

SUBSTITUTE FOR
SENATE BILL NO. 1666

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3208, 3216, and 3240 (MCL 600.3208, 600.3216,
and 600.3240), section 3240 as amended by 2006 PA 579.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3208. (1) Notice that ~~the~~ **A** mortgage will be foreclosed
2 by a sale of the mortgaged premises, or some part of them, shall be
3 given by publishing the same for 4 successive weeks at least once
4 in each week, in a newspaper published in the county where the
5 premises included in the mortgage and intended to be sold, or some
6 part of them, are situated. If ~~no~~ **A** newspaper is **NOT** published in
7 the county, the notice shall be published in a newspaper published
8 in an adjacent county. ~~In every case within~~ **WITHIN** 15 days after
9 the first publication of the notice, a true copy shall be posted in

1 a conspicuous place upon any part of the premises described in the
2 notice.

3 (2) AFTER APRIL 1, 2009 AND BEFORE THE HOME FORECLOSURE
4 PREVENTION ACT IS REPEALED, A PERSON WHO PUBLISHES A FIRST NOTICE
5 UNDER THIS SECTION REGARDING A MORTGAGE ON RESIDENTIAL PROPERTY
6 DESCRIBED IN SECTION 3240(8) SHALL INCLUDE IN THE NOTICE AND ALL
7 SUBSEQUENT NOTICES A STATEMENT BY THE PERSON THAT BOTH OF THE
8 FOLLOWING ARE TRUE:

9 (A) NOTICE WAS SENT AS REQUIRED BY SECTION 3 OF THE HOME
10 FORECLOSURE PREVENTION ACT.

11 (B) THE DATE THAT THE NOTICE IS PUBLISHED IS ON OR AFTER THE
12 APPLICABLE DATE TO COMMENCE PROCEEDINGS TO FORECLOSE THE MORTGAGE
13 UNDER SECTION 4 OF THE HOME FORECLOSURE PREVENTION ACT.

14 Sec. 3216. (1) ~~The~~ A sale UNDER THIS CHAPTER shall be at
15 public sale, ~~between the hour of 9 o'clock in the forenoon and 4~~
16 ~~o'clock in the afternoon~~ 9 A.M. AND 4 P.M., at the place of holding
17 the circuit court ~~within~~ IN the county in which the premises to be
18 sold, or some part of them, are situated. ~~and~~ THE SALE shall be
19 made by the person appointed for that purpose in the mortgage, or
20 by the sheriff, undersheriff, or a deputy sheriff of the county, to
21 the highest bidder.

22 (2) IF THE NOTICES OF FORECLOSURE SALE UNDER SECTION 3208 FAIL
23 TO INCLUDE THE STATEMENT REQUIRED BY SECTION 3208 OR IF A STATEMENT
24 INCLUDED IN A NOTICE IS MATERIALLY INACCURATE, THE PERSON MAKING
25 THE SALE UNDER SUBSECTION (1) SHALL NOT CONDUCT THE SALE UNTIL THE
26 PARTY ATTEMPTING TO FORECLOSE BY ADVERTISEMENT HAS COMPLIED WITH
27 THE HOME FORECLOSURE PREVENTION ACT.

1 Sec. 3240. (1) A purchaser's deed is void if the mortgagor,
2 the mortgagor's heirs, executors, or administrators, or any person
3 lawfully claiming under the mortgagor or the mortgagor's heirs,
4 executors, or administrators redeems the entire premises sold by
5 paying the amount required under subsection (2), within the
6 applicable time limit prescribed in subsections (7) to (12), to the
7 purchaser or the purchaser's executors, administrators, or assigns,
8 or to the register of deeds in whose office the deed is deposited
9 for the benefit of the purchaser.

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

1 computed by the designee.

2 (3) If a distinct lot or parcel separately sold is redeemed,
3 leaving a portion of the premises unredeemed, the deed shall be
4 void only to the redeemed parcel or parcels.

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

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

26 (b) The receipt or copy of the canceled check evidencing the
27 payment of the taxes, amounts necessary to redeem senior liens from

1 foreclosure, condominium assessments, homeowner association
2 assessments, community association assessments, or insurance
3 premiums.

4 (c) An affidavit of an insurance agent of the insurance
5 company stating that the payment was made and what portion of the
6 payment covers the premium for the period before the expiration of
7 the period of redemption.

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

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

19 (7) Subject to subsections (9) to (11), for a mortgage
20 executed on or after January 1, 1965, on commercial or industrial
21 property, or multifamily residential property in excess of 4 units,
22 the redemption period is 6 months from the date of the sale.

23 (8) Subject to subsections (9) to (11), for a mortgage
24 executed on or after January 1, 1965, on residential property not
25 exceeding 4 units and not more than 3 acres in size, if the amount
26 claimed to be due on the mortgage at the date of the notice of
27 foreclosure is more than 66-2/3% of the original indebtedness

1 secured by the mortgage, the redemption period is 6 months.

2 **HOWEVER, IF THE MORTGAGOR HAS MAILED THE FORM UNDER SECTION 3(3) OF**
3 **THE HOME FORECLOSURE PREVENTION ACT TO THE MORTGAGE SERVICER, THE**
4 **REDEMPTION PERIOD UNDER THIS SUBSECTION IS REDUCED TO 5 MONTHS.**

5 (9) Subject to subsection (10), for a mortgage on residential
6 property not exceeding 4 units, if the property is abandoned as
7 determined under section 3241, the redemption period is 3 months.

8 (10) For a mortgage on residential property not exceeding 4
9 units, if the amount claimed to be due on the mortgage at the date
10 of the notice of foreclosure is more than 66-2/3% of the original
11 indebtedness secured by the mortgage and the property is abandoned
12 as determined under section 3241, the redemption period is 1 month.

13 (11) If the property is abandoned as determined under section
14 3241a, the redemption period is 30 days or until the time to
15 provide the notice required by section 3241a(c) expires, whichever
16 is later.

17 (12) If subsections (7) to (11) do not apply, the redemption
18 period is 1 year from the date of the sale.

19 (13) The amount stated in any affidavits recorded under this
20 section shall be the amount necessary to satisfy the requirements
21 for redemption under this section.

22 Enacting section 1. This amendatory act does not take effect
23 unless all of the following bills of the 94th Legislature are
24 enacted into law:

25 (a) House Bill No. 6614.

26 (b) House Bill No. 6615.