

SUBSTITUTE FOR
HOUSE BILL NO. 4454

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding sections 3205a and 3205b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3205A. (1) SUBJECT TO SUBSECTION (6), BEFORE PROCEEDING
2 WITH A SALE UNDER THIS CHAPTER OF PROPERTY CLAIMED AS A PRINCIPAL
3 RESIDENCE EXEMPT FROM TAX UNDER SECTION 7CC OF THE GENERAL PROPERTY
4 TAX ACT, 1893 PA 206, MCL 211.7CC, THE FORECLOSING PARTY SHALL
5 SERVE A WRITTEN NOTICE ON THE BORROWER THAT CONTAINS ALL OF THE
6 FOLLOWING INFORMATION:

7 (A) THE REASONS THAT THE MORTGAGE LOAN IS IN DEFAULT AND THE
8 AMOUNT THAT IS DUE AND OWING UNDER THE MORTGAGE LOAN.

9 (B) THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF THE
10 MORTGAGE HOLDER, THE MORTGAGE SERVICER, AND ANY AGENT DESIGNATED BY

1 THE MORTGAGE HOLDER OR MORTGAGE SERVICER.

2 (C) A DESIGNATION OF 1 OF THE PERSONS NAMED IN SUBDIVISION (B)
3 AS THE PERSON TO CONTACT AND THAT HAS THE AUTHORITY TO MAKE
4 AGREEMENTS UNDER SECTIONS 3205B AND 3205C.

5 (D) THAT ENCLOSED WITH THE NOTICE IS A LIST OF HOUSING
6 COUNSELORS PREPARED BY THE MICHIGAN STATE HOUSING DEVELOPMENT
7 AUTHORITY AND THAT WITHIN 14 DAYS AFTER THE NOTICE IS SENT, THE
8 BORROWER MAY REQUEST A MEETING WITH THE PERSON DESIGNATED UNDER
9 SUBDIVISION (C) TO ATTEMPT TO WORK OUT A MODIFICATION OF THE
10 MORTGAGE LOAN TO AVOID FORECLOSURE AND THAT THE BORROWER MAY ALSO
11 REQUEST A HOUSING COUNSELOR TO ATTEND THE MEETING.

12 (E) THAT IF THE BORROWER REQUESTS A MEETING WITH THE PERSON
13 DESIGNATED UNDER SUBDIVISION (C), FORECLOSURE PROCEEDINGS WILL NOT
14 BE COMMENCED UNTIL 90 DAYS AFTER THE DATE THE NOTICE IS MAILED TO
15 THE BORROWER.

16 (F) THAT IF THE BORROWER AND THE PERSON DESIGNATED UNDER
17 SUBDIVISION (C) REACH AN AGREEMENT TO MODIFY THE MORTGAGE LOAN, THE
18 MORTGAGE WILL NOT BE FORECLOSED IF THE BORROWER ABIDES BY THE TERMS
19 OF THE AGREEMENT.

20 (G) THAT IF THE BORROWER AND THE PERSON DESIGNATED UNDER
21 SUBDIVISION (C) DO NOT AGREE TO MODIFY THE MORTGAGE LOAN BUT IT IS
22 DETERMINED THAT THE BORROWER MEETS CRITERIA FOR A MODIFICATION
23 UNDER THE FDIC WORKOUT PROGRAM, THE FORECLOSURE OF THE MORTGAGE
24 WILL PROCEED BEFORE A JUDGE INSTEAD OF BY ADVERTISEMENT.

25 (H) THAT THE BORROWER HAS THE RIGHT TO CONTACT AN ATTORNEY,
26 AND THE TELEPHONE NUMBERS OF THE STATE BAR OF MICHIGAN'S LAWYER
27 REFERRAL SERVICE AND OF A LOCAL LEGAL AID OFFICE SERVING THE AREA

1 IN WHICH THE PROPERTY IS SITUATED.

2 (2) A PERSON WHO SERVES A NOTICE UNDER SUBSECTION (1) SHALL
3 ENCLOSE WITH THE NOTICE A LIST PREPARED BY THE MICHIGAN STATE
4 HOUSING DEVELOPMENT AUTHORITY UNDER SECTION 3205D OF THE NAMES,
5 ADDRESSES, AND TELEPHONE NUMBERS OF HOUSING COUNSELORS APPROVED BY
6 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR
7 THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY.

8 (3) A PERSON WHO SERVES A NOTICE UNDER SUBSECTION (1) SHALL
9 SERVE THE NOTICE BY FIRST-CLASS MAIL AND BY CERTIFIED MAIL, RETURN
10 RECEIPT REQUESTED, WITH DELIVERY RESTRICTED TO THE BORROWER, BOTH
11 SENT TO THE BORROWER'S LAST KNOWN ADDRESS.

12 (4) WITHIN 7 DAYS AFTER MAILING A NOTICE UNDER SUBSECTION (3),
13 THE PERSON WHO SERVES THE NOTICE SHALL PUBLISH A COPY OF THE NOTICE
14 1 TIME IN THE SAME MANNER AS IS REQUIRED FOR PUBLISHING A NOTICE OF
15 FORECLOSURE SALE UNDER SECTION 3208.

16 (5) A BORROWER ON WHOM NOTICE IS REQUIRED TO BE SERVED UNDER
17 THIS SECTION WHO IS NOT SERVED AND AGAINST WHOM FORECLOSURE
18 PROCEEDINGS ARE COMMENCED UNDER THIS CHAPTER MAY BRING AN ACTION IN
19 THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MORTGAGED PROPERTY IS
20 SITUATED TO ENJOIN THE FORECLOSURE.

21 (6) IF THE BORROWER AND THE PERSON DESIGNATED UNDER SUBSECTION
22 (1) (C) HAVE PREVIOUSLY AGREED TO MODIFY THE MORTGAGE LOAN UNDER
23 SECTION 3205B, THIS SECTION AND SECTIONS 3205B AND 3205C DO NOT
24 APPLY UNLESS THE BORROWER HAS COMPLIED WITH THE TERMS OF THE
25 MORTGAGE LOAN, AS MODIFIED, FOR 1 YEAR AFTER THE DATE OF THE
26 MODIFICATION.

27 SEC. 3205B. (1) A BORROWER WHO WISHES TO PARTICIPATE IN

1 NEGOTIATIONS TO ATTEMPT TO WORK OUT A MODIFICATION OF A MORTGAGE
2 LOAN SHALL CONTACT A HOUSING COUNSELOR FROM THE LIST PROVIDED UNDER
3 SECTION 3205A WITHIN 14 DAYS AFTER THE LIST IS MAILED TO THE
4 BORROWER. WITHIN 10 DAYS AFTER BEING CONTACTED BY A BORROWER, A
5 HOUSING COUNSELOR SHALL INFORM THE PERSON DESIGNATED UNDER SECTION
6 3205A(1)(C) IN WRITING OF THE BORROWER'S REQUEST.

7 (2) AFTER BEING INFORMED OF A BORROWER'S REQUEST TO MEET UNDER
8 THIS SECTION, THE PERSON DESIGNATED UNDER SECTION 3205A(1)(C) MAY
9 REQUEST THE BORROWER TO PROVIDE ANY DOCUMENTS THAT ARE NECESSARY TO
10 DETERMINE WHETHER THE BORROWER IS ELIGIBLE FOR A MODIFICATION,
11 WITHOUT AN EXCEPTION, UNDER THE FDIC WORKOUT PROGRAM. THE BORROWER
12 SHALL GIVE THE PERSON DESIGNATED UNDER SECTION 3205A(1)(C) COPIES
13 OF ANY DOCUMENTS REQUESTED UNDER THIS SECTION.

14 (3) A HOUSING COUNSELOR CONTACTED BY A BORROWER UNDER THIS
15 SECTION SHALL SCHEDULE A MEETING BETWEEN THE BORROWER AND THE
16 PERSON DESIGNATED UNDER SECTION 3205A(1)(C) TO ATTEMPT TO WORK OUT
17 A MODIFICATION OF THE MORTGAGE LOAN. AT THE REQUEST OF THE
18 BORROWER, THE HOUSING COUNSELOR WILL ATTEND THE MEETING. THE
19 MEETING AND ANY LATER MEETINGS SHALL BE HELD AT A TIME AND PLACE
20 THAT IS CONVENIENT TO ALL PARTIES, OR IN THE COUNTY WHERE THE
21 PROPERTY IS SITUATED.

22 Enacting section 1. This amendatory act does not take effect
23 unless all of the following bills of the 95th Legislature are
24 enacted into law:

25 (a) House Bill No. 4453.

26 (b) House Bill No. 4455.