

Legislative Analysis



FORECLOSURE BY ADVERTISEMENT: AMENDMENTS

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House Bills 5020 and 5021

Sponsor: Rep. Jeff Farrington

Committee: Banking and Financial Services

Complete to 10-17-11

A SUMMARY OF HOUSE BILLS 5020 AND 5021 AS INTRODUCED 9-28-11

The bills would amend Chapter 32 of the Revised Judicature Act, which governs the foreclosure of mortgages by advertisement (rather than by the commencement of court proceedings). Foreclosure by advertisement requires the mortgagee (e.g., a bank) to publish specified notices in a newspaper and post them on the premises. If the property is sold at a foreclosure sale, the mortgagor (or certain other parties) may recover, or "redeem," the property by paying the redemption amount and any required fees within a specified period.

House Bill 5020 would amend Section 3204 of the Revised Judicature Act to specify that if the party foreclosing a mortgage by advertisement is not the original mortgagee, a chain of title containing each assignment of the mortgage, including the most recent assignment, would need to be recorded with the register of deeds before proceedings to foreclose the mortgage are commenced.

The bill would also amend Section 3212 of the act so that every notice of foreclosure by advertisement would have to include (a) the names of the mortgagor, the original mortgage, and each assignee, including the foreclosing assignee if the mortgage has been assigned; (b) the date of the mortgage, the date the mortgage was recorded, the date of each assignment, and the date each assignment 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; and (e) the length of the redemption period. The underlined bolded language is the new language to be added by the bill.

House Bill 5021 would amend Section 3240 of the RJA. That section establishes the redemption periods for property sold at a foreclosure sale under Chapter 32. Under that section, a purchaser of foreclosed property is required to attach an affidavit with the deed to the property that states the exact amount required to redeem the property. House Bill 5021 would amend the section to require the affidavit to be delivered to the register of deeds not later 15 days before the expiration of the redemption period.

MCL 3204 & 3212 (HB 5020); MCL 600.3240 (HB 5021)

FISCAL IMPACT:

House Bills 5020 and 5021 will not have a fiscal impact on the state budget and would have an indeterminate fiscal impact on local Register of Deeds offices since chains of

titles and redemption affidavits would be required to be recorded by the local Register of Deeds. Local Register of Deeds offices are permitted to and generally do establish fees for services provided. These fees are expected to cover the cost of services required by the proposed amendments.

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