

HOUSE BILL No. 5925

March 9, 2010, Introduced by Rep. Johnson and referred to the Committee on Banking and Financial Services.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 3205a (MCL 600.3205a), as added by 2009 PA 30.

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,~~ **NAME, ADDRESS,** and telephone ~~numbers~~

1 **NUMBER** of the mortgage holder. ~~, the mortgage servicer, or any~~
2 ~~agent designated by the mortgage holder or mortgage servicer.~~

3 (c) A designation of ~~1 of the persons named in subdivision (b)~~
4 **AN EMPLOYEE OF THE MORTGAGE HOLDER** as the person to contact and
5 that has the authority to make agreements under sections 3205b and
6 3205c.

7 (d) That enclosed with the notice is a list of housing
8 counselors prepared by the Michigan state housing development
9 authority and that within 14 days after the notice is sent, the
10 borrower may request a meeting with the person designated under
11 subdivision (c) to attempt to work out a modification of the
12 mortgage loan to avoid foreclosure and that the borrower may also
13 request a housing counselor to attend the meeting.

14 (e) That if the borrower requests a meeting with the person
15 designated under subdivision (c), foreclosure proceedings will not
16 be commenced until 90 days after the date the notice is mailed to
17 the borrower.

18 (f) That if the borrower and the person designated under
19 subdivision (c) reach an agreement to modify the mortgage loan, the
20 mortgage will not be foreclosed if the borrower abides by the terms
21 of the agreement.

22 (g) That if the borrower and the person designated under
23 subdivision (c) do not agree to modify the mortgage loan but it is
24 determined that the borrower meets criteria for a modification
25 under section 3205c(1) and foreclosure under this chapter is not
26 allowed under section 3205c(7), the foreclosure of the mortgage
27 will proceed before a judge instead of by advertisement.

1 (h) That the borrower has the right to contact an attorney,
2 and the telephone numbers of the state bar of Michigan's lawyer
3 referral service and of a local legal aid office serving the area
4 in which the property is situated.

5 (2) A person who serves a notice under subsection (1) shall
6 enclose with the notice a list prepared by the Michigan state
7 housing development authority under section 3205d of the names,
8 addresses, and telephone numbers of housing counselors approved by
9 the United States department of housing and urban development or
10 the Michigan state housing development authority.

11 (3) A person shall serve a notice under subsection (1) by
12 mailing the notice by regular first-class mail and by certified
13 mail, return receipt requested, with delivery restricted to the
14 borrower, both sent to the borrower's last known address.

15 (4) Within 7 days after mailing a notice under subsection (3),
16 the person who mails the notice shall publish a notice informing
17 the borrower of the borrower's rights under this section. The
18 person shall publish the information 1 time in the same manner as
19 is required for publishing a notice of foreclosure sale under
20 section 3208. The notice under this subsection shall contain all of
21 the following information:

22 (a) The borrower's name and the property address.

23 (b) A statement that informs the borrower of all of the
24 following:

25 (i) That the borrower has the right to request a meeting with
26 **AN EMPLOYEE OF** the mortgage holder. ~~or mortgage servicer.~~

27 (ii) The name of the person designated under subsection (1)(c)

1 as the person to contact and that has the authority to make
2 agreements under sections 3205b and 3205c.

3 (iii) That the borrower may contact a housing counselor by
4 visiting the Michigan state housing development authority's website
5 or by calling the Michigan state housing development authority.

6 (iv) The website address and telephone number of the Michigan
7 state housing development authority.

8 (v) That if the borrower requests a meeting with the person
9 designated under subsection (1)(c), foreclosure proceedings will
10 not be commenced until 90 days after the date notice is mailed to
11 the borrower.

12 (vi) That if the borrower and the person designated under
13 subsection (1)(c) reach an agreement to modify the mortgage loan,
14 the mortgage will not be foreclosed if the borrower abides by the
15 terms of the agreement.

16 (vii) That the borrower has the right to contact an attorney,
17 and the telephone number of the state bar of Michigan's lawyer
18 referral service.

19 (5) A borrower on whom notice is required to be served under
20 this section who is not served and against whom foreclosure
21 proceedings are commenced under this chapter may bring an action in
22 the circuit court for the county in which the mortgaged property is
23 situated to enjoin the foreclosure.

24 (6) If the borrower and the person designated under subsection
25 (1)(c) have previously agreed to modify the mortgage loan under
26 section 3205b, this section and sections 3205b and 3205c do not
27 apply unless the borrower has complied with the terms of the

1 mortgage loan, as modified, for 1 year after the date of the
2 modification.