

**SUBSTITUTE FOR
HOUSE BILL NO. 4544**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 3240 (MCL 600.3240), as amended by 2010 PA 303.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3240. (1) A purchaser's deed is void if the mortgagor,
2 the mortgagor's heirs or personal representative, or any person
3 lawfully claiming under the mortgagor or the mortgagor's heirs or
4 personal representative redeems the entire premises sold by paying
5 the amount required under subsection (2) and any amount required
6 under subsection (4), within the applicable time limit prescribed
7 in subsections (7) to ~~(12)~~, **(13)**, to the purchaser or the
8 purchaser's personal representative or assigns, or to the register
9 of deeds in whose office the deed is deposited for the benefit of

1 the purchaser.

2 (2) The amount required to be paid under subsection (1) is the
3 sum that was bid for the entire premises sold, with interest from
4 the date of the sale at the interest rate provided for by the
5 mortgage, together with the amount of the sheriff's fee paid by the
6 purchaser under section 2558(2)(q), and an additional \$5.00 as a
7 fee for the care and custody of the redemption money if the payment
8 is made to the register of deeds. Except as provided in subsection
9 ~~(14)~~, **(15)**, the register of deeds shall not determine the amount
10 necessary for redemption. The purchaser shall attach an affidavit
11 with the deed to be recorded under this section that states the
12 exact amount required to redeem the property under this subsection,
13 including any daily per diem amounts, and the date by which the
14 property must be redeemed shall be stated on the certificate of
15 sale. The purchaser may include in the affidavit the name of a
16 designee responsible on behalf of the purchaser to assist the
17 person redeeming the property in computing the exact amount
18 required to redeem the property. The designee may charge a fee as
19 stated in the affidavit and may be authorized by the purchaser to
20 receive redemption funds. The purchaser shall accept the amount
21 computed by the designee.

22 (3) If a distinct lot or parcel separately sold is redeemed,
23 leaving a portion of the premises unredeemed, the deed shall be
24 void only to the redeemed parcel or parcels.

25 (4) If, after the sale, the purchaser, the purchaser's heirs
26 or personal representative, or any person lawfully claiming under
27 the purchaser or the purchaser's heirs or personal representative

1 pays taxes assessed against the property, amounts necessary to
2 redeem senior liens from foreclosure, condominium assessments,
3 homeowner association assessments, community association
4 assessments, or premiums on an insurance policy covering any
5 buildings located on the property that under the terms of the
6 mortgage it would have been the duty of the mortgagor to pay if the
7 mortgage had not been foreclosed and that are necessary to keep the
8 policy in force until the expiration of the period of redemption,
9 redemption shall be made only upon payment of the sum specified in
10 subsection (2) plus the amounts specified in this subsection with
11 interest on the amounts specified in this subsection from the date
12 of the payment to the date of redemption at the interest rate
13 specified in the mortgage. This subsection does not apply unless
14 all of the following are filed with the register of deeds with whom
15 the deed is deposited:

16 (a) An affidavit by the purchaser or someone in his or her
17 behalf who has knowledge of the facts of the payment showing the
18 amount and items paid.

19 (b) The receipt or copy of the canceled check evidencing the
20 payment of the taxes, amounts necessary to redeem senior liens from
21 foreclosure, condominium assessments, homeowner association
22 assessments, community association assessments, or insurance
23 premiums.

24 (c) An affidavit of an insurance agent of the insurance
25 company stating that the payment was made and what portion of the
26 payment covers the premium for the period before the expiration of
27 the period of redemption.

1 (5) If the redemption payment in subsection (4) includes an
2 amount used to redeem a senior lien from a nonjudicial foreclosure,
3 the mortgagor shall have the same defenses against the purchaser
4 with respect to the amount used to redeem the senior lien as the
5 mortgagor would have had against the senior lien.

6 (6) The register of deeds shall indorse on the documents filed
7 under subsection (4) the time they are received. The register of
8 deeds shall record the affidavit of the purchaser only and shall
9 preserve in his or her files the recorded affidavit, receipts,
10 insurance receipts, and insurance agent's affidavit until
11 expiration of the period of redemption.

12 (7) For a mortgage executed on or after January 1, 1965, ~~en-OF~~
13 commercial or industrial property, or multifamily residential
14 property in excess of 4 units, the redemption period is 6 months
15 from the date of the sale.

16 (8) Subject to subsections (9) to ~~(11)~~, ~~(12)~~, for a mortgage
17 executed on or after January 1, 1965, ~~en-OF~~ residential property
18 not exceeding 4 units, ~~and not more than 3 acres in size,~~ if the
19 amount claimed to be due on the mortgage at the date of the notice
20 of foreclosure is more than 66-2/3% of the original indebtedness
21 secured by the mortgage, the redemption period is 6 months.

22 (9) Subject to subsection (10), for a mortgage ~~en-OF~~
23 residential property not exceeding 4 units, if the property is
24 abandoned as determined under section 3241, the redemption period
25 is 3 months.

26 (10) For a mortgage ~~en-OF~~ residential property not exceeding 4
27 units, if the amount claimed to be due on the mortgage at the date

1 of the notice of foreclosure is more than 66-2/3% of the original
2 indebtedness secured by the mortgage and the property is abandoned
3 as determined under section 3241, the redemption period is 1 month.

4 (11) If the property is abandoned as determined under section
5 3241a, the redemption period is 30 days or until the time to
6 provide the notice required by section 3241a(c) expires, whichever
7 is later.

8 (12) **FOR A MORTGAGE OF PROPERTY THAT IS USED FOR AGRICULTURAL**
9 **PURPOSES, THE REDEMPTION PERIOD IS 1 YEAR FROM THE DATE OF THE**
10 **SALE.**

11 (13) ~~(12)~~ If subsections (7) to ~~(11)~~ (12) do not apply, the
12 redemption period is 1 year from the date of the sale.

13 (14) ~~(13)~~ The amount stated in any affidavits recorded under
14 this section shall be the amount necessary to satisfy the
15 requirements for redemption under this section.

16 (15) ~~(14)~~ The register of deeds of a county having a
17 population of more than 750,000 and less than 1,500,000, at the
18 request of a person entitled to redeem the property under this
19 section, shall determine the amount necessary for redemption. In
20 determining the amount, the register of deeds shall consider only
21 the affidavits recorded under subsections (2) and (4). A county,
22 register of deeds, or employee of a county or register of deeds is
23 not liable for damages proximately caused by an incorrect
24 determination of an amount necessary for redemption under
25 subsection (2).

26 (16) ~~(15)~~ A register of deeds may charge not more than \$50.00
27 for determining the amount necessary for redemption under this

House Bill No. 4544 (H-3) as amended December 8, 2011
section.

(17) 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 SECTION SHALL BE FILED BEFORE THE EXPIRATION OF THE REDEMPTION PERIOD THAT WOULD APPLY IF THE PROPERTY IS DETERMINED NOT TO BE USED FOR AGRICULTURAL PURPOSES.

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.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) House Bill No. 4542.

(b) House Bill No. 4543.