

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

CHAPTER 32

FORECLOSURE OF MORTGAGES BY ADVERTISEMENT

600.3201 Foreclosure by advertisement of mortgage containing power of sale; exception.

Sec. 3201. Every mortgage of real estate, which contains a power of sale, upon default being made in any condition of such mortgage, may be foreclosed by advertisement, in the cases and in the manner specified in this chapter. However, the procedures set forth in this chapter shall not apply to mortgages of real estate held by the Michigan state housing development authority.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1981, Act 172, Imd. Eff. Dec. 10, 1981.

Constitutionality: Plaintiff's claim of unconstitutionality for MCL 600.3201 et seq. failed for lack of the existence of state action. Cramer v Metropolitan Savings and Loan Association, 401 Mich 252; 258 NW2d 20 (1977).

600.3204 Foreclosure by advertisement; circumstances; installments as separate and independent mortgage; redemption; chain of title.

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

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

(b) An action or proceeding has not been instituted, at law, to recover the debt secured by the mortgage or any part of the mortgage or, if an action or proceeding has been instituted, either the action or proceeding has been discontinued or an execution on a judgment rendered in the action or proceeding has been returned unsatisfied, in whole or in part. For purposes of this subdivision, neither of the following is an action or proceeding to recover the debt:

(i) An action or proceeding for the appointment of a receiver.

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

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

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

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

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

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1994, Act 397, Imd. Eff. Dec. 29, 1994;—Am. 2004, Act 186, Imd. Eff. July 1, 2004;—Am. 2009, Act 29, Eff. July 5, 2009;—Am. 2011, Act 72, Imd. Eff. July 1, 2011;—Am. 2011, Act 301, Imd. Eff. Dec. 22, 2011;—Am. 2012, Act 521, Imd. Eff. Dec. 28, 2012;—Am. 2013, Act 103, Imd. Eff. July 3, 2013;—Am. 2014, Act 125, Eff. June 19, 2014;—Am. 2018, Act 15, Eff. May 7, 2018;—Am. 2022, Act 116, Eff. Sept. 22, 2022.

Compiler's note: Enacting section 1 of Act 301 of 2011 provides:

"Enacting section 1. Sections 3204(4), 3205, and 3212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3204, 600.3205, and 600.3212, as amended by this amendatory act, and section 3278 of the revised judicature act of 1961, 1961 PA 236, as added by this amendatory act, apply to foreclosure proceedings in which the first notice under section 3205a of the revised judicature act of 1961, 1961 PA 236, MCL 600.3205a, is mailed to the mortgagor on or after February 1, 2012."

600.3205 Repealed. 2014, Act 125, Eff. June 19, 2014.

Compiler's note: The repealed section pertained to designation of individual to serve as contact.

600.3205a-600.3205d Repealed. 2012, Act 521, Eff. June 30, 2013.

Compiler's note: The repealed sections pertained to requirements for notice of foreclosure, loan modification program and process, and development of housing counselor list.

600.3205e Repealed. 2014, Act 125, Eff. June 19, 2014.

Compiler's note: The repealed section pertained to applicability and repeal of MCL 600.3205a to 600.3205d.

600.3206 Repealed. 2014, Act 125, Eff. June 19, 2014.

Compiler's note: The repealed section pertained to loss mitigation procedures occurring before mortgage foreclosure.

600.3208 Notice of foreclosure; publication; posting.

Sec. 3208. Notice that the mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, shall be given by publishing the same for 4 successive weeks at least once in each week, in a newspaper published in the county where the premises included in the mortgage and intended to be sold, or some part of them, are situated. If no newspaper is published in the county, the notice shall be published in a newspaper published in an adjacent county. In every case within 15 days after the first publication of the notice, a true copy shall be posted in a conspicuous place upon any part of the premises described in the notice.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1971, Act 104, Eff. Mar. 30, 1972.

600.3212 Notice of foreclosure by advertisement; contents.

Sec. 3212. (1) A notice of foreclosure by advertisement must include all of the following:

- (a) The names of the mortgagor, the original mortgagee, and the foreclosing assignee, if any.
 - (b) The date of the mortgage and the date the mortgage was recorded.
 - (c) The amount claimed to be due on the mortgage on the date of the notice.
 - (d) A description of the mortgaged premises that substantially conforms with the description contained in the mortgage.
 - (e) A description of the property by giving its street address, if any. The validity of the notice and the validity of any eventual sale under this chapter are not affected by the fact that the street address in the notice is erroneous or that the street address is omitted.
 - (f) For a mortgage executed after December 31, 1964, the length of the redemption period as determined under section 3240.
 - (g) A statement that if the property is sold at a foreclosure sale under this chapter, under section 3278 the borrower will be held responsible to the person who buys the property at the mortgage foreclosure sale or to the mortgage holder for damaging the property during the redemption period.
 - (h) The name, address, and telephone number of the attorney for the party foreclosing the mortgage.
 - (i) For a residential mortgage, a statement in the following form: "Attention homeowner: If you are a military service member on active duty, if your period of active duty has concluded less than 90 days ago, or if you have been ordered to active duty, please contact the attorney for the party foreclosing the mortgage at the telephone number stated in this notice."
 - (j) A statement in the following form: "Notice of foreclosure by advertisement. Notice is given under section 3212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3212, that the following mortgage will be foreclosed by a sale of the mortgaged premises, or some part of them, at a public auction sale to the highest bidder for cash or cashier's check at the place of holding the circuit court in _____ County, starting promptly at (time), on (date). The amount due on the mortgage may be greater on the day of the sale. Placing the highest bid at the sale does not automatically entitle the purchaser to free and clear ownership of the property. A potential purchaser is encouraged to contact the county register of deeds office or a title insurance company, either of which may charge a fee for this information."
- (2) The party foreclosing the mortgage shall not publish a notice of foreclosure under this chapter in a newspaper in which the party foreclosing, or its agent, has a majority ownership interest.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 102, Eff. Aug. 28, 1964;—Am. 1994, Act 397, Imd. Eff. Dec. 29, 1994;—Am. 2004, Act 186, Imd. Eff. July 1, 2004;—Am. 2011, Act 301, Imd. Eff. Dec. 22, 2011;—Am. 2019, Act 142, Eff. Jan. 11, 2020.

Compiler's note: Enacting section 1 of Act 301 of 2011 provides:

"Enacting section 1. Sections 3204(4), 3205, and 3212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3204, 600.3205, and 600.3212, as amended by this amendatory act, and section 3278 of the revised judicature act of 1961, 1961 PA 236, as added by this amendatory act, apply to foreclosure proceedings in which the first notice under section 3205a of the revised judicature act of 1961, 1961 PA 236, MCL 600.3205a, is mailed to the mortgagor on or after February 1, 2012."

600.3216 Sale; time and place.

Sec. 3216. The sale shall be at public sale, between the hour of 9 o'clock in the forenoon and 4 o'clock in the afternoon, at the place of holding the circuit court within the county in which the premises to be sold, or some part of them, are situated, and shall be made by the person appointed for that purpose in the mortgage, or by the sheriff, undersheriff, or a deputy sheriff of the county, to the highest bidder.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3220 Sale; adjournment; notice; posting; publication.

Sec. 3220. Such sale may be adjourned from time to time, by the sheriff or other officer or person appointed to make such sale at the request of the party in whose name the notice of sale is published by

posting a notice of such adjournment before or at the time of and at the place where said sale is to be made, and if any adjournment be for more than 1 week at one time, the notice thereof, appended to the original notice of sale, shall also be published in the newspaper in which the original notice was published, the first publication to be within 10 days of the date from which the sale was adjourned and thereafter once in each full secular week during the time for which such sale shall be adjourned. No oral announcement of any adjournment shall be necessary.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3224 Sale of distinct parcels.

Sec. 3224. If the mortgaged premises consist of distinct farms, tracts, or lots not occupied as 1 parcel, they shall be sold separately, and no more farms, tracts, or lots shall be sold than shall be necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and the cost and expenses allowed by law but if distinct lots be occupied as 1 parcel, they may in such case be sold together.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3228 Sale; purchase by mortgagee or assigns.

Sec. 3228. The mortgagee, his assigns, or his or their legal representatives, may, fairly and in good faith, purchase the premises so advertised, or any part thereof, at such sale.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3232 Deed of sale; endorsement; deposit with register; recording; entry upon redemption.

Sec. 3232. The officer or person making the sale shall forthwith execute, acknowledge, and deliver, to each purchaser a deed of the premises bid off by him; and if the lands are situated in several counties he shall make separate deeds of the lands in each county, and specify therein the precise amounts for which each parcel of land therein described was sold. And he shall endorse upon each deed the time when the same will become operative in case the premises are not redeemed according to law. Such deed or deeds shall, as soon as practicable, and within 20 days after such sale, be deposited with the register of deeds of the county in which the land therein described is situated, and the register shall endorse thereon the time the same was received, and for the better preservation thereof, shall record the same at length in a book to be provided in his office for that purpose; and shall index the same in the regular index of deeds, and the fee for recording the same shall be included among the other costs and expenses allowed by law. In case such premises shall be redeemed, the register of deeds shall, at the time of destroying such deed, as provided in section 3244 of this chapter, write on the face of such record the word "Redeemed", stating at what date such entry is made, and signing such entry with his official signature.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3236 Deed of sale; effect upon failure to redeem; prior liens.

Sec. 3236. Unless the premises described in such deed shall be redeemed within the time limited for such redemption as hereinafter provided, such deed shall thereupon become operative, and shall vest in the grantee therein named, his heirs or assigns, all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage, or at any time thereafter, except as to any parcel or parcels which may have been redeemed and canceled, as hereinafter provided; and the record thereof shall thereafter, for all purposes be deemed a valid record of said deed without being re-recorded, but no person having any valid subsisting lien upon the mortgaged premises, or any part thereof, created before the lien of such mortgage took effect, shall be prejudiced by any such sale, nor shall his rights or interests be in any way affected thereby.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3237 Interior inspection during redemption period; notice; contents; methods for achieving actual notice.

Sec. 3237. (1) After a foreclosure sale under this chapter, if the purchaser at the sale intends to conduct an interior inspection of the property under section 3238 during the redemption period, the purchaser shall provide an initial notice to the mortgagor and any other person that has possession of the property in writing that contains all of the following:

- (a) The identity of the purchaser.
- (b) The residence or business address, mailing address, telephone number, and, if applicable, electronic mail address at which the purchaser may be contacted.
- (c) The date of the sale, the amount of the sale, and the estimated date the redemption period expires.

- (d) The details of the purchaser's rights of inspection under section 3238.
- (e) One or more alternative methods for surrendering control of the property under section 3278.
- (f) A statement that if the mortgagor intends to vacate the property at any time after the sale, he or she must notify the purchaser as required by section 3278, and that if the mortgagor does not do so, he or she may risk heightened liability for damage to the property.

(2) The purchaser shall provide notice under this section by certified mail, physical posting on the property, or any other method reasonably calculated to achieve actual notice.

History: Add. 2014, Act 125, Eff. June 19, 2014.

600.3238 Interior and exterior inspection of property; notice; commencement of summary proceedings by purchaser for possession of property; judgment; "damage" defined.

Sec. 3238. (1) After a foreclosure sale under this chapter and providing notice under section 3237, the purchaser at the sale may inspect the property, including the exterior and interior of any structures on the property, as provided in this section.

(2) The purchaser may conduct an initial inspection of the interior of any structures on the property. In addition to the notice provided in section 3237, the purchaser shall provide notice to the mortgagor by certified mail, physical posting on the property, or in any manner reasonably calculated to achieve actual notice of the purchaser's intent to inspect the property at least 72 hours in advance and shall set the time of the inspection at a reasonable time of day, in coordination with the mortgagor if possible.

(3) The purchaser may conduct any number of exterior inspections of the property and any structures on the property during the redemption period.

(4) After the initial inspection described in subsection (2), the purchaser may request by certified mail, physical posting on the property, or in any manner reasonably calculated to achieve actual notice that the mortgagor provide information on or evidence of the condition of the interior of any structures on the property, in any form reasonably necessary to assess the condition of the property. The purchaser shall not make such a request more than once in a calendar month or more often than 3 times in any 6 months of the redemption period, unless the purchaser has reasonable cause to believe that damage to the property is imminent or has occurred.

(5) If the mortgagor refuses to provide information or evidence requested under subsection (4) within 5 business days after receipt of the request, or if the information or evidence provided reveals that damage has occurred or is imminent, the purchaser may schedule an inspection of the interior of any structures on the property. For an inspection under this subsection, the purchaser shall provide notice as described in subsection (2) of the purchaser's intent to inspect the property at least 72 hours in advance, and shall set the time of the inspection at a reasonable time of day, in coordination with the mortgagor if possible. If the mortgagor provides the information or evidence requested under subsection (4) and damage has not occurred or does not appear imminent, the purchaser shall not conduct an interior inspection under this subsection related to that request.

(6) If an inspection under this section is unreasonably refused or if damage to the property is imminent or has occurred, the purchaser may immediately commence summary proceedings for possession of the property under chapter 57 or file an action for any other relief necessary to protect the property from damage. If a purchaser commences an action for possession or any other relief under this section, the purchaser may also name as a party to the action any person who may redeem the property under section 3240.

(7) Before commencing summary proceedings for possession of the property under this section, the purchaser shall provide notice to the mortgagor by certified mail, physical posting on the property, or in any other manner reasonably calculated to achieve actual notice, that the purchaser intends to commence summary proceedings if the damage or condition causing reasonable belief that damage is imminent is not repaired or corrected within 7 days after receipt of the notice.

(8) A purchaser shall not commence summary proceedings for possession under this section if either of the following conditions exists:

(a) The damage or condition causing reasonable belief that damage is imminent is repaired or corrected within the 7-day period described in the notice of intent under subsection (7).

(b) The mortgagor and the purchaser agree on procedures and a timeline to repair the damage or correct the condition causing reasonable belief that damage is imminent and the procedures are completed by the original date agreed to by the mortgagor and purchaser or by an extended date that is agreed to by the mortgagor and purchaser.

(9) In determining whether to enter judgment for possession in favor of the purchaser in summary proceedings under this section, the judge shall consider the totality of the circumstances surrounding the damage or condition that threatens imminent damage, including, but not limited to, all of the following:

- (a) The cause of the damage or condition.
 - (b) Whether the mortgagor has taken appropriate steps to repair the damage or correct the condition and to secure the property from further damage.
 - (c) Whether the mortgagor has promptly contacted the purchaser and any property insurer regarding the damage or condition.
 - (d) Whether any delay in repairs or corrections is affirmatively caused by the purchaser or the property insurer.
- (10) If a judgment for possession is entered in favor of the purchaser in an action under chapter 57 as described in subsection (6), the right of redemption under section 3240 is extinguished and title to the property vests in the purchaser as provided in section 3236 as to all persons against whom judgment was entered.
- (11) As used in this section, "damage" includes, but is not limited to, any of the following:
- (a) The failure to comply with local ordinances regarding maintenance of the property or blight prevention, if the failure is the subject of enforcement action by the appropriate governmental unit.
 - (b) An exterior condition that presents a significant risk to the security of the property or significant risk of criminal activity occurring on the property.
 - (c) Stripped plumbing, electrical wiring, siding, or other metal material.
 - (d) Missing or destroyed structural aspects or fixtures, including, but not limited to, a furnace, water heater, air-conditioning unit, countertop, cabinetry, flooring, wall, ceiling, roofing, toilet, or any other fixtures. As used in this subdivision, "fixtures" means that term as defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.
 - (e) Deterioration below, or being in imminent danger of deteriorating below, community standards for public safety and sanitation that are established by statute or local ordinance.
 - (f) A condition that would justify recovery of the premises under section 5714(1)(d).

History: Add. 2014, Act 125, Eff. June 19, 2014;—Am. 2014, Act 431, Imd. Eff. Dec. 30, 2014.

600.3240 Redemption of premises; payment; amount; redemption of senior lien; defenses; recordation; redemption periods; amount stated in recorded affidavit; county having population of more than 750,000 and less than 1,500,000; limitation on amount charged by register of deeds; use of property for agricultural purposes; presumption.

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.

(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), 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 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 of not more than \$250.00 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, the property may be redeemed only

on payment of the amount 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 is 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 subsection 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.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 15, Eff. Aug. 28, 1964;—Am. 1964, Act 102, Eff. Aug. 28, 1964;—Am. 1971, Act 104, Eff. Mar. 30, 1972;—Am. 1972, Act 377, Eff. Mar. 30, 1973;—Am. 1986, Act 94, Imd. Eff. May 7, 1986;—Am. 1994,

Act 397, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 214, Imd. Eff. May 28, 1996;—Am. 2000, Act 380, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 538, Eff. Mar. 30, 2005;—Am. 2006, Act 579, Imd. Eff. Jan. 3, 2007;—Am. 2010, Act 303, Imd. Eff. Dec. 17, 2010;—Am. 2011, Act 303, Imd. Eff. Dec. 22, 2011;—Am. 2013, Act 104, Eff. Jan. 10, 2014;—Am. 2014, Act 125, Eff. June 19, 2014;—Am. 2014, Act 431, Imd. Eff. Dec. 30, 2014;—Am. 2019, Act 130, Imd. Eff. Nov. 21, 2019.

Compiler's note: Enacting section 1 of Act 303 of 2011 provides:

"Enacting section 1. This amendatory act applies to property sold at a foreclosure sale held under section 3216 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3216, on or after February 1, 2012."

600.3241 Abandonment of premises; presumption.

Sec. 3241. For purposes of this chapter, abandonment of premises shall be conclusively presumed upon satisfaction of the following requirements:

(a) Within 30 days before the commencement of foreclosure proceedings hereunder, the mortgagee mails by certified mail, return receipt requested, to the mortgagor's last known address a notice that the subject mortgage is in default and that the mortgagee intends to foreclose it.

(b) Before commencement of foreclosure proceedings hereunder, the mortgagee executes and causes to be duly recorded in the county where the premises are located an affidavit which states:

(i) That the mortgagee has mailed to the last known address of the mortgagor a notice of default and intention to foreclose pursuant to subdivision (a) and that the mortgagor has not responded to the notice.

(ii) That the mortgagee has made a personal inspection of the mortgaged premises and that the inspection does not reveal that the mortgagor or persons claiming under him are presently occupying or intend to occupy the premises.

(c) The mortgagee mails by certified mail, return receipt requested, a copy of the affidavit recorded pursuant to subdivision (b) to the mortgagor at his last known address before commencement of foreclosure proceedings.

(d) The mortgagor, his heirs, executor, administrator, or any person lawfully claiming from, or under 1 of them, before expiration of the period of redemption, does not give a written affidavit to the mortgagee and record a duplicate original in the county where the premises are located stating that the mortgagor or person claiming under him is occupying or intends to occupy the premises.

History: Add. 1971, Act 104, Eff. Mar. 30, 1972.

600.3241a Abandonment of premises; residential property not exceeding 4 units; presumption.

Sec. 3241a. For purposes of this chapter, if foreclosure proceedings have been commenced under this chapter against residential property not exceeding 4 units, there is a conclusive presumption that the premises have been abandoned if all of the following requirements are satisfied before the end of the redemption period:

(a) The mortgagee has made a personal inspection of the mortgaged premises and the inspection does not reveal that the mortgagor or persons claiming under the mortgagor are presently occupying or will occupy the premises.

(b) The mortgagee has posted a notice at the time of making the personal inspection and has mailed by certified mail, return receipt requested, a notice to the mortgagor at the mortgagor's last known address, which notices state that the mortgagee considers the premises abandoned and that the mortgagor will lose all rights of ownership 30 days after the foreclosure sale or when the time to provide the notice required by subdivision (c) expires, whichever is later, unless the mortgagor; the mortgagor's heirs or personal representative; or a person lawfully claiming from or under 1 of them provides the notice required by subdivision (c).

(c) Within 15 days after the notice required by subdivision (b) was posted and mailed, the mortgagor; the mortgagor's heirs or personal representative; or a person lawfully claiming from or under 1 of them has not given written notice by first-class mail to the mortgagee at an address provided by the mortgagee in the notices required by subdivision (b) stating that the premises are not abandoned.

History: Add. 1986, Act 94, Imd. Eff. May 7, 1986;—Am. 2006, Act 579, Imd. Eff. Jan. 3, 2007;—Am. 2014, Act 431, Imd. Eff. Dec. 30, 2014.

600.3244 Redemption; destruction of deed; record.

Sec. 3244. Upon the payment of the entire sum bid at such sale, and interest thereon, and the fee of \$5.00 mentioned in section 3240 to the register in whose office the deed therefor shall have been deposited, or upon delivering to such register a certificate, signed and acknowledged by the person entitled to receive the same, and certified by some officer authorized to take the acknowledgment of deeds, setting forth that such sum, with interest, has been paid to such person, and upon paying to such register a fee of 25 cents, such register shall thereupon destroy such deed, and shall enter in the margin of the record of such mortgage, a

memorandum that such mortgage is satisfied; or in case the premises shall have been sold in parcels, and 1 or more of said parcels shall have been redeemed, as hereinbefore provided, it shall then be the duty of the register to enter upon the face of said sheriff's deed, and the record thereof, a memorandum that the same is inoperative as to the parcel or parcels so redeemed, and to enter in the margin of the record of such mortgage a memorandum that the same is satisfied as to the parcel or parcels so redeemed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, Act 240, Eff. Sept. 6, 1963.

600.3248 Redemption; refusal to certify payment; civil liability.

Sec. 3248. If any person entitled to receive such redemption moneys, shall, upon payment or tender thereof to him, refuse to make and acknowledge such certificate of payment, he shall be liable to the person aggrieved thereby, in the sum of \$100.00 damages, over and above all the actual damages sustained, to be recovered in a civil action, except that no damages of any kind may be recovered from any register of deeds who shall refuse to accept tender of payment after the time indorsed upon the deed when the same shall become operative in case the premises are not redeemed, and the officer or person making the sale shall be entitled to rely conclusively upon the recital of the length of the redemption period contained in the notice of foreclosure in making such indorsement upon the deed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 102, Eff. Aug. 28, 1964.

600.3252 Disposition of surplus money.

Sec. 3252. If after any sale of real estate, made as herein prescribed, there shall remain in the hands of the officer or other person making the sale, any surplus money after satisfying the mortgage on which the real estate was sold, and payment of the costs and expenses of the foreclosure and sale, the surplus shall be paid over by the officer or other person on demand, to the mortgagor, his legal representatives or assigns, unless at the time of the sale, or before the surplus shall be so paid over, some claimant or claimants, shall file with the person so making the sale, a claim or claims, in writing, duly verified by the oath of the claimant, his agent, or attorney, that the claimant has a subsequent mortgage or lien encumbering the real estate, or some part thereof, and stating the amount thereof unpaid, setting forth the facts and nature of the same, in which case the person so making the sale, shall forthwith upon receiving the claim, pay the surplus to, and file the written claim with the clerk of the circuit court of the county in which the sale is so made; and thereupon any person or persons interested in the surplus, may apply to the court for an order to take proofs of the facts and circumstances contained in the claim or claims so filed. Thereafter, the court shall summon the claimant or claimants, party, or parties interested in the surplus, to appear before him at a time and place to be by him named, and attend the taking of the proof, and the claimant or claimants or party interested who shall appear may examine witnesses and produce such proof as they or either of them may see fit, and the court shall thereupon make an order in the premises directing the disposition of the surplus moneys or payment thereof in accordance with the rights of the claimant or claimants or persons interested.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

600.3256 Affidavits to perpetuate evidence of sale; endorsement or annexation to one instrument.

Sec. 3256. (1) Any party desiring to perpetuate the evidence of any sale made in pursuance of the provisions of this chapter, may procure:

(a) An affidavit of the publication of the notice of sale, and of any notice of postponement, to be made by the publisher of the newspaper in which the same was inserted, or by some person in his employ knowing the facts; and

(b) An affidavit of the fact of any sale pursuant to such notice, to be made by the person who acted as auctioneer at the sale, stating the time and place at which the same took place, the sum bid, and the name of the purchaser; and

(c) An affidavit setting forth the time, manner and place of posting a copy of such notice of sale to be made by the person posting the same.

(2) Where any or all of such affidavits are endorsed upon or annexed to 1 instrument, a single copy of the notice of sale, and a single copy of any notice of postponement, shall be sufficient to annex to such instrument, and reference made in any of such affidavits to copy of notice of sale and to copy of any notice of postponement of sale as annexed or attached shall be deemed to refer to such single copy of notice of sale and to such single copy of any notice of postponement.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3260 Affidavits to perpetuate evidence of sale; persons to take.

Sec. 3260. The affidavits specified in section 3256 may be taken and certified by any officer authorized by law to administer oaths.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3264 Affidavits to perpetuate evidence of sale; record; evidence.

Sec. 3264. Such affidavits shall be recorded at length by the register of deeds of the county in which the premises are situated, in a book kept for the record of deeds; and such original affidavits, the record thereof, and certified copies of such record, shall be presumptive evidence of the facts therein contained.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3268 Marginal notes to record of mortgages.

Sec. 3268. A note referring to the page and book where the evidence of any sale having been made under a mortgage, is recorded, shall be made by the register recording such evidence, in the margin of the record of such mortgage, if such record be in his office.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3272 Repealed. 2004, Act 538, Eff. Mar. 30, 2005.

Compiler's note: The repealed section pertained to notice to purchase of entire bid payment.

600.3276 Posting of notices; mortgagee's right of entry.

Sec. 3276. Incident to the foreclosure of a mortgage pursuant to the provisions of this chapter, the mortgagee, his agents and assigns shall have a right to enter upon the mortgaged premises for the purpose of posting or serving the notices required by this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3278 Physical injury to property; liability; intent to move from property; damages; joinder with action for possession of premises.

Sec. 3278. (1) During the period of redemption following a foreclosure sale of property under this chapter, the mortgagor and any other person liable on the mortgage is liable to the purchaser at the sale, or the mortgagee, payee, or other holder of the obligation secured by the mortgage if the mortgagee, payee, or other holder takes or has taken title to the property at the sale either directly or indirectly, for any physical injury to the property beyond wear and tear resulting from the normal use of the property if the physical injury is caused by or at the direction of the mortgagor or other person liable on the mortgage.

(2) If the purchaser has provided notice to the mortgagor under section 3237 and the mortgagor intends to move from the property at any time after the foreclosure sale of property under this chapter, the mortgagor shall inform the purchaser by electronic mail, certified mail, or any other method reasonably calculated to achieve actual notice, at least 10 days before vacating the property so that the property may be secured. If the purchaser has provided notice to the mortgagor under section 3237, both of the following apply:

(a) There is a rebuttable presumption that the mortgagor is liable to the purchaser at the foreclosure sale for all damage to the property that occurs before the expiration of the redemption period if the mortgagor does any of the following:

(i) Subject to section 3238, fails to consent to an initial inspection, comply with a request for information on the condition of the property, or consent to an inspection of the property after the initial inspection, if requested.

(ii) Fails to provide timely notice to the purchaser under this subsection.

(iii) Fails to surrender control of the property in a manner that reasonably provides the purchaser with the opportunity to secure it.

(b) There is a rebuttable presumption that the mortgagor is not liable for damage to the property that occurs after the mortgagor surrenders control of the property if the mortgagor does all of the following:

(i) Subject to section 3238, consents to an initial inspection, complies with a request for information on the condition of the property, and consents to inspections of the property after the initial inspection, if requested.

(ii) Provides timely notice to the purchaser under this subsection.

(iii) Surrenders control of the property in a manner that reasonably provides the purchaser with the opportunity to secure it.

(3) For purposes of subsection (2)(a)(iii) and (b)(iii), the purchaser shall designate 1 or more alternative methods for surrender of control of the property.

(4) In an action for damages under this section, the amount of damages may be determined by any measure of damages applicable under law, including, but not limited to, the method provided under section 5739(2).

(5) An action for damages under this section may be joined with an action for possession of the premises

under chapter 57.

History: Add. 2011, Act 301, Imd. Eff. Dec. 22, 2011;—Am. 2014, Act 125, Eff. June 19, 2014.

Compiler's note: Enacting section 1 of Act 301 of 2011 provides:

"Enacting section 1. Sections 3204(4), 3205, and 3212 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.3204, 600.3205, and 600.3212, as amended by this amendatory act, and section 3278 of the revised judiciary act of 1961, 1961 PA 236, as added by this amendatory act, apply to foreclosure proceedings in which the first notice under section 3205a of the revised judiciary act of 1961, 1961 PA 236, MCL 600.3205a, is mailed to the mortgagor on or after February 1, 2012."

600.3280 Foreclosure by advertisement; deficiency; defenses.

Sec. 3280. When, in the foreclosure of a mortgage by advertisement, any sale of real property has been made after February 11, 1933, or shall be hereafter made by a mortgagee, trustee, or other person authorized to make the same pursuant to the power of sale contained therein, at which the mortgagee, payee or other holder of the obligation thereby secured has become or becomes the purchaser, or takes or has taken title thereto at such sale either directly or indirectly, and thereafter such mortgagee, payee or other holder of the secured obligation, as aforesaid, shall sue for and undertake to recover a deficiency judgment against the mortgagor, trustor or other maker of any such obligation, or any other person liable thereon, it shall be competent and lawful for the defendant against whom such deficiency judgment is sought to allege and show as matter of defense and set-off to the extent only of the amount of the plaintiff's claim, that the property sold was fairly worth the amount of the debt secured by it at the time and place of sale or that the amount bid was substantially less than its true value, and such showing shall constitute a defense to such action and shall defeat the deficiency judgment against him, either in whole or in part to such extent. This section shall not affect nor apply to the rights of other purchasers or of innocent third parties, nor shall it be held to affect or defeat the negotiability of any note, bond or other obligation secured by such mortgage, deed of trust or other instrument. Such proceedings, as aforesaid, shall in no way affect the title of the purchaser to the lands acquired by such purchase. This section shall not apply to foreclosure sales made pursuant to an order or decree of court nor to any judgment sought or rendered in any foreclosure suit nor to any chancery sale heretofore or hereafter made and confirmed.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.3285 Validity of foreclosure; violation of subsection (2); penalty; filing of action by attorney general; applicability of section to mortgage entered into before effective date of act; definitions.

Sec. 3285. (1) If a mortgagor is a service member, either the mortgagor entered into the mortgage before becoming a service member or the mortgagor is deployed in overseas service, and, during the service member's period of military service or within 6 months after the end of the period of military service, the mortgage given by the service member is foreclosed by advertisement or the mortgaged real estate sold under a power of sale, the foreclosure or sale is invalid unless the foreclosure or sale was ordered by a court.

(2) A person shall not, individually or acting through another person, foreclose, sell, or attempt to foreclose or sell real estate with the knowledge that the foreclosure or sale is invalid under this section. A person who violates this subsection is subject to a civil fine of \$2,000.00.

(3) The attorney general may file an action in the circuit court to collect a civil fine under this section. A civil fine collected under this section shall be deposited in the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.

(4) This section does not apply to a mortgage entered into before the effective date of the amendatory act that added this section.

(5) As used in this section:

(a) "Active duty" means full-time duty in the active military service of the United States. Active duty includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. Active duty does not include full-time national guard duty.

(b) "Military service" means any of the following:

(i) Active duty.

(ii) If the service member is a member of the national guard, service under a call to active service authorized by the president or secretary of defense of the United States for a period of more than 30 consecutive days under 32 USC 502(f) to respond to a national emergency declared by the president and supported by federal money.

(iii) A period during which the service member is absent from active duty because of sickness, wounds, leave, or other lawful cause.

(c) "Period of military service" means the period beginning on the date on which the service member enters military service and ending on the date on which the service member is released from military service or dies while in military service.

(d) "Service member" means an individual who is in military service and is a member of the armed services or reserve forces of the United States or a member of the Michigan national guard.

History: Add. 2008, Act 138, Imd. Eff. May 21, 2008.