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BILL ANALYSIS



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House Bill 4306 (Substitute H-2 as reported without amendment)

Sponsor: Representative Triston Cole

House Committee: Government Operations

Senate Committee: Judiciary and Public Safety

CONTENT

The bill would amend Chapter 32 (Foreclosure of Mortgages by Advertisement) of the Revised Judicature Act to require a notice of foreclosure by advertisement to include certain information in addition to that which Chapter 32 currently requires.

Chapter 32 specifies that every mortgage of real estate, which contains a power of sale, upon default of any condition of the mortgage, may be foreclosed by advertisement, in the cases and in the manner specified in Chapter 32. (Chapter 32 does not apply to mortgages of real estate held by the Michigan State Housing Development Authority.)

A party may foreclose a mortgage by advertisement if certain circumstances specified in Chapter 32 exist. Notice that a mortgage will be foreclosed by a sale of the mortgaged premises, or part of them, must be given by publishing the notice for four successive weeks at least once each week, in a newspaper published in the county where the premises included in the mortgage and intended to be sold are situated. Within 15 days after the first publication, a copy of the notice must be posted in a conspicuous place upon any part of the premises.

A notice of foreclosure by advertisement must include certain information specified in Chapter 32. Under the bill, a notice also would have to contain the following:

- The name, address, and telephone number of the attorney for the party foreclosing the mortgage.
- For a residential mortgage, a statement in a form specified by the bill indicating that if a person were a military service member on active duty whose period of active duty had concluded less than 90 days ago, or if he or she had been ordered to active duty, he or she should contact the attorney for the party foreclosing the mortgage.
- A statement in a form specified by the bill indicating that the property would be foreclosed by sale at a public auction; the location, date, and time of the auction; that the amount due on the mortgage could be greater on the day of the sale; and that placing the highest bid at the sale would not automatically entitle the purchaser to free and clear ownership of the property.
- A description of the property by giving its street address, if any.

MCL 600.3212

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 10-24-19

Fiscal Analyst: Michael Siracuse

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Bill Analysis @ www.senate.michigan.gov/sfa

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