

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

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 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."