

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5794**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3238, 3240, and 3241a (MCL 600.3238, 600.3240,
and 600.3241a), section 3238 as added and section 3240 as amended
by 2014 PA 125 and section 3241a as amended by 2006 PA 579.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3238. (1) After a foreclosure sale under this chapter and
2 providing notice under section 3237, the purchaser at the sale may
3 inspect the property, including the exterior and interior of any
4 structures on the property, as provided in this section.

5 (2) The purchaser may conduct an initial inspection of the
6 interior of any structures on the property. In addition to the
7 notice provided in section 3237, the purchaser shall provide notice
8 to the mortgagor by certified mail, physical posting on the

1 property, or in any manner reasonably calculated to achieve actual
2 notice of the purchaser's intent to inspect the property at least
3 72 hours in advance and shall set the time of the inspection at a
4 reasonable time of day, in coordination with the mortgagor if
5 possible.

6 (3) The purchaser may conduct any number of exterior
7 inspections of the property and any structures on the property
8 during the redemption period.

9 (4) After the initial inspection described in subsection (2),
10 the purchaser may request by certified mail, physical posting on
11 the property, or in any manner reasonably calculated to achieve
12 actual notice that the mortgagor provide information on or evidence
13 of the condition of the interior of any structures on the property,
14 in any form reasonably necessary to assess the condition of the
15 property. The purchaser shall not make such a request more than
16 once in a calendar month or more often than 3 times in any 6 months
17 of the redemption period, unless the purchaser has reasonable cause
18 to believe that damage to the property is imminent or has occurred.

19 (5) If the mortgagor refuses to provide information or
20 evidence requested under subsection (4) within 5 business days
21 after receipt of the request, or if the information or evidence
22 provided reveals that damage has occurred or is imminent, the
23 ~~mortgagor~~**PURCHASER** may schedule an inspection of the interior of
24 any structures on the property. For an inspection under this
25 subsection, the purchaser shall provide notice as described in
26 subsection (2) of the purchaser's intent to inspect the property at
27 least 72 hours in advance, and shall set the time of the inspection

1 at a reasonable time of day, in coordination with the mortgagor if
2 possible. If the mortgagor provides the information or evidence
3 requested under subsection (4) and damage has not occurred or does
4 not appear imminent, the purchaser shall not conduct an interior
5 inspection under this subsection related to that request.

6 (6) If an inspection under this section is unreasonably
7 refused or if damage to the property is imminent or has occurred,
8 the purchaser may immediately commence summary proceedings for
9 possession of the property under chapter 57 or file an action for
10 any other relief necessary to protect the property from damage. If
11 a purchaser commences an action for possession or any other relief
12 under this section, the purchaser may also name as a party to the
13 action any person who may redeem the property under section 3240.

14 (7) Before commencing summary proceedings for possession of
15 the property under this section, the purchaser shall provide notice
16 to the mortgagor by certified mail, physical posting on the
17 property, or in any other manner reasonably calculated to achieve
18 actual notice, that the purchaser intends to commence summary
19 proceedings if the damage or condition causing reasonable belief
20 that damage is imminent is not repaired or corrected within 7 days
21 after receipt of the notice.

22 (8) A purchaser shall not commence summary proceedings for
23 possession under this section if either of the following conditions
24 exists:

25 (a) The damage or condition causing reasonable belief that
26 damage is imminent is repaired or corrected within the 7-day period
27 described in the notice of intent under subsection (7).

1 (b) The mortgagor and the purchaser agree on procedures and a
2 timeline to repair the damage or correct the condition causing
3 reasonable belief that damage is imminent and the procedures are
4 completed by the original date agreed to by the mortgagor and
5 purchaser or by an extended date that is agreed to by the mortgagor
6 and purchaser.

7 (9) In determining whether to enter judgment for possession in
8 favor of the purchaser in summary proceedings under this section,
9 the judge shall consider the totality of the circumstances
10 surrounding the damage or condition that threatens imminent damage,
11 including, but not limited to, all of the following:

12 (a) The cause of the damage or condition.

13 (b) Whether the mortgagor has taken appropriate steps to
14 repair the damage or correct the condition and to secure the
15 property from further damage.

16 (c) Whether the mortgagor has promptly contacted the purchaser
17 and any property insurer regarding the damage or condition.

18 (d) Whether any delay in repairs or corrections is
19 affirmatively caused by the purchaser or the property insurer.

20 (10) If a judgment for possession is entered in favor of the
21 purchaser in an action under chapter 57 as described in subsection
22 (6), the right of redemption under section 3240 is extinguished and
23 title to the property vests in the purchaser as provided in section
24 3236 as to all persons against whom judgment was entered.

25 (11) As used in this section, "damage" includes, but is not
26 limited to, any of the following:

27 (a) The failure to comply with local ordinances regarding

1 maintenance of the property or blight prevention, if the failure is
2 the subject of enforcement action by the appropriate governmental
3 unit.

4 (b) An exterior condition that presents a significant risk to
5 the security of the property or significant risk of criminal
6 activity occurring on the property.

7 (c) Stripped plumbing, electrical wiring, siding, or other
8 metal material.

9 (d) Missing or destroyed structural aspects or fixtures,
10 including, but not limited to, a furnace, water heater, air-
11 conditioning unit, countertop, cabinetry, flooring, wall, ceiling,
12 roofing, toilet, or any other fixtures. As used in this
13 subdivision, "fixtures" means that term as defined in section 9102
14 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

15 (e) Deterioration below, or being in imminent danger of
16 deteriorating below, community standards for public safety and
17 sanitation that are established by statute or local ordinance.

18 (f) A condition that would justify recovery of the premises
19 under section 5714(1)(d).

20 Sec. 3240. (1) A purchaser's deed under section 3232 is void
21 if the mortgagor, the mortgagor's heirs or personal representative,
22 or any person that has a recorded interest in the property lawfully
23 claiming under the mortgagor or the mortgagor's heirs or personal
24 representative redeems the entire premises sold by paying the
25 amount required under subsection (2) and any amount required under
26 subsection (4), within the applicable time limit prescribed in
27 subsections (7) to (12), to the purchaser or the purchaser's

1 personal representative or assigns, or to the register of deeds in
2 whose office the deed is deposited for the benefit of the
3 purchaser.

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

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

27 (4) If, after a sale under section 3216, the purchaser, the

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

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

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

26 (c) An affidavit of an insurance agent of the insurance
27 company stating that the payment was made and what portion of the

1 payment covers the premium for the period before the expiration of
2 the period of redemption.

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

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

14 (7) Subject to section 3238, for a mortgage executed on or
15 after January 1, 1965, of commercial or industrial property, or
16 multifamily residential property in excess of 4 units, the
17 redemption period is 6 months from the date of the sale.

18 (8) Subject to subsections (9) to (11) and section 3238, for a
19 mortgage executed on or after January 1, 1965, of residential
20 property not exceeding 4 units, if the amount claimed to be due on
21 the mortgage at the date of the notice of foreclosure is more than
22 66-2/3% of the original indebtedness secured by the mortgage, the
23 redemption period is 6 months.

24 (9) For a mortgage of residential property not exceeding 4
25 units, if the property is abandoned as determined under section
26 3241, the redemption period is 1 month.

27 (10) If the property is abandoned as determined under section

1 3241a, the redemption period is ~~1 month~~ **30 DAYS** or until the time
2 to provide the notice required by section 3241a(c) expires,
3 whichever is later.

4 (11) Subject to section 3238, for a mortgage of property that
5 is used for agricultural purposes, the redemption period is 1 year
6 from the date of the sale.

7 (12) If subsections (7) to (11) do not apply, and subject to
8 section 3238, the redemption period is 1 year from the date of the
9 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 with 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.

24 (16) For purposes of this section, there is a presumption that
25 the property is used for agricultural purposes if, before the
26 foreclosure sale under this chapter, the mortgagor provides the
27 party foreclosing the mortgage and the foreclosing party's attorney

1 proof that the mortgagor filed a schedule F to the mortgagor's
 2 federal income tax form 1040 for the year preceding the year in
 3 which the proceedings to foreclose the mortgage were commenced and
 4 records an affidavit with the register of deeds for the county in
 5 which the property is located stating that the proof has been
 6 delivered. If the mortgagor fails to provide proof and record an
 7 affidavit as required by this subsection before the foreclosure
 8 sale, there is a presumption that the property is not used for
 9 agricultural purposes. The party foreclosing the mortgage or the
 10 mortgagor may file a civil action to produce evidence to rebut a
 11 presumption created by this subsection. An action under this
 12 section shall be filed before the expiration of the redemption
 13 period that would apply if the property is determined not to be
 14 used for agricultural purposes.

15 Sec. 3241a. For purposes of this chapter, if foreclosure
 16 proceedings have been commenced under this chapter against
 17 residential property not exceeding 4 units, ~~abandonment of~~ **THERE IS**
 18 **A CONCLUSIVE PRESUMPTION THAT THE** premises ~~shall be conclusively~~
 19 ~~presumed upon satisfaction of~~ **HAVE BEEN ABANDONED IF** all of the
 20 following requirements **ARE SATISFIED** before the end of the
 21 redemption period:

22 (a) The mortgagee has made a personal inspection of the
 23 mortgaged premises and the inspection does not reveal that the
 24 mortgagor or persons claiming under the mortgagor are presently
 25 occupying or will occupy the premises.

26 (b) The mortgagee has posted a notice at the time of making
 27 the personal inspection and has mailed by certified mail, return

1 receipt requested, a notice to the mortgagor at the mortgagor's
2 last known address, which notices state that the mortgagee
3 considers the premises abandoned and that the mortgagor will lose
4 all rights of ownership 30 days after the foreclosure sale or when
5 the time to provide the notice required by subdivision (c) expires,
6 whichever is later, unless the mortgagor; the mortgagor's heirs ~~7~~
7 ~~executor, or administrator;~~ **OR PERSONAL REPRESENTATIVE;** or a person
8 lawfully claiming from or under 1 of them provides the notice
9 required by subdivision (c).

10 (c) Within 15 days after the notice required by subdivision
11 (b) was posted and mailed, the mortgagor; the mortgagor's heirs ~~7~~
12 ~~executor, or administrator;~~ **OR PERSONAL REPRESENTATIVE;** or a person
13 lawfully claiming from or under 1 of them has not given written
14 notice by first-class mail to the mortgagee at an address provided
15 by the mortgagee in the notices required by subdivision (b) stating
16 that the premises are not abandoned.