HOUSE BILL No. 4682

May 31, 2017, Introduced by Reps. Howrylak and Alexander and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled

"Revised judicature act of 1961,"

by amending section 3240 (MCL 600.3240), as amended by 2014 PA 431.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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(2) The amount required to be paid under subsection (1) is the amount that was bid for the entire premises sold, interest from the date of the sale at the interest rate provided for by the mortgage, the amount of the sheriff's fee paid by the purchaser under section ~~2558(2)(q),~~ **2558(2)(*l*)**, and an additional $5.00 as a fee for the care and custody of the redemption money if the payment is made to the register of deeds. Except as provided in subsection (14), the register of deeds shall not determine the amount necessary for redemption. The purchaser shall provide an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property under this subsection, including any daily per diem amounts, and the date by which the property must be redeemed ~~shall~~ **MUST** be stated on the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption money. The purchaser shall accept the amount computed by the designee.

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

(4) If, after a sale under section 3216, the purchaser, the purchaser's heirs or personal representative, or any person lawfully claiming under the purchaser or the purchaser's heirs or personal representative pays taxes assessed against the property,

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

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

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

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

(5) If the redemption payment in subsection (4) includes an

amount used to redeem a senior lien from a nonjudicial foreclosure, the mortgagor has the same defenses against the purchaser with respect to the amount used to redeem the senior lien as the mortgagor would have had against the senior lien.

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

(7) Subject to section 3238, for a mortgage executed on or after January 1, 1965, of commercial or industrial property, or multifamily residential property in excess of 4 units, the redemption period is 6 months from the date of the sale.

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

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

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

(11) Subject to section 3238, for a mortgage of property that is used for agricultural purposes, the redemption period is 1 year from the date of the sale.

(12) If subsections (7) to (11) do not apply, and subject to section 3238, the redemption period is 1 year from the date of the sale.

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

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

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

(16) For purposes of this section, there is a presumption that the property is used for agricultural purposes if, before the foreclosure sale under this chapter, the mortgagor provides the party foreclosing the mortgage and the foreclosing party's attorney proof that the mortgagor filed a schedule F to the mortgagor's federal income tax form 1040 for the year preceding the year in which the proceedings to foreclose the mortgage were commenced and

records an affidavit with the register of deeds for the county in which the property is located stating that the proof has been delivered. If the mortgagor fails to provide proof and record an affidavit as required by this subsection before the foreclosure sale, there is a presumption that the property is not used for agricultural purposes. The party foreclosing the mortgage or the mortgagor may file a civil action to produce evidence to rebut a presumption created by this subsection. An action under this section ~~shall~~ **MUST** be filed before the expiration of the redemption period that would apply if the property is determined not to be used for agricultural purposes.

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

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) Senate Bill No.____ or House Bill No. 4681 (request no. 00909'17).

(b) Senate Bill No.____ or House Bill No. 4680 (request no. 00911'17).