE
 10 THE MORTGAGE WAS recorded ~~—~~

11 (C) ~~(3)~~ The amount claimed to be due ~~thereon at~~ ON THE
 12 MORTGAGE ON the date of the notice ~~—and—~~

13 (D) ~~(4)~~ A description of the mortgaged premises ~~,~~
 14 ~~conforming~~ THAT substantially CONFORMS with ~~that~~ THE
 15 DESCRIPTION contained in the mortgage ~~—and—~~

16 (E) ~~(5) In the case of any~~ FOR A mortgage executed on or
 17 after January 1, 1965, the length of the redemption period as
 18 determined under section 3240

19 Sec 3240 (1) If the mortgagor, the mortgagor's heirs
 20 executors, or administrators, or any person lawfully claiming
 21 ~~from or~~ under the mortgagor, ~~or them, within the applicable~~
 22 ~~time limit prescribed in this section~~ THE MORTGAGOR S HEIRS
 23 EXECUTORS, OR ADMINISTRATORS redeems the entire premises sold by
 24 paying to the purchaser, WITHIN THE APPLICABLE TIME LIMIT PRE-
 25 SCRIBED IN THIS SECTION, the purchaser's executors, administra-
 26 tors, or assigns, or to the register of deeds in whose office the
 27 deed is deposited for the benefit of the purchaser, the sum

1 ~~which~~ THAT was bid for the entire premises sold with interest
 2 from the time of the sale at the rate percent borne by the mort-
 3 gage ~~,~~ and AN ADDITIONAL \$3 00 AS A FEE FOR THE CARE AND CUS-
 4 TODY OF THE REDEMPTION MONEY if the payment is made to the regis-
 5 ter of deeds, ~~the sum of \$3 00 as a fee for the care and custody~~
 6 ~~of the redemption money,~~ then the deed shall be void ~~and of no~~
 7 ~~effect~~ If a distinct lot or parcel separately sold is redeemed
 8 ~~,~~ leaving a portion of the premises unredeemed, ~~then~~ the deed
 9 shall be inoperative ~~merely~~ ONLY to the REDEEMED parcel or
 10 parcels, ~~so redeemed,~~ and to those portions ~~not so~~ THAT HAVE
 11 NOT BEEN redeemed THE DEED shall remain valid ~~and of full~~
 12 ~~effect~~

13 (2) If AFTER THE SALE the purchaser, ~~following the sale,~~
 14 THE PURCHASER'S HEIRS, EXECUTORS, OR ADMINISTRATORS, OR ANY
 15 PERSON LAWFULLY CLAIMING UNDER THE PURCHASER, THE PURCHASER S
 16 HEIRS, EXECUTORS, OR ADMINISTRATORS pays ~~any sum or sums as~~
 17 taxes assessed against the property AMOUNTS DUE ON SENIOR LIENS
 18 OR ENCUMBRANCES, or premiums ~~upon any~~ ON AN insurance policy
 19 covering any buildings located on the property ~~which~~ THAT under
 20 the terms of the mortgage it would have been the duty of the
 21 mortgagor to ~~have paid had~~ PAY IF the mortgage HAD not been
 22 foreclosed ~~,~~ and ~~which premiums~~ THAT are necessary to keep
 23 the policy in force until the expiration of the period of redemp-
 24 tion, ~~and~~ REDEMPTION SHALL BE MADE ONLY UPON PAYMENT OF THE SUM
 25 SPECIFIED IN SUBSECTION (1) PLUS THE AMOUNTS SPECIFIED IN THIS
 26 SUBSECTION WITH INTEREST ON THE AMOUNTS SPECIFIED IN THIS
 27 SUBSECTION FROM THE DATE OF THE PAYMENT TO THE DATE OF REDEMPTION

1 AT THE RATE SPECIFIED IN THE MORTGAGE IF ALL OF THE FOLLOWING
2 ARE FILED WITH THE REGISTER OF DEEDS WITH WHOM THE DEED IS
3 DEPOSITED

4 (A) AN AFFIDAVIT BY the purchaser ~~—~~ or someone in his or
5 her behalf ~~having~~ WHO HAS knowledge of the facts ~~—, makes an~~
6 ~~affidavit~~ of the payment showing the amount and items paid ~~—~~
7 ~~together with the~~

8 (B) THE receipt OR COPY OF THE CANCELED CHECK evidencing the
9 payment of the taxes, AMOUNTS DUE ON SENIOR LIENS OR
10 ENCUMBRANCES, or insurance premiums ~~—, together with an~~

11 (C) AN affidavit of an insurance agent of the insurance com-
12 pany stating ~~the making of the payment~~ THAT THE PAYMENT WAS
13 MADE and ~~also~~ what portion of the payment covers the premium
14 for the period prior to the expiration of the period of
15 redemption ~~—, all of which are filed with the register of deeds~~
16 ~~with whom the deed is deposited, the~~

17 (3) THE register of deeds shall indorse on the documents
18 filed PURSUANT TO SUBSECTION (2) the time they are received The
19 register of deeds shall record ~~at length~~ the affidavit of the
20 purchaser only and shall preserve in his or her files the
21 recorded affidavit, ~~together with the tax and~~ RECEIPTS, insur-
22 ance receipts, and insurance agent s affidavit ~~—~~ until expira-
23 tion of the period of redemption ~~After a filing under this~~
24 ~~subsection, redemption shall only be made upon payment of the sum~~
25 ~~above specified plus the amount shown by the affidavits and~~
26 ~~receipts to have been so paid, with interest on that amount, from~~

~~1 the date of the payment to the date of redemption, at the rate~~
~~2 specified in the mortgage~~

3 (4) ~~-(3)-~~ For a mortgage executed on or after January 1
4 1965, on commercial or industrial property, or multifamily resi-
5 dential property in excess of 4 units, the redemption period
6 shall be 6 months from the time of the sale

7 (5) ~~-(4)-~~ For a mortgage executed on or after January 1,
8 1965, on residential property not exceeding 4 units and not more
9 than 3 acres in size, if the amount claimed to be due on the
10 mortgage at the date of the notice of foreclosure is more than
11 $66\frac{2}{3}\%$ of the original indebtedness secured by the mortgage, the
12 redemption period shall be 6 months

13 (6) ~~-(5)-~~ For a mortgage on residential property not exceed-
14 ing 4 units and not more than 3 acres in size, if the property is
15 abandoned as determined pursuant to section 3241, the redemption
16 period shall be 3 months

17 (7) ~~-(6)-~~ For a mortgage on residential property not exceed-
18 ing 4 units and not more than 3 acres in size if the amount
19 claimed to be due on the mortgage at the date of the notice of
20 foreclosure is more than $66\frac{2}{3}\%$ of the original indebtedness
21 secured by the mortgage and the property is abandoned as deter-
22 mined pursuant to section 3241, the redemption period shall be 1
23 month

24 (8) ~~-(7)-~~ If the property is abandoned as determined pursu-
25 ant to section 3241a, the redemption period shall be 30 days

26 (9) ~~-(8)-~~ In any other case the redemption period shall be
27 1 year from the date of the sale