

# HOUSE BILL No. 4544

April 13, 2011, Introduced by Reps. Lyons, Pettalia, Farrington and Knollenberg 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 3240 (MCL 600.3240), as amended by 2010 PA 303.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3240. (1) A purchaser's deed is void if the mortgagor,  
2       the mortgagor's heirs or personal representative, or any person  
3       lawfully claiming under the mortgagor or the mortgagor's heirs or  
4       personal representative redeems the entire premises sold by paying  
5       the amount required under subsection (2) and any amount required  
6       under subsection (4), within the applicable time limit prescribed  
7       in subsections (7) to (12), to the purchaser or the purchaser's  
8       personal representative or assigns, or to the register of deeds in  
9       whose office the deed is deposited for the benefit of the  
10      purchaser.

11       (2) The amount required to be paid under subsection (1) is the

1 sum that was bid for the entire premises sold, with interest from  
2 the date of the sale at the interest rate provided for by the  
3 mortgage, together with the amount of the sheriff's fee paid by the  
4 purchaser under section 2558(2)(q), and an additional \$5.00 as a  
5 fee for the care and custody of the redemption money if the payment  
6 is made to the register of deeds. Except as provided in subsection  
7 (14), the register of deeds shall not determine the amount  
8 necessary for redemption. The purchaser shall attach an affidavit  
9 with the deed to be recorded under this section that states the  
10 exact amount required to redeem the property under this subsection,  
11 including any daily per diem amounts, and the date by which the  
12 property must be redeemed shall be stated on the certificate of  
13 sale. The purchaser may include in the affidavit the name of a  
14 designee responsible on behalf of the purchaser to assist the  
15 person redeeming the property in computing the exact amount  
16 required to redeem the property. The designee may charge a fee as  
17 stated in the affidavit and may be authorized by the purchaser to  
18 receive redemption funds. The purchaser shall accept the amount  
19 computed by the designee.

20 (3) If a distinct lot or parcel separately sold is redeemed,  
21 leaving a portion of the premises unredeemed, the deed shall be  
22 void only to the redeemed parcel or parcels.

23 (4) If, after the sale, the purchaser, the purchaser's heirs  
24 or personal representative, or any person lawfully claiming under  
25 the purchaser or the purchaser's heirs or personal representative  
26 pays taxes assessed against the property, amounts necessary to  
27 redeem senior liens from foreclosure, condominium assessments,

1 homeowner association assessments, community association  
2 assessments, or premiums on an insurance policy covering any  
3 buildings located on the property that under the terms of the  
4 mortgage it would have been the duty of the mortgagor to pay if the  
5 mortgage had not been foreclosed and that are necessary to keep the  
6 policy in force until the expiration of the period of redemption,  
7 redemption shall be made only upon payment of the sum specified in  
8 subsection (2) plus the amounts specified in this subsection with  
9 interest on the amounts specified in this subsection from the date  
10 of the payment to the date of redemption at the interest rate  
11 specified in the mortgage. This subsection does not apply unless  
12 all of the following are filed with the register of deeds with whom  
13 the deed is deposited:

14 (a) An affidavit by the purchaser or someone in his or her  
15 behalf who has knowledge of the facts of the payment showing the  
16 amount and items paid.

17 (b) The receipt or copy of the canceled check evidencing the  
18 payment of the taxes, amounts necessary to redeem senior liens from  
19 foreclosure, condominium assessments, homeowner association  
20 assessments, community association assessments, or insurance  
21 premiums.

22 (c) An affidavit of an insurance agent of the insurance  
23 company stating that the payment was made and what portion of the  
24 payment covers the premium for the period before the expiration of  
25 the period of redemption.

26 (5) If the redemption payment in subsection (4) includes an  
27 amount used to redeem a senior lien from a nonjudicial foreclosure,

1 the mortgagor shall have the same defenses against the purchaser  
2 with respect to the amount used to redeem the senior lien as the  
3 mortgagor would have had against the senior lien.

4 (6) The register of deeds shall indorse on the documents filed  
5 under subsection (4) the time they are received. The register of  
6 deeds shall record the affidavit of the purchaser only and shall  
7 preserve in his or her files the recorded affidavit, receipts,  
8 insurance receipts, and insurance agent's affidavit until  
9 expiration of the period of redemption.

10 (7) For a mortgage executed on or after January 1, 1965, ~~en-OF~~  
11 commercial or industrial property, or multifamily residential  
12 property in excess of 4 units, the redemption period is 6 months  
13 from the date of the sale.

14 (8) Subject to subsections (9) to (11), for a mortgage  
15 executed on or after January 1, 1965, ~~en-OF~~ residential property  
16 not exceeding 4 units ~~and not more than 3 acres in size, OR~~  
17 **PROPERTY NOT USED FOR AGRICULTURAL PURPOSES**, if the amount claimed  
18 to be due on the mortgage at the date of the notice of foreclosure  
19 is more than 66-2/3% of the original indebtedness secured by the  
20 mortgage, the redemption period is ~~6-3~~ months.

21 (9) Subject to subsection (10), for a mortgage ~~en-OF~~  
22 residential property not exceeding 4 units, if the property is  
23 abandoned as determined under section 3241, the redemption period  
24 is 3 months.

25 (10) For a mortgage ~~en-OF~~ residential property not exceeding 4  
26 units, if the amount claimed to be due on the mortgage at the date  
27 of the notice of foreclosure is more than 66-2/3% of the original

1 indebtedness secured by the mortgage and the property is abandoned  
2 as determined under section 3241, the redemption period is 1 month.

3 (11) If the property is abandoned as determined under section  
4 3241a, the redemption period is 30 days or until the time to  
5 provide the notice required by section 3241a(c) expires, whichever  
6 is later.

7 (12) If subsections (7) to (11) do not apply, the redemption  
8 period is 1 year from the date of the sale.

9 (13) The amount stated in any affidavits recorded under this  
10 section shall be the amount necessary to satisfy the requirements  
11 for redemption under this section.

12 (14) The register of deeds of a county having a population of  
13 more than 750,000 and less than 1,500,000, at the request of a  
14 person entitled to redeem the property under this section, shall  
15 determine the amount necessary for redemption. In determining the  
16 amount, the register of deeds shall consider only the affidavits  
17 recorded under subsections (2) and (4). A county, register of  
18 deeds, or employee of a county or register of deeds is not liable  
19 for damages proximately caused by an incorrect determination of an  
20 amount necessary for redemption under subsection (2).

21 (15) A register of deeds may charge not more than \$50.00 for  
22 determining the amount necessary for redemption under this section.

23 **(16) FOR PURPOSES OF THIS SECTION, THERE IS A PRESUMPTION THAT**  
24 **THE PROPERTY IS USED FOR AGRICULTURAL PURPOSES IF, BEFORE THE**  
25 **FORECLOSURE SALE UNDER THIS CHAPTER, THE MORTGAGOR PROVIDES THE**  
26 **PARTY FORECLOSING THE MORTGAGE PROOF THAT THE MORTGAGOR FILED A**  
27 **SCHEDULE F TO THE MORTGAGOR'S FEDERAL INCOME TAX FORM 1040 FOR THE**

1 YEAR PRECEDING THE YEAR IN WHICH THE PROCEEDINGS TO FORECLOSE THE  
2 MORTGAGE WERE COMMENCED. IF THE MORTGAGOR FAILS TO PROVIDE PROOF AS  
3 DESCRIBED IN THIS SUBSECTION BEFORE THE FORECLOSURE SALE, THERE IS  
4 A PRESUMPTION THAT THE PROPERTY IS NOT USED FOR AGRICULTURAL  
5 PURPOSES. THE PARTY FORECLOSING THE MORTGAGE OR THE MORTGAGOR MAY  
6 FILE A CIVIL ACTION TO PRODUCE EVIDENCE TO REBUT A PRESUMPTION  
7 CREATED BY THIS SUBSECTION.

8 Enacting section 1. This amendatory act does not take effect  
9 unless all of the following bills of the 96th Legislature are  
10 enacted into law:

11 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4542  
12 (request no. 01989'11).

13 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4543  
14 (request no. 01990'11).