

MORTGAGE FORECLOSURE BY ADVERTISEMENT

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House Bill 4306 as reported from committee

Sponsor: Rep. Triston Cole

Committee: Government Operations

Complete to 3-19-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4306 would amend the Revised Judicature Act to require a notice of foreclosure by advertisement to include certain additional information.

Chapter 32 of the Revised Judicature Act provides a process under which certain mortgages may be foreclosed by advertising the foreclosure sale rather than by filing a lawsuit against the borrower. (The foreclosure sale is a public auction won by the highest bidder.) The act requires a notice to be published in a local newspaper at least once a week, for four consecutive weeks, that the mortgage will be foreclosed by sale of the property. The notice must contain such information as the names of the parties to the mortgage, a description of the property, and the current amount due under the mortgage.

The bill would require that the notice also include the following:

- The street address of the property. (However, the validity of the notice and any eventual sale would not be affected by a wrong or missing street address.)
- The name, address, and telephone number of the attorney for the foreclosing party.
- The statement: "This firm is a debt collector attempting to collect a debt. Any information we obtain will be used for that purpose."
- For a residential mortgage, a statement addressed to the homeowner that advises that the Michigan State Housing Development Authority can help a person who is having difficulties in making mortgage payments and provides the Authority's web address. The statement would also advise a homeowner in active military duty to contact the attorney for the foreclosing party. (The language of the statement is specified by the bill.)
- A statement indicating that the notice is for a foreclosure by advertisement under the Revised Judicature Act. The statement would indicate the time and place of the sale. The statement would also advise that the sale will be made without warranty regarding title to, possession of, or encumbrances on the property and that placing the highest bid does not automatically convey free and clear ownership. It would encourage the purchaser to contact the county register of deeds or a title insurance company to investigate any outstanding liens that might exist on the property. (The language of the statement is specified by the bill.)

The bill would take effect 30 days after being enacted.

MCL 600.3212

FISCAL IMPACT:

House Bill 4306 would have no fiscal impact on the state or on local units of government.

POSITIONS:

A representative of Detroit Legal News testified in support of the bill. (3-19-19)

The Michigan Press Association indicated support for the bill. (3-19-19)

The Michigan Credit Union League indicated a neutral position on the bill. (3-19-19)

The Michigan Poverty Law Program indicated opposition to the bill. (3-19-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.