

SENATE BILL No. 749

September 6, 2007, Introduced by Senators OLSHOVE, ALLEN, GARCIA, RICHARDVILLE, PAPPAGEORGE, BIRKHOLZ, KAHN, JELINEK, VAN WOERKOM, CROUSEY, HARDIMAN, GEORGE, GILBERT, PATTERSON, McMANUS, CASSIS, KUIPERS, JANSEN, SWITALSKI, STAMAS, JACOBS, BROWN, CHERRY, BARCIA, GLEASON, WHITMER, SANBORN, BISHOP, BASHAM, ANDERSON, SCHAUER, HUNTER, SCOTT, CLARK-COLEMAN and CLARKE and referred to the Committee on Senior Citizens and Veterans Affairs.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding sections 3185 and 3285.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 3185. (1) IF A DEFENDANT IN AN ACTION TO FORECLOSE A**
2 **MORTGAGE ON REAL ESTATE OR A LAND CONTRACT IS A SERVICE MEMBER, THE**
3 **COURT ON ITS OWN MOTION MAY, OR ON MOTION OF OR IN BEHALF OF THE**
4 **SERVICE MEMBER SHALL, DO EITHER OR BOTH OF THE FOLLOWING, UNLESS**
5 **THE COURT DETERMINES THAT THE ABILITY OF THE DEFENDANT TO COMPLY**
6 **WITH THE TERMS OF THE OBLIGATION SECURED BY THE MORTGAGE OR LAND**
7 **CONTRACT IS NOT MATERIALLY AFFECTED BY THE SERVICE MEMBER'S**
8 **MILITARY SERVICE:**

9 **(A) STAY PROCEEDINGS IN THE ACTION UNTIL 6 MONTHS AFTER THE**
10 **END OF THE SERVICE MEMBER'S PERIOD OF MILITARY SERVICE.**

1 (B) ISSUE ANOTHER ORDER THAT IS EQUITABLE TO CONSERVE THE
2 INTERESTS OF THE PARTIES.

3 (2) AS USED IN THIS SECTION:

4 (A) "MILITARY SERVICE" AND "PERIOD OF MILITARY SERVICE" MEAN
5 THOSE TERMS AS DEFINED IN 50 USC APP 511.

6 (B) "SERVICE MEMBER" MEANS A MEMBER OF THE ARMED SERVICES OR
7 RESERVE FORCES OF THE UNITED STATES OR A MEMBER OF THE MICHIGAN
8 NATIONAL GUARD IN MILITARY SERVICE.

9 SEC. 3285. (1) IF A MORTGAGOR IS A SERVICE MEMBER AND THE
10 MORTGAGE GIVEN BY THE SERVICE MEMBER IS FORECLOSED BY ADVERTISEMENT
11 OR THE MORTGAGED REAL ESTATE SOLD UNDER A POWER OF SALE DURING THE
12 SERVICE MEMBER'S PERIOD OF MILITARY SERVICE OR WITHIN 6 MONTHS
13 AFTER THE END OF THE PERIOD OF MILITARY SERVICE, THE FORECLOSURE OR
14 SALE IS INVALID UNLESS THE FORECLOSURE OR SALE WAS ORDERED BY A
15 COURT.

16 (2) A PERSON SHALL NOT, INDIVIDUALLY OR ACTING THROUGH ANOTHER
17 PERSON, FORECLOSE, SELL, OR ATTEMPT TO FORECLOSE OR SELL REAL
18 ESTATE WITH THE KNOWLEDGE THAT THE FORECLOSURE OR SALE IS INVALID
19 UNDER THIS SECTION. A PERSON WHO VIOLATES THIS SUBSECTION IS
20 SUBJECT TO A CIVIL FINE OF \$2,000.00.

21 (3) THE ATTORNEY GENERAL MAY FILE AN ACTION IN THE CIRCUIT
22 COURT TO COLLECT A CIVIL FINE UNDER THIS SECTION. A CIVIL FINE
23 COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE MILITARY
24 FAMILY RELIEF FUND CREATED IN SECTION 3 OF THE MILITARY FAMILY
25 RELIEF FUND ACT, 2004 PA 363, MCL 35.1213.

26 (4) AS USED IN THIS SECTION:

27 (A) "MILITARY SERVICE" AND "PERIOD OF MILITARY SERVICE" MEAN

1 THOSE TERMS AS DEFINED IN 50 USC APP 511.

2 (B) "SERVICE MEMBER" MEANS A MEMBER OF THE ARMED SERVICES OR
3 RESERVE FORCES OF THE UNITED STATES OR A MEMBER OF THE MICHIGAN
4 NATIONAL GUARD IN MILITARY SERVICE.