

HOUSE BILL No. 5277

February 4, 2014, Introduced by Rep. Callton and referred to the Committee on Financial Services.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 3204, 3240, and 3278 (MCL 600.3204, 600.3240, and 600.3278), section 3204 as amended by 2013 PA 103, section 3240 as amended by 2013 PA 104, and section 3278 as added by 2011 PA 301, and by adding sections 3237 and 3238; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3204. (1) ~~Subject to subsections (4) and (6), a~~ **A** party
2 may foreclose a mortgage by advertisement if all of the following
3 circumstances exist:

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

1 (b) An action or proceeding has not been instituted, at law,
2 to recover the debt secured by the mortgage or any part of the
3 mortgage ~~or~~, if an action or proceeding has been instituted,
4 **EITHER** the action or proceeding has been discontinued ~~or~~ an
5 execution on a judgment rendered in ~~an~~**THE** action or proceeding has
6 been returned unsatisfied, in whole or in part.

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

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

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

21 (3) If the party foreclosing a mortgage by advertisement is
22 not the original mortgagee, a record chain of title ~~shall~~**MUST**
23 exist ~~prior to~~**BEFORE** the date of sale under section 3216
24 evidencing the assignment of the mortgage to the party foreclosing
25 the mortgage.

26 ~~—— (4) A party shall not commence proceedings under this chapter~~
27 ~~to foreclose a mortgage of property claimed as a principal~~

1 ~~residence exempt from tax under section 7cc of the general property~~
2 ~~tax act, 1893 PA 206, MCL 211.7cc, if 1 or more of the following~~
3 ~~apply:~~

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

6 ~~—— (b) After a notice is mailed to the mortgagor under section~~
7 ~~3205a, the time has not expired for the mortgagor to request,~~
8 ~~either directly or through a housing counselor, a meeting under~~
9 ~~section 3205b with the person designated under section 3205a(1)(c).~~

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

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

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

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

26 ~~—— (g) Calculations under section 3205c(1) show that the~~
27 ~~mortgagor is eligible for a loan modification and foreclosure under~~

1 ~~this chapter is not allowed under section 3205e(7).~~

2 ~~—— (5) Subsection (4) applies only to proceedings under this~~
3 ~~chapter in which the first notice under section 3208 is published~~
4 ~~after July 5, 2009 and before January 10, 2014.~~

5 ~~—— (6) After January 9, 2014, a party to which section 3206~~
6 ~~applies shall not commence proceedings under this chapter to~~
7 ~~foreclose a mortgage of property claimed as a principal residence~~
8 ~~exempt from tax under section 7cc of the general property tax act,~~
9 ~~1893 PA 206, MCL 211.7cc, unless the party has complied with~~
10 ~~section 3206.~~

11 ~~—— (7) Subsections (4) and (6) do not apply to a mortgage of~~
12 ~~property used for agricultural purposes if the mortgage is subject~~
13 ~~to borrower's rights under the federal acts and is subject to the~~
14 ~~restructuring of distressed loans or the debt restructuring and~~
15 ~~loan servicing provisions of the federal acts, if the applicable~~
16 ~~period to apply for a restructuring required under the federal acts~~
17 ~~is longer than the period within which a borrower may request a~~
18 ~~meeting under section 3205b, and if compliance with the federal~~
19 ~~acts will not result in proceedings being commenced under this~~
20 ~~chapter within 90 days after a default under the mortgage. As used~~
21 ~~in this subsection, "federal acts" means the farm credit act of~~
22 ~~1971, Public Law 92 181, as amended, or the consolidated farm and~~
23 ~~rural development act, Public Law 87 128, and rules and regulations~~
24 ~~promulgated under those acts.~~

25 **SEC. 3237. AFTER A SALE UNDER SECTION 3216, IF THE PURCHASER**
26 **AT THE SALE INTENDS TO INSPECT THE PROPERTY UNDER SECTION 3238, THE**
27 **PURCHASER SHALL NOTIFY THE MORTGAGOR AND ANY OTHER PERSON THAT HAS**

1 POSSESSION OF THE PROPERTY IN WRITING OF ALL OF THE FOLLOWING:

2 (A) THE IDENTITY OF THE PURCHASER.

3 (B) THE RESIDENCE OR BUSINESS ADDRESS, MAILING ADDRESS,
4 TELEPHONE NUMBER, AND, IF APPLICABLE, ELECTRONIC MAIL ADDRESS AT
5 WHICH THE PURCHASER MAY BE CONTACTED.

6 (C) THE DETAILS OF THE PURCHASER'S RIGHTS OF INSPECTION UNDER
7 SECTION 3238.

8 SEC. 3238. (1) AFTER A SALE UNDER SECTION 3216 AND
9 PERIODICALLY THROUGHOUT THE REDEMPTION PERIOD, THE PURCHASER AT THE
10 SALE MAY INSPECT THE PROPERTY, INCLUDING THE EXTERIOR AND INTERIOR
11 OF ANY STRUCTURES ON THE PROPERTY. SUBJECT TO SUBSECTION (3), THE
12 PURCHASER SHALL NOT ENTER ANY STRUCTURE TO INSPECT THE INTERIOR OF
13 THE STRUCTURE MORE OFTEN THAN ONCE IN A CALENDAR MONTH AND NOT MORE
14 OFTEN THAN 3 TIMES IN ANY 6 MONTHS OF THE REDEMPTION PERIOD.

15 (2) SUBJECT TO SUBSECTION (3), THE PURCHASER SHALL GIVE THE
16 MORTGAGOR AT LEAST 72 HOURS' NOTICE BEFORE AN INSPECTION OF THE
17 INTERIOR OF A STRUCTURE UNDER SUBSECTION (1) AND CONDUCT THE
18 INSPECTION AT A REASONABLE TIME OF DAY AS PREARRANGED WITH THE
19 MORTGAGOR.

20 (3) SUBSECTION (2) AND THE RESTRICTIONS ON FREQUENCY OF
21 INSPECTIONS UNDER SUBSECTION (1) DO NOT APPLY IF THE PURCHASER HAS
22 REASONABLE CAUSE TO BELIEVE THAT DAMAGE TO THE PROPERTY IS IMMINENT
23 OR HAS OCCURRED.

24 (4) IF AN INSPECTION UNDER THIS SECTION IS UNREASONABLY
25 REFUSED OR IF DAMAGE TO THE PROPERTY IS IMMINENT OR HAS OCCURRED,
26 THE PURCHASER MAY IMMEDIATELY COMMENCE SUMMARY PROCEEDINGS FOR
27 POSSESSION OF THE PROPERTY UNDER CHAPTER 57 OR FILE AN ACTION FOR

1 ANY OTHER RELIEF NECESSARY TO PROTECT THE PROPERTY FROM DAMAGE.

2 (5) BEFORE COMMENCING SUMMARY PROCEEDINGS FOR POSSESSION OF
3 THE PROPERTY UNDER SUBSECTION (4), THE PURCHASER SHALL PROVIDE
4 NOTICE TO THE MORTGAGOR BY CERTIFIED MAIL, PHYSICAL POSTING ON THE
5 PROPERTY, OR IN ANY OTHER MANNER REASONABLY CALCULATED TO ACHIEVE
6 ACTUAL NOTICE, THAT THE PURCHASER INTENDS TO COMMENCE SUMMARY
7 PROCEEDINGS IF THE DAMAGE OR CONDITION CAUSING REASONABLE BELIEF
8 THAT DAMAGE IS IMMINENT IS NOT REPAIRED OR CORRECTED WITHIN 7 DAYS.

9 (6) A PURCHASER SHALL NOT COMMENCE SUMMARY PROCEEDINGS FOR
10 POSSESSION UNDER SUBSECTION (4) IF EITHER OF THE FOLLOWING
11 CONDITIONS EXISTS:

12 (A) THE DAMAGE OR CONDITION CAUSING REASONABLE BELIEF THAT
13 DAMAGE IS IMMINENT IS REPAIRED OR CORRECTED WITHIN THE 7-DAY PERIOD
14 DESCRIBED IN THE NOTICE OF INTENT UNDER SUBSECTION (5).

15 (B) THE MORTGAGOR AND THE PURCHASER AGREE ON PROCEDURES AND A
16 TIMELINE TO REPAIR THE DAMAGE OR CORRECT THE CONDITION CAUSING
17 REASONABLE BELIEF THAT DAMAGE IS IMMINENT AND THE PROCEDURES ARE
18 COMPLETED BY THE ORIGINAL DATE AGREED TO BY THE MORTGAGOR AND
19 PURCHASER OR BY AN EXTENDED DATE THAT IS AGREED TO BY THE MORTGAGOR
20 AND PURCHASER.

21 (7) IN DETERMINING WHETHER TO ENTER JUDGMENT FOR POSSESSION IN
22 FAVOR OF THE PURCHASER IN SUMMARY PROCEEDINGS UNDER SUBSECTION (4),
23 THE JUDGE SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES
24 SURROUNDING THE DAMAGE OR CONDITION THAT THREATENS IMMINENT DAMAGE,
25 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

26 (A) THE CAUSE OF THE DAMAGE OR CONDITION.

27 (B) WHETHER THE MORTGAGOR HAS TAKEN APPROPRIATE STEPS TO

1 REPAIR THE DAMAGE OR CORRECT THE CONDITION AND TO SECURE THE
2 PROPERTY FROM FURTHER DAMAGE.

3 (C) WHETHER THE MORTGAGOR HAS PROMPTLY CONTACTED THE PURCHASER
4 AND ANY PROPERTY INSURER REGARDING THE DAMAGE OR CONDITION.

5 (D) WHETHER ANY DELAY IN REPAIRS OR CORRECTIONS IS
6 AFFIRMATIVELY CAUSED BY THE PURCHASER OR THE PROPERTY INSURER.

7 (8) IF A JUDGMENT FOR POSSESSION IS ENTERED IN AN ACTION UNDER
8 SUBSECTION (4) IN FAVOR OF THE PURCHASER, THE RIGHT OF REDEMPTION
9 UNDER SECTION 3240 IS EXTINGUISHED AND FULL TITLE TO THE PROPERTY
10 VESTS IN THE PURCHASER.

11 (9) AS USED IN THIS SECTION, "DAMAGE" INCLUDES, BUT IS NOT
12 LIMITED TO, ANY OF THE FOLLOWING:

13 (A) THE FAILURE TO COMPLY WITH LOCAL ORDINANCES REGARDING
14 MAINTENANCE OF THE PROPERTY OR BLIGHT PREVENTION, IF THE FAILURE IS
15 THE SUBJECT OF ENFORCEMENT ACTION BY THE APPROPRIATE GOVERNMENTAL
16 UNIT.

17 (B) A BOARDED-UP OR CLOSED-OFF WINDOW OR ENTRANCE.

18 (C) MULTIPLE BROKEN AND UNREPAIRED WINDOW PANES.

19 (D) A SMASHED-THROUGH, BROKEN-OFF, OR UNHINGED DOOR.

20 (E) ACCUMULATED RUBBISH, TRASH, OR DEBRIS.

21 (F) STRIPPED PLUMBING, ELECTRICAL WIRING, SIDING, OR OTHER
22 METAL MATERIAL.

23 (G) MISSING OR DESTROYED STRUCTURAL ASPECTS OR FIXTURES,
24 INCLUDING, BUT NOT LIMITED TO, A FURNACE, WATER HEATER, AIR-
25 CONDITIONING UNIT, COUNTERTOP, CABINETRY, FLOORING, WALL, CEILING,
26 ROOFING, TOILET, OR ANY OTHER FIXTURES. AS USED IN THIS
27 SUBDIVISION, "FIXTURES" MEANS THAT TERM AS DEFINED IN SECTION 9102

1 OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.9102.

2 (H) DETERIORATION BELOW, OR BEING IN IMMINENT DANGER OF
3 DETERIORATING BELOW, COMMUNITY STANDARDS FOR PUBLIC SAFETY AND
4 SANITATION THAT ARE ESTABLISHED BY STATUTE OR LOCAL ORDINANCE.

5 (I) A CONDITION THAT WOULD JUSTIFY RECOVERY OF THE PREMISES
6 UNDER SECTION 5714 (1) (D) .

7 Sec. 3240. (1) A purchaser's deed under section 3232 is void
8 if the mortgagor, the mortgagor's heirs or personal representative,
9 or any person lawfully claiming under the mortgagor or the
10 mortgagor's heirs or personal representative redeems the entire
11 premises sold by paying the amount required under subsection (2)
12 and any amount required under subsection (4), within the applicable
13 time limit prescribed in subsections (7) to (12), to the purchaser
14 or the purchaser's personal representative or assigns, or to the
15 register of deeds in whose office the deed is deposited for the
16 benefit of the purchaser.

17 (2) The amount required to be paid under subsection (1) is the
18 amount that was bid for the entire premises sold, interest from the
19 date of the sale at the interest rate provided for by the mortgage,
20 the amount of the sheriff's fee paid by the purchaser under section
21 2558(2)(q), and an additional \$5.00 as a fee for the care and
22 custody of the redemption money if the payment is made to the
23 register of deeds. Except as provided in subsection ~~(15)~~, **(14)**, the
24 register of deeds shall not determine the amount necessary for
25 redemption. The purchaser shall provide an affidavit with the deed
26 to be recorded under this section that states the exact amount
27 required to redeem the property under this subsection, including

1 any daily per diem amounts, and the date by which the property must
2 be redeemed shall be stated on the certificate of sale. The
3 purchaser may include in the affidavit the name of a designee
4 responsible on behalf of the purchaser to assist the person
5 redeeming the property in computing the exact amount required to
6 redeem the property. The designee may charge a fee as stated in the
7 affidavit and may be authorized by the purchaser to receive
8 redemption money. The purchaser shall accept the amount computed by
9 the designee.

10 (3) If a distinct lot or parcel separately sold is redeemed,
11 leaving a portion of the premises unredeemed, the deed is void only
12 to the redeemed parcel or parcels.

13 (4) If, after a sale under section ~~3220~~, **3216**, the purchaser,
14 the purchaser's heirs or personal representative, or any person
15 lawfully claiming under the purchaser or the purchaser's heirs or
16 personal representative pays taxes assessed against the property,
17 amounts necessary to redeem senior liens from foreclosure,
18 condominium assessments, homeowner association assessments,
19 community association assessments, or premiums on an insurance
20 policy covering any buildings located on the property that under
21 the terms of the mortgage it would have been the duty of the
22 mortgagor to pay if the mortgage had not been foreclosed and that
23 are necessary to keep the policy in force until the expiration of
24 the period of redemption, redemption shall be made only upon
25 payment of the sum specified in subsection (2) plus the amounts
26 specified in this subsection with interest on the amounts specified
27 in this subsection from the date of the payment to the date of

1 redemption at the interest rate specified in the mortgage. This
2 subsection does not apply unless all of the following are filed
3 with the register of deeds with whom the deed is deposited:

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

7 (b) The receipt or copy of the canceled check evidencing the
8 payment of the taxes, amounts necessary to redeem senior liens from
9 foreclosure, condominium assessments, homeowner association
10 assessments, community association assessments, or insurance
11 premiums.

12 (c) An affidavit of an insurance agent of the insurance
13 company stating that the payment was made and what portion of the
14 payment covers the premium for the period before the expiration of
15 the period of redemption.

16 (5) If the redemption payment in subsection (4) includes an
17 amount used to redeem a senior lien from a nonjudicial foreclosure,
18 the mortgagor has the same defenses against the purchaser with
19 respect to the amount used to redeem the senior lien as the
20 mortgagor would have had against the senior lien.

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

27 (7) Subject to ~~subsection (13)~~, **SECTION 3238**, for a mortgage

1 executed on or after January 1, 1965, of commercial or industrial
2 property, or multifamily residential property in excess of 4 units,
3 the redemption period is 6 months from the date of the sale.

4 (8) Subject to subsections (9) to (11) and ~~(13)~~, **SECTION 3238**,
5 for a mortgage executed on or after January 1, 1965, of residential
6 property not exceeding 4 units, if the amount claimed to be due on
7 the mortgage at the date of the notice of foreclosure is more than
8 66-2/3% of the original indebtedness secured by the mortgage, the
9 redemption period is 6 months.

10 (9) For a mortgage of residential property not exceeding 4
11 units, if the property is abandoned as determined under section
12 3241, the redemption period is 1 month.

13 (10) If the property is abandoned as determined under section
14 3241a, the redemption period is 1 month or until the time to
15 provide the notice required by section 3241a(c) expires, whichever
16 is later.

17 (11) Subject to ~~subsection (13)~~, **SECTION 3238**, for a mortgage
18 of property that is used for agricultural purposes, the redemption
19 period is 1 year from the date of the sale.

20 (12) If subsections (7) to (11) do not apply, and subject to
21 ~~subsection (13)~~, **SECTION 3238**, the redemption period is 1 year from
22 the date of the sale.

23 ~~—— (13) After the sale under section 3220 and periodically~~
24 ~~throughout the redemption period, the purchaser at the sale may~~
25 ~~inspect the exterior and interior of the property and all ancillary~~
26 ~~structures. If inspection is unreasonably refused or if damage to~~
27 ~~the property is imminent or has occurred, the purchaser may~~

1 ~~immediately commence summary proceedings for possession of the~~
2 ~~property under chapter 57 or file an action for any other relief~~
3 ~~necessary to protect the property from damage. A court shall not~~
4 ~~enter a judgment for possession in an action under chapter 57 if,~~
5 ~~before the hearing for possession, the mortgagor repairs any damage~~
6 ~~to the property that was the basis for the action. If a judgment~~
7 ~~for possession is entered in favor of the purchaser, the right of~~
8 ~~redemption is extinguished and full title to the property vests in~~
9 ~~the purchaser. As used in this subsection, "damage" includes, but~~
10 ~~is not limited to, any of the following:~~

11 ~~—— (a) The failure to comply with local ordinances regarding~~
12 ~~maintenance of the property, if the failure is the subject of~~
13 ~~enforcement action by the appropriate governmental unit.~~

14 ~~—— (b) A boarded up or closed off window or entrance.~~

15 ~~—— (c) Multiple broken and unrepaired window panes.~~

16 ~~—— (d) A smashed through, broken off, or unhinged door.~~

17 ~~—— (e) Accumulated rubbish, trash, or debris.~~

18 ~~—— (f) Stripped plumbing, electrical wiring, siding, or other~~
19 ~~metal material.~~

20 ~~—— (g) Missing fixtures, including, but not limited to, a~~
21 ~~furnace, water heater, or air conditioning unit.~~

22 ~~—— (h) Deterioration below, or being in imminent danger of~~
23 ~~deteriorating below, community standards for public safety and~~
24 ~~sanitation.~~

25 ~~—— (i) A condition that would justify recovery of the premises~~
26 ~~under section 5714(1)(d).~~

27 (13) ~~(14)~~—The amount stated in any affidavits recorded under

1 this section shall be the amount necessary to satisfy the
2 requirements for redemption under this section.

3 (14) ~~(15)~~—The register of deeds of a county with a population
4 of more than 750,000 and less than 1,500,000, at the request of a
5 person entitled to redeem the property under this section, shall
6 determine the amount necessary for redemption. In determining the
7 amount, the register of deeds shall consider only the affidavits
8 recorded under subsections (2) and (4). A county, register of
9 deeds, or employee of a county or register of deeds is not liable
10 for damages proximately caused by an incorrect determination of an
11 amount necessary for redemption under subsection (2).

12 (15) ~~(16)~~—A register of deeds may charge not more than \$50.00
13 for determining the amount necessary for redemption under this
14 section.

15 (16) ~~(17)~~—For purposes of this section, there is a presumption
16 that the property is used for agricultural purposes if, before the
17 foreclosure sale under this chapter, the mortgagor provides the
18 party foreclosing the mortgage and the foreclosing party's attorney
19 proof that the mortgagor filed a schedule F to the mortgagor's
20 federal income tax form 1040 for the year preceding the year in
21 which the proceedings to foreclose the mortgage were commenced and
22 records an affidavit with the register of deeds for the county in
23 which the property is located stating that the proof has been
24 delivered. If the mortgagor fails to provide proof and record an
25 affidavit as required by this subsection before the foreclosure
26 sale, there is a presumption that the property is not used for
27 agricultural purposes. The party foreclosing the mortgage or the

1 mortgagor may file a civil action to produce evidence to rebut a
2 presumption created by this subsection. An action under this
3 section shall be filed before the expiration of the redemption
4 period that would apply if the property is determined not to be
5 used for agricultural purposes.

6 Sec. 3278. (1) During the period of redemption following a
7 foreclosure sale of property under this chapter, the mortgagor and
8 any other person liable on the mortgage is liable to the purchaser
9 at the sale, or the mortgagee, payee, or other holder of the
10 obligation secured by the mortgage if the mortgagee, payee, or
11 other holder takes or has taken title to the property at the sale
12 either directly or indirectly, for any physical injury to the
13 property beyond wear and tear resulting from the normal use of the
14 property if the physical injury is caused by or at the direction of
15 the mortgagor or other person liable on the mortgage.

16 **(2) IF THE MORTGAGOR INTENDS TO MOVE FROM THE PROPERTY AT ANY**
17 **TIME AFTER THE FORECLOSURE SALE OF PROPERTY UNDER THIS CHAPTER, THE**
18 **MORTGAGOR SHALL INFORM THE PURCHASER AT LEAST 10 DAYS BEFORE**
19 **VACATING THE PROPERTY SO THAT THE PROPERTY MAY BE SECURED.**

20 **(3) THERE IS A REBUTTABLE PRESUMPTION THAT THE MORTGAGOR IS**
21 **LIABLE TO THE PURCHASER AT THE FORECLOSURE SALE FOR ALL DAMAGE TO**
22 **THE PROPERTY THAT OCCURS DURING THE REDEMPTION PERIOD IF THE**
23 **MORTGAGOR DOES ANY OF THE FOLLOWING:**

24 **(A) FAILS TO CONSENT TO AN INSPECTION OF THE PROPERTY, SUBJECT**
25 **TO SECTION 3238.**

26 **(B) FAILS TO PROVIDE TIMELY NOTICE TO THE PURCHASER UNDER**
27 **SUBSECTION (2).**

1 (C) FAILS TO SURRENDER CONTROL OF THE PROPERTY IN A MANNER
2 THAT REASONABLY PROVIDES THE PURCHASER WITH THE OPPORTUNITY TO
3 SECURE IT.

4 (4) THERE IS A REBUTTABLE PRESUMPTION THAT THE MORTGAGOR IS
5 NOT LIABLE FOR DAMAGE TO THE PROPERTY THAT OCCURS AFTER THE
6 MORTGAGER SURRENDERS CONTROL OF THE PROPERTY IF THE MORTGAGOR DOES
7 ALL OF THE FOLLOWING:

8 (A) CONSENTS TO INSPECTIONS OF THE PROPERTY, SUBJECT TO
9 SECTION 3238.

10 (B) PROVIDES TIMELY NOTICE TO THE PURCHASER UNDER SUBSECTION
11 (2).

12 (C) SURRENDERS CONTROL OF THE PROPERTY IN A MANNER THAT
13 REASONABLY PROVIDES THE PURCHASER WITH THE OPPORTUNITY TO SECURE
14 IT.

15 (5) ~~(2)~~—In an action for damages under this section, the
16 amount of damages may be determined by any measure of damages
17 applicable under law, including, but not limited to, the method
18 provided under section 5739(2).

19 (6) ~~(3)~~—An action for damages under this section may be joined
20 with an action for possession of the premises under chapter 57.

21 Enacting section 1. Sections 3205, 3205e, and 3206 of the
22 revised judicature act of 1961, 1961 PA 236, MCL 600.3205,
23 600.3205e, and 600.3206, are repealed.