

HOUSE BILL No. 5188

November 30, 2011, Introduced by Rep. Opsommer and referred to the Committee on Banking and Financial Services.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 3140 and 3240 (MCL 600.3140 and 600.3240), section 3140 as amended by 2004 PA 538 and section 3240 as amended by 2010 PA 303.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3140. (1) The mortgagor, the mortgagor's heirs,
 2 ~~executors, or administrators~~ **HEIR OR PERSONAL REPRESENTATIVE**, or
 3 any person lawfully claiming from or under the mortgagor or the
 4 mortgagor's heirs, ~~executors, or administrators~~ **HEIR OR PERSONAL**
 5 **REPRESENTATIVE** may redeem the entire premises sold **UNDER SECTION**
 6 **3125** by paying, within 6 months ~~from the time of~~ **AFTER** the sale, to
 7 the purchaser or the purchaser's ~~executors, administrators,~~
 8 **PERSONAL REPRESENTATIVE** or assigns, or to the register of deeds in
 9 whose office the deed of sale is deposited as provided in the court

1 rules ~~for~~ for the benefit of the purchaser, the ~~sum which~~ **AMOUNT THAT**
 2 was bid with interest from the date of the sale at the interest
 3 rate provided for by the mortgage.

4 (2) The vendee of a land contract, the vendee's ~~heirs,~~
 5 ~~executors, or administrators~~ **HEIR OR PERSONAL REPRESENTATIVE**, or
 6 any person lawfully claiming from or under the vendee or the
 7 vendee's ~~heirs, executors, or administrators~~ **HEIR OR PERSONAL**
 8 **REPRESENTATIVE** may redeem the entire premises sold **UNDER SECTION**
 9 **3125** within 6 months ~~from the time of~~ **AFTER** the sale by paying to
 10 the purchaser or the purchaser's ~~executors, administrators,~~
 11 **PERSONAL REPRESENTATIVE** or assigns, or to the register of deeds in
 12 whose office the deed of sale is deposited as provided in the court
 13 rules ~~for~~ for the benefit of the purchaser, the ~~sum which~~ **AMOUNT THAT**
 14 was bid with interest from the date of the sale at the interest
 15 rate provided for by the land contract.

16 (3) The register of deeds shall not determine the amount
 17 necessary ~~for redemption~~ **TO REDEEM PROPERTY SOLD UNDER SECTION**
 18 **3125**. The purchaser shall attach an affidavit ~~with~~ **TO** the deed to
 19 be recorded under ~~this~~ section **3130** that states the exact amount
 20 required to redeem the property, including any daily per diem
 21 amounts. ~~and the date by which the property must be redeemed~~
 22 ~~shall be stated on the certificate of auctioneer.~~ The purchaser may
 23 include in the affidavit the name of a designee responsible on
 24 behalf of the purchaser to assist ~~the person redeeming~~ **A PERSON WHO**
 25 **WISHES TO REDEEM** the property in computing the exact amount
 26 required to redeem the property. The designee may charge a fee **THAT**
 27 **DOES NOT EXCEED \$50.00**, as stated in the affidavit, and may be

1 authorized by the purchaser to receive **MONEY FOR** redemption. ~~funds.~~
2 The purchaser shall accept the amount computed by the designee.

3 (4) If ~~the sum~~ **MONEY** for redemption is paid to the register of
4 deeds, **THE PERSON REDEEMING THE PROPERTY UNDER SUBSECTION (1) OR**
5 **(2) SHALL PAY** a fee of \$5.00 ~~shall be paid TO THE REGISTER OF DEEDS~~
6 for the care and custody of the ~~redemption~~ money.

7 (5) If ~~payments are made as provided~~ **THE AMOUNT NECESSARY TO**
8 **REDEEM THE PROPERTY IS PAID AS REQUIRED** under this section, the
9 deed of sale is void. If a distinct lot or parcel separately sold
10 is redeemed, leaving a portion of the premises unredeemed, ~~then the~~
11 deed of sale is void only as to the portion or portions of the
12 premises ~~which~~ **THAT** are redeemed.

13 (6) The amount stated in ~~any affidavits~~ **AN AFFIDAVIT** recorded
14 under ~~this section~~ **SUBSECTION (3)** shall be the amount necessary to
15 satisfy the requirements for redemption under this section.

16 Sec. 3240. (1) A purchaser's deed **GIVEN UNDER SECTION 3232** is
17 void if the mortgagor, the mortgagor's ~~heirs~~ **HEIR** or personal
18 representative, or any person lawfully claiming under the mortgagor
19 or the mortgagor's ~~heirs~~ **HEIR** or personal representative redeems
20 the entire premises sold by paying the amount required under
21 subsection (2) and any amount required under subsection (4), within
22 the applicable time limit prescribed in subsections (7) to (12), to
23 the purchaser or the purchaser's personal representative or
24 assigns, or to the register of deeds in whose office the deed is
25 deposited for the benefit of the purchaser.

26 (2) The amount required to be paid under subsection (1) is the
27 sum that was bid for the entire premises sold, with interest from

1 the date of the sale at the interest rate provided for by the
2 mortgage, ~~together with~~ the amount of the sheriff's fee paid by the
3 purchaser under section 2558(2)(q), and, **IF THE PAYMENT IS MADE TO**
4 **THE REGISTER OF DEEDS**, an additional \$5.00 as a fee for the care
5 and custody of the redemption money. ~~if the payment is made to the~~
6 ~~register of deeds.~~ Except as provided in subsection (14), the
7 register of deeds shall not determine the amount necessary for
8 redemption. The purchaser shall attach an affidavit with the deed
9 to be recorded under this section that states the exact amount
10 required to redeem the property under this subsection, including
11 any daily per diem amounts. ~~, and the date by which the property~~
12 ~~must be redeemed shall be stated on the certificate of sale.~~ The
13 purchaser may include in the affidavit the name of a designee
14 responsible on behalf of the purchaser to assist the person
15 redeeming the property in computing the exact amount required to
16 redeem the property. The designee may charge a fee **THAT DOES NOT**
17 **EXCEED \$50.00** as stated in the affidavit, and may be authorized by
18 the purchaser to receive ~~redemption funds~~ **MONEY TO REDEEM THE**
19 **PROPERTY**. The purchaser shall accept the amount computed by the
20 designee.

21 (3) If a distinct lot or parcel separately sold **UNDER THIS**
22 **CHAPTER** is redeemed, leaving a portion of the premises unredeemed,
23 the deed ~~shall be~~ **IS** void only to the redeemed parcel or parcels.

24 (4) If, after the sale **OF PROPERTY UNDER THIS CHAPTER**, the
25 purchaser, the purchaser's ~~heirs~~ **HEIR** or personal representative,
26 or any person lawfully claiming under the purchaser or the
27 purchaser's ~~heirs~~ **HEIR** or personal representative pays taxes

1 assessed against the property, amounts necessary to redeem senior
2 liens from foreclosure, condominium assessments, homeowner
3 association assessments, community association assessments, or
4 premiums on an insurance policy covering any buildings located on
5 the property that under the terms of the mortgage it would have
6 been the duty of the mortgagor to pay if the mortgage had not been
7 foreclosed and that are necessary to keep the policy in force until
8 the expiration of the period of redemption, ~~redemption shall be~~
9 ~~made~~ **THE PROPERTY IS REDEEMED** only upon payment of the sum
10 specified in subsection (2) plus the amounts specified in this
11 subsection with interest on the amounts specified in this
12 subsection from the date of the payment to the date of redemption
13 at the interest rate specified in the mortgage. This subsection
14 does not apply unless all of the following are filed with the
15 register of deeds with whom 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~~ **A** redemption payment ~~in~~ **UNDER** subsection (4)
2 includes an amount used to redeem a senior lien from a nonjudicial
3 foreclosure, the mortgagor ~~shall have~~ **HAS** the same defenses against
4 the purchaser with respect to the amount used to redeem the senior
5 lien as the 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, **AND ANY**
10 receipts, insurance receipts, ~~and~~ **OR** insurance agent's affidavit
11 **RECORDED UNDER SUBSECTION (4)** until expiration of the period of
12 redemption.

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

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

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

26 (10) For a mortgage on 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) If subsections (7) to (11) do not apply, the redemption
9 period is 1 year from the date of the sale.

10 (13) The amount stated in any affidavits recorded under this
11 section shall be the amount necessary to satisfy the requirements
12 for redemption under this section.

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

22 (15) A register of deeds may charge not more than \$50.00 for
23 determining the amount necessary for redemption under this section.