

SENATE 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 SUBSECTIONS (6) TO (8), BEFORE
2 PROCEEDING WITH A SALE UNDER THIS CHAPTER OF PROPERTY CLAIMED AS A
3 PRINCIPAL RESIDENCE EXEMPT FROM TAX UNDER SECTION 7CC OF THE
4 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7CC, THE FORECLOSING
5 PARTY SHALL SERVE A WRITTEN NOTICE ON THE BORROWER THAT CONTAINS
6 ALL OF THE 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 THE BORROWER HAS THE RIGHT TO CONTACT AN ATTORNEY,
21 AND THE TELEPHONE NUMBERS OF THE STATE BAR OF MICHIGAN'S LAWYER
22 REFERRAL SERVICE AND OF A LOCAL LEGAL AID OFFICE SERVING THE AREA
23 IN WHICH THE PROPERTY IS SITUATED.

24 (2) A PERSON WHO SERVES A NOTICE UNDER SUBSECTION (1) SHALL
25 ENCLOSE WITH THE NOTICE A LIST PREPARED BY THE MICHIGAN STATE
26 HOUSING DEVELOPMENT AUTHORITY UNDER SECTION 3205D OF THE NAMES,
27 ADDRESSES, AND TELEPHONE NUMBERS OF HOUSING COUNSELORS APPROVED BY

1 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR
2 THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY.

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

7 (4) WITHIN 7 DAYS AFTER MAILING A NOTICE UNDER SUBSECTION (3),
8 THE PERSON WHO SERVES THE NOTICE SHALL PUBLISH A COPY OF THE NOTICE
9 1 TIME IN THE SAME MANNER AS IS REQUIRED FOR PUBLISHING A NOTICE OF
10 FORECLOSURE SALE UNDER SECTION 3208.

11 (5) A BORROWER ON WHOM NOTICE IS REQUIRED TO BE MAILED UNDER
12 THIS SECTION TO WHOM THE NOTICE IS NOT MAILED AND AGAINST WHOM
13 FORECLOSURE PROCEEDINGS ARE COMMENCED UNDER THIS CHAPTER MAY BRING
14 AN ACTION IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
15 MORTGAGED PROPERTY IS SITUATED TO ENJOIN THE FORECLOSURE.

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

22 (7) THIS SECTION AND SECTIONS 3205B AND 3205C DO NOT APPLY IF
23 THE BORROWER IS DECEASED.

24 (8) THIS SECTION AND SECTIONS 3205B AND 3205C DO NOT APPLY IF
25 THE MORTGAGE HOLDER OR MORTGAGE SERVICER HAS QUALIFIED THE LOAN
26 SECURED BY THE MORTGAGE FOR PARTICIPATION IN THE TRIAL PERIOD
27 NECESSARY TO OBTAIN A LOAN MODIFICATION AGREEMENT UNDER THE HOME

1 AFFORDABLE MODIFICATION PROGRAM ADMINISTERED BY THE UNITED STATES
2 DEPARTMENT OF THE TREASURY EFFECTIVE MARCH 4, 2009.

3 SEC. 3205B. (1) A BORROWER WHO WISHES TO PARTICIPATE IN
4 NEGOTIATIONS TO ATTEMPT TO WORK OUT A MODIFICATION OF A MORTGAGE
5 LOAN SHALL CONTACT A HOUSING COUNSELOR FROM THE LIST PROVIDED UNDER
6 SECTION 3205A WITHIN 14 DAYS AFTER THE LIST IS MAILED TO THE
7 BORROWER. WITHIN 10 DAYS AFTER BEING CONTACTED BY A BORROWER, A
8 HOUSING COUNSELOR SHALL INFORM THE PERSON DESIGNATED UNDER SECTION
9 3205A(1)(C) IN WRITING OF THE BORROWER'S REQUEST.

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

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

25 (4) IF AS A RESULT OF A MEETING UNDER THIS SECTION THE
26 BORROWER AND THE PERSON DESIGNATED UNDER SECTION 3205A(1)(C) REACH
27 AN AGREEMENT TO MODIFY THE MORTGAGE LOAN, WITHIN 7 BUSINESS DAYS

1 AFTER THE AGREEMENT IS REACHED, THE PERSON DESIGNATED UNDER SECTION
2 3205A(1)(C) SHALL PREPARE A WRITING THAT STATES THE AGREEMENT AND
3 SHALL PROVIDE IT TO THE BORROWER. THE BORROWER SHALL ADOPT OR
4 REJECT THE WRITING AND RETURN IT TO THE PERSON DESIGNATED UNDER
5 SECTION 3205A(1)(C) WITHIN 7 BUSINESS DAYS AFTER THE DATE IT IS
6 PROVIDED TO THE BORROWER.

7 Enacting section 1. This amendatory act takes effect 30 days
8 after the date it is enacted into law.

9 Enacting section 2. This amendatory act does not take effect
10 unless all of the following bills of the 95th Legislature are
11 enacted into law:

12 (a) House Bill No. 4453.

13 (b) House Bill No. 4455.