

HOUSE BILL No. 4470

March 30, 2017, Introduced by Rep. Iden and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3204 and 5807 (MCL 600.3204 and 600.5807),
section 3204 as amended by 2014 PA 125.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3204. (1) A party may foreclose a mortgage by
2 advertisement if all of the following circumstances exist:

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

5 (b) An action or proceeding has not been instituted, at law,
6 to recover the debt secured by the mortgage or any part of the
7 mortgage or, if an action or proceeding has been instituted, either
8 the action or proceeding has been discontinued or an execution on a
9 judgment rendered in the action or proceeding has been returned

1 unsatisfied, in whole or in part. **FOR PURPOSES OF THIS SUBDIVISION,**
 2 **AN ACTION OR PROCEEDING FOR THE APPOINTMENT OF A RECEIVER IS NOT AN**
 3 **ACTION OR PROCEEDING TO RECOVER A DEBT.**

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

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

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

18 (3) If the party foreclosing a mortgage by advertisement is
 19 not the original mortgagee, a record chain of title must exist
 20 before the date of sale under section 3216 evidencing the
 21 assignment of the mortgage to the party foreclosing the mortgage.

22 Sec. 5807. **(1)** ~~No~~**A** person may **NOT** bring or maintain ~~any~~**AN**
 23 action to recover damages or ~~sums~~**MONEY** due for breach of contract
 24 ~~or~~ to enforce the specific performance of ~~any~~**A** contract unless,
 25 after the claim first accrued to ~~himself~~**THE PERSON** or to someone
 26 through whom ~~he~~**THE PERSON** claims, ~~he~~**THE PERSON** commences the
 27 action within the ~~periods of time~~**APPLICABLE PERIOD** prescribed by

1 this section.

2 (2) ~~(1)~~ The period of limitations on ~~actions~~ **AN ACTION**
 3 charging ~~any~~ **A** surety on ~~any~~ **A** bond of ~~any executor, administrator,~~
 4 **A PERSONAL REPRESENTATIVE OR** guardian is 4 years after the
 5 discharge of the ~~executor, administrator,~~ **PERSONAL REPRESENTATIVE**
 6 or guardian.

7 (3) ~~(2)~~ ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR**
 8 **ANOTHER STATUTE OF THIS STATE, THE** period of limitations is 10
 9 years for ~~actions~~ **AN ACTION** founded ~~upon bonds~~ **ON A BOND** of **A**
 10 public ~~officers~~ **OFFICER**.

11 (4) ~~(3)~~ The period of limitations on ~~actions~~ **AN ACTION** founded
 12 ~~upon bonds~~ **ON A BOND** executed under sections ~~41.80 and 41.81~~ **80 AND**
 13 **81** of the ~~Compiled Laws of 1948,~~ **1846 RS 16, MCL 41.80 AND 41.81,**
 14 is 2 years after the expiration of the year for which the constable
 15 was elected.

16 (5) ~~(4)~~ The period of limitations is 10 years for ~~actions~~ **AN**
 17 **ACTION** founded ~~upon covenants~~ **ON A COVENANT** in ~~deeds and mortgages~~
 18 **A DEED OR MORTGAGE** of real estate.

19 (6) ~~(5)~~ ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN ANOTHER STATUTE OF**
 20 **THIS STATE, THE** period of limitations is 2 years for ~~actions~~ **AN**
 21 **ACTION** charging ~~any~~ **A** surety for costs.

22 (7) ~~(6)~~ The period of limitations is 2 years for ~~actions~~ **AN**
 23 **ACTION** brought on ~~bonds~~ **A BOND** or ~~recognizances~~ **RECOGNIZANCE** given
 24 on appeal from ~~any~~ **A** court in this state.

25 (8) ~~(7)~~ The period of limitations is 10 years for ~~actions~~ **AN**
 26 **ACTION** on ~~bonds, notes,~~ **A BOND, NOTE,** or other like ~~instruments~~
 27 ~~which are~~ **INSTRUMENT THAT IS** the direct or indirect obligation of,

1 or ~~were~~**WAS** issued by although not the obligation of, ~~the~~**THIS**
2 state ~~of Michigan or any~~**A** county, city, village, township, school
3 district, special assessment district, or other public or quasi-
4 public corporation in ~~the~~**THIS** state. ~~of Michigan.~~

5 **(9)** ~~(8)~~ The period of limitations is 6 years for ~~all other~~
6 ~~actions~~**AN ACTION** to recover damages or ~~sums~~**MONEY** due for breach
7 of contract **THAT IS NOT DESCRIBED IN SUBSECTIONS (2) TO (8)**.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.

10 Enacting section 2. This amendatory act does not take effect
11 unless Senate Bill No. ____ or House Bill No. 4471 (request no.
12 00179'17) of the 99th Legislature is enacted into law.