

SUBSTITUTE FOR  
HOUSE BILL NO. 5859

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 3204 and 3212 (MCL 600.3204 and 600.3212),  
as amended by 1994 PA 397.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3204. (1) A party may foreclose **a mortgage** by  
2 advertisement if all of the following circumstances exist:  
3       (a) A default in a condition of the mortgage has occurred, by  
4 which the power to sell became operative.  
5       (b) ~~A suit~~ **An action** or proceeding has not been instituted,  
6 at law, to recover the debt ~~then remaining~~ secured by the  
7 mortgage ~~—~~ or any part of the mortgage; or, if ~~a suit~~ **an**  
8 **action** or proceeding has been instituted, the ~~suit~~ **action** or  
9 proceeding has been discontinued; or an execution ~~upon the~~ **on a**  
10 judgment rendered in ~~a suit~~ **an action** or proceeding has been

1 returned unsatisfied, in whole or in part.

2 (c) The mortgage containing the power of sale has been  
 3 properly recorded. ~~and, if the party foreclosing is not the~~  
 4 ~~original mortgagee, a record chain of title exists evidencing the~~  
 5 ~~assignment of the mortgage to the party foreclosing the~~  
 6 ~~mortgage.~~

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

10 (2) ~~When mortgages are~~ **If a mortgage is** given to secure the  
 11 payment of money by installments, each of the installments  
 12 mentioned in the mortgage after the first shall be ~~taken and~~  
 13 ~~considered to 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 ~~shall have~~ **has** the same  
 18 effect as if the sale for the installment had been made upon an  
 19 independent prior mortgage.

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

24 Sec. 3212. Every notice of foreclosure by advertisement  
 25 shall include all of the following:

26 (a) The names of the mortgagor, the **original** mortgagee, and  
 27 the foreclosing assignee, ~~of a recorded assignment of the~~

1 ~~mortgage~~ **if any.**

2       (b) The date of the mortgage, ~~and~~ the date the mortgage was  
3 recorded, **and, if the mortgage has been assigned, the date of the**  
4 **assignment or, if it has been assigned more than once, the last**  
5 **assignment.**

6       (c) The amount claimed to be due on the mortgage on the date  
7 of the notice.

8       (d) A description of the mortgaged premises that  
9 substantially conforms with the description contained in the  
10 mortgage.

11       (e) For a mortgage executed on or after January 1, 1965, the  
12 length of the redemption period as determined under section  
13 3240.