

HOUSE BILL No. 6614

November 6, 2008, Introduced by Reps. Tobocman, Johnson, Jackson, Donigan, Robert Jones, Simpson, Spade, Valentine, Gonzales, Dean, Meadows, Cushingberry, Alma Smith and Leland and referred to the Committee on Banking and Financial Services.

A bill to amend 1961 PA 236, entitled
"Revised judiciary act of 1961,"
by amending sections 3101, 3208, and 3216 (MCL 600.3101, 600.3208,
and 600.3216), section 3101 as amended by 1981 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3101. (1) The circuit court has jurisdiction to foreclose
2 mortgages of real estate and land contracts. However, the
3 ~~procedures set forth in this chapter shall~~ DOES not apply to
4 mortgages of real estate and land contracts held by the Michigan
5 state housing development authority.

6 (2) AFTER DECEMBER 14, 2008 AND UNTIL THE MICHIGAN HOME
7 FORECLOSURE PREVENTION PROGRAM DEVELOPED UNDER SECTION 5 OF THE
8 HOME FORECLOSURE PREVENTION ACT IS DISCONTINUED, IF SECTION 8 OF

1 THE HOME FORECLOSURE PREVENTION ACT REQUIRES A CERTIFICATION TO BE
2 INCLUDED IN A COMPLAINT TO FORECLOSE A MORTGAGE UNDER THIS CHAPTER,
3 THE PLAINTIFF SHALL INCLUDE THE CERTIFICATION IN THE COMPLAINT. IF
4 THE PLAINTIFF FAILS TO INCLUDE THE CERTIFICATION OR IF THE
5 CERTIFICATION CONTAINS A MATERIALLY INACCURATE STATEMENT, THE COURT
6 MAY DISMISS THE ACTION WITHOUT PREJUDICE AND ORDER THE PLAINTIFF TO
7 PAY THE COSTS INCURRED BY THE DEFENDANT IN DEFENDING THE
8 FORECLOSURE PROCEEDING.

9 Sec. 3208. (1) Notice that ~~the~~**A** mortgage will be foreclosed
10 by a sale of the mortgaged premises, or some part of them, shall be
11 given by publishing the same for 4 successive weeks at least once
12 in each week, in a newspaper published in the county where the
13 premises included in the mortgage and intended to be sold, or some
14 part of them, are situated. If ~~no~~**A** newspaper is **NOT** published in
15 the county, the notice shall be published in a newspaper published
16 in an adjacent county. ~~In every case within~~**WITHIN** 15 days after
17 the first publication of the notice, a true copy shall be posted in
18 a conspicuous place upon any part of the premises described in the
19 notice.

20 (2) AFTER DECEMBER 14, 2008 AND UNTIL THE MICHIGAN HOME
21 FORECLOSURE PREVENTION PROGRAM DEVELOPED UNDER SECTION 5 OF THE
22 HOME FORECLOSURE PREVENTION ACT IS DISCONTINUED, IF SECTION 8 OF
23 THE HOME FORECLOSURE PREVENTION ACT REQUIRES A CERTIFICATION TO BE
24 INCLUDED IN A NOTICE TO FORECLOSE A MORTGAGE UNDER THIS SECTION,
25 THE PERSON PUBLISHING THE NOTICE SHALL INCLUDE THE CERTIFICATION IN
26 THE NOTICE.

27 Sec. 3216. (1) ~~The~~**A** sale **UNDER THIS CHAPTER** shall be at

public sale, between ~~the hour of 9 o'clock in the forenoon and 4~~
~~o'clock in the afternoon~~ **9 A.M. AND 4 P.M.**, at the place of holding
the circuit court ~~within~~ **IN** the county in which the premises to be
sold, or some part of them, are situated. ~~and~~ **THE SALE** shall be
made by the person appointed for that purpose in the mortgage, or
by the sheriff, undersheriff, or a deputy sheriff of the county, to
the highest bidder.

**(2) IF THE NOTICE OF FORECLOSURE SALE UNDER SECTION 3208 FAILS
TO INCLUDE THE CERTIFICATION REQUIRED BY SECTION 8 OF THE HOME
FORECLOSURE PREVENTION ACT OR IF THE CERTIFICATION CONTAINS A
MATERIALLY INACCURATE STATEMENT, THE PERSON MAKING THE SALE UNDER
SUBSECTION (1) SHALL NOT CONDUCT THE SALE UNTIL THE PARTY
ATTEMPTING TO FORECLOSE BY ADVERTISEMENT HAS COMPLIED WITH THE HOME
FORECLOSURE PREVENTION ACT.**

Enacting section 1. This amendatory act does not take effect
unless Senate Bill No. ____ or House Bill No. 6615(request no.
08196'08 **) of the 94th Legislature is enacted into law.