

HOUSE BILL NO. 4800

May 06, 2021, Introduced by Reps. Bolden and Filler and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 3204 (MCL 600.3204), as amended by 2018 PA 15.

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,

1 to recover the debt secured by the mortgage or any part of the
 2 mortgage or, if an action or proceeding has been instituted, either
 3 the action or proceeding has been discontinued or an execution on a
 4 judgment rendered in the action or proceeding has been returned
 5 unsatisfied, in whole or in part. For purposes of this subdivision,
 6 ~~an~~**neither of the following is an action or proceeding to recover**
 7 **the debt:**

8 (i) An action or proceeding for the appointment of a receiver.
 9 ~~is not an action or proceeding to recover a debt.~~

10 (ii) An action or proceeding under the Michigan uniform
 11 assignment of rents act to enforce an assignment of rents.

12 (c) The mortgage containing the power of sale has been
 13 properly recorded.

14 (d) The party foreclosing the mortgage is either the owner of
 15 the indebtedness or of an interest in the indebtedness secured by
 16 the mortgage or the servicing agent of the mortgage.

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

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

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

3 Enacting section 2. This amendatory act does not take effect
4 unless Senate Bill No.____ or House Bill No. 4799 (request no.
5 02585'21) of the 101st Legislature is enacted into law.