

Act No. 30
Public Acts of 2009
Approved by the Governor
May 20, 2009
Filed with the Secretary of State
May 21, 2009
EFFECTIVE DATE: July 5, 2009

STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009

Introduced by Reps. Coulouris, Roy Schmidt, Simpson, Robert Jones, Cushingberry, Slavens, Lisa Brown, Roberts, Corriveau, Scripps, Kennedy, Huckleberry, Haase, Haugh, Liss, Tlaib, Segal, Switalski, Bledsoe, Nerat, Smith, Ebli, Barnett, Melton, Nathan, Miller and Leland

ENROLLED HOUSE BILL No. 4454

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding sections 3205a and 3205b.

The People of the State of Michigan enact:

Sec. 3205a. (1) Subject to subsection (6), before proceeding with a sale under this chapter of property claimed as a principal residence exempt from tax under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, the foreclosing party shall serve a written notice on the borrower that contains all of the following information:

(a) The reasons that the mortgage loan is in default and the amount that is due and owing under the mortgage loan.

(b) The names, addresses, and telephone numbers of the mortgage holder, the mortgage servicer, or any agent designated by the mortgage holder or mortgage servicer.

(c) A designation of 1 of the persons named in subdivision (b) as the person to contact and that has the authority to make agreements under sections 3205b and 3205c.

(d) That enclosed with the notice is a list of housing counselors prepared by the Michigan state housing development authority and that within 14 days after the notice is sent, the borrower may request a meeting with the person designated under subdivision (c) to attempt to work out a modification of the mortgage loan to avoid foreclosure and that the borrower may also request a housing counselor to attend the meeting.

(e) That if the borrower requests a meeting with the person designated under subdivision (c), foreclosure proceedings will not be commenced until 90 days after the date the notice is mailed to the borrower.

(f) That if the borrower and the person designated under subdivision (c) reach an agreement to modify the mortgage loan, the mortgage will not be foreclosed if the borrower abides by the terms of the agreement.

(g) That if the borrower and the person designated under subdivision (c) do not agree to modify the mortgage loan but it is determined that the borrower meets criteria for a modification under section 3205c(1) and foreclosure under this chapter is not allowed under section 3205c(7), the foreclosure of the mortgage will proceed before a judge instead of by advertisement.

(h) That the borrower has the right to contact an attorney, and the telephone numbers of the state bar of Michigan's lawyer referral service and of a local legal aid office serving the area in which the property is situated.

(2) A person who serves a notice under subsection (1) shall enclose with the notice a list prepared by the Michigan state housing development authority under section 3205d of the names, addresses, and telephone numbers of housing counselors approved by the United States department of housing and urban development or the Michigan state housing development authority.

(3) A person shall serve a notice under subsection (1) by mailing the notice by regular first-class mail and by certified mail, return receipt requested, with delivery restricted to the borrower, both sent to the borrower's last known address.

(4) Within 7 days after mailing a notice under subsection (3), the person who mails the notice shall publish a notice informing the borrower of the borrower's rights under this section. The person shall publish the information 1 time in the same manner as is required for publishing a notice of foreclosure sale under section 3208. The notice under this subsection shall contain all of the following information:

(a) The borrower's name and the property address.

(b) A statement that informs the borrower of all of the following:

(i) That the borrower has the right to request a meeting with the mortgage holder or mortgage servicer.

(ii) The name of the person designated under subsection (1)(c) as the person to contact and that has the authority to make agreements under sections 3205b and 3205c.

(iii) That the borrower may contact a housing counselor by visiting the Michigan state housing development authority's website or by calling the Michigan state housing development authority.

(iv) The website address and telephone number of the Michigan state housing development authority.

(v) That if the borrower requests a meeting with the person designated under subsection (1)(c), foreclosure proceedings will not be commenced until 90 days after the date notice is mailed to the borrower.

(vi) That if the borrower and the person designated under subsection (1)(c) reach an agreement to modify the mortgage loan, the mortgage will not be foreclosed if the borrower abides by the terms of the agreement.

(vii) That the borrower has the right to contact an attorney, and the telephone number of the state bar of Michigan's lawyer referral service.

(5) A borrower on whom notice is required to be served under this section who is not served and against whom foreclosure proceedings are commenced under this chapter may bring an action in the circuit court for the county in which the mortgaged property is situated to enjoin the foreclosure.

(6) If the borrower and the person designated under subsection (1)(c) have previously agreed to modify the mortgage loan under section 3205b, this section and sections 3205b and 3205c do not apply unless the borrower has complied with the terms of the mortgage loan, as modified, for 1 year after the date of the modification.

Sec. 3205b. (1) A borrower who wishes to participate in negotiations to attempt to work out a modification of a mortgage loan shall contact a housing counselor from the list provided under section 3205a within 14 days after the list is mailed to the borrower. Within 10 days after being contacted by a borrower, a housing counselor shall inform the person designated under section 3205a(1)(c) in writing of the borrower's request.

(2) After being informed of a borrower's request to meet under this section, the person designated under section 3205a(1)(c) may request the borrower to provide any documents that are necessary to determine whether the borrower is eligible for a modification under section 3205c. The borrower shall give the person designated under section 3205a(1)(c) copies of any documents requested under this section.

(3) A housing counselor contacted by a borrower under this section shall schedule a meeting between the borrower and the person designated under section 3205a(1)(c) to attempt to work out a modification of the mortgage loan. At the request of the borrower, the housing counselor will attend the meeting. The meeting and any later meetings shall be held at a time and place that is convenient to all parties, or in the county where the property is situated.

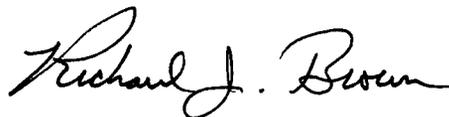
Enacting section 1. This amendatory act takes effect 45 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

(a) House Bill No. 4453.

(b) House Bill No. 4455.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor