SUBSTITUTE FOR

SENATE BILL NO. 1172

A bill to amend 1961 PA 236, entitled

"Revised judicature act of 1961,"

by amending sections 3204 and 3205e (MCL 600.3204 and 600.3205e), section 3204 as amended by 2011 PA 301 and section 3205e as amended by 2011 PA 302.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3204. (1) Subject to subsection (4), a party may foreclose a mortgage by advertisement if all of the following circumstances exist:

(a) A default in a condition of the mortgage has occurred, by which the power to sell became operative.

(b) An action or proceeding has not been instituted, at law, to recover the debt secured by the mortgage or any part of the mortgage; or, if an action or proceeding has been instituted, the action or proceeding has been discontinued; or an execution on a judgment rendered in an action or proceeding has been returned unsatisfied, in whole or in part.

(c) The mortgage containing the power of sale has been properly recorded.

(d) The party foreclosing the mortgage is either the owner of the indebtedness or of an interest in the indebtedness secured by the mortgage or the servicing agent of the mortgage.

(2) If a mortgage is given to secure the payment of money by installments, each of the installments mentioned in the mortgage after the first shall be treated as a separate and independent mortgage. The mortgage for each of the installments may be foreclosed in the same manner and with the same effect as if a separate mortgage were given for each subsequent installment. A redemption of a sale by the mortgagor has the same effect as if the sale for the installment had been made upon an independent prior mortgage.

(3) If the party foreclosing a mortgage by advertisement is not the original mortgagee, a record chain of title shall exist prior to the date of sale under section 3216 evidencing the assignment of the mortgage to the party foreclosing the mortgage.

(4) A party shall not commence proceedings under this chapter to foreclose a mortgage of property claimed as a principal residence exempt from tax under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, if 1 or more of the following apply:

(a) Notice has not been mailed to the mortgagor as required by section 3205a.

(b) After a notice is mailed to the mortgagor under section 3205a, the time for the mortgagor to request, either directly or through a housing counselor, a meeting with the person designated under section 3205a(1)(c) under section 3205b has not expired.

(c) Within 30 days after a notice is mailed to the mortgagor under section 3205a, the mortgagor has requested a meeting under section 3205b with the person designated under section 3205a(1)(c) and 90 days have not passed after the notice was mailed. This subdivision does not apply if the mortgagor has failed to provide documents as required under section 3205b(2).

(d) Documents have been requested under section 3205b(2) and the time for producing the documents has not expired.

(e) The mortgagor has requested a meeting under section 3205b with the person designated under section 3205a(1)(c), the mortgagor has provided documents as required under section 3205b(2), and the person designated under section 3205a(1)(c) has not met or negotiated with the mortgagor under this chapter.

(f) The mortgagor and mortgagee have agreed to modify the mortgage loan and the mortgagor is not in default under the modified agreement.

(g) Calculations under section 3205c(1) show that the mortgagor is eligible for a loan modification and foreclosure under this chapter is not allowed under section 3205c(7).

(5) Subsection (4) applies only to proceedings under this chapter in which the first notice under section 3208 is published after July 5, 2009 and before ~~December 31, 2012.~~**JUNE 30, 2013.**

(6) Subsection (4) does not apply to a mortgage of property

used for agricultural purposes if the mortgage is subject to borrower's rights under the federal acts and is subject to the restructuring of distressed loans or the debt restructuring and loan servicing provisions of the federal acts, if the applicable period to apply for a restructuring required under the federal acts is longer than the period within which a borrower may request a meeting under section 3205b, and if compliance with the federal acts will not result in proceedings being commenced under this chapter within 90 days after a default under the mortgage. As used in this subsection, "federal acts" means the farm credit act of 1971, Public Law 92-181, as amended, or the consolidated farm and rural development act, Public Law 87-128, and rules and regulations promulgated under those acts.

Sec. 3205e. Sections 3205a to 3205d are repealed effective ~~December 31, 2012.~~**JUNE 30, 2013.**