

HOUSE BILL No. 4767

May 23, 2013, Introduced by Rep. Callton and referred to the Committee on Financial Services.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 3240 (MCL 600.3240), as amended by 2011 PA 303.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3240. (1) A purchaser's deed **UNDER SECTION 3232** is void
2 if the mortgagor, the mortgagor's heirs or personal representative,
3 or any person lawfully claiming under the mortgagor or the
4 mortgagor's heirs or personal representative redeems the entire
5 premises sold by paying the amount required under subsection (2)
6 and any amount required under subsection (4), within the applicable
7 time limit prescribed in subsections (7) to ~~(13)~~, **(14)**, to the
8 purchaser or the purchaser's personal representative or assigns, or
9 to the register of deeds in whose office the deed is deposited for
10 the benefit of the purchaser.

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

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

24 (4) If, after ~~the~~ **A** sale **UNDER SECTION 3220**, the purchaser,
25 the purchaser's heirs or personal representative, or any person
26 lawfully claiming under the purchaser or the purchaser's heirs or
27 personal representative pays taxes assessed against the property,

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

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

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

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

27 (5) If the redemption payment in subsection (4) includes an

1 amount used to redeem a senior lien from a nonjudicial foreclosure,
2 the mortgagor ~~shall have~~ **HAS** the same defenses against the
3 purchaser with respect to the amount used to redeem the senior lien
4 as the mortgagor would have had against the senior lien.

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

11 (7) For a mortgage executed on or after January 1, 1965, of
12 commercial or industrial property, or multifamily residential
13 property in excess of 4 units, the redemption period is 6 months
14 from the date of the sale, **REDUCED, IF APPLICABLE, AS PROVIDED BY**
15 **SUBSECTION (14)**.

16 (8) Subject to subsections (9) to (12), for a mortgage
17 executed on or after January 1, 1965, of residential property not
18 exceeding 4 units, if the amount claimed to be due on the mortgage
19 at the date of the notice of foreclosure is more than 66-2/3% of
20 the original indebtedness secured by the mortgage, the redemption
21 period is 6 months, **REDUCED, IF APPLICABLE, AS REQUIRED BY**
22 **SUBSECTION (14)**.

23 (9) Subject to subsection (10), for a mortgage of residential
24 property not exceeding 4 units, if the property is abandoned as
25 determined under section 3241, the redemption period is 3-2 months.

26 (10) For a mortgage 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) If subsections (7) to (12) do not apply, the redemption
12 period is 1 year from the date of the sale, **REDUCED, IF APPLICABLE,**
13 **AS PROVIDED IN SUBSECTION (14).**

14 (14) **A REDEMPTION PERIOD UNDER SUBSECTION (7), (8), OR (13) IS**
15 **REDUCED BY 120 DAYS IF SECTION 3206 APPLIES TO THE FORECLOSURE OF**
16 **THE MORTGAGE AND THE PARTY FORECLOSING THE MORTGAGE HAS COMPLIED**
17 **WITH SECTION 3206.**

18 (15) ~~(14)~~The amount stated in any affidavits recorded under
19 this section shall be the amount necessary to satisfy the
20 requirements for redemption under this section.

21 (16) ~~(15)~~The register of deeds of a county ~~having~~**WITH** a
22 population of more than 750,000 and less than 1,500,000, at the
23 request of a person entitled to redeem the property under this
24 section, shall determine the amount necessary for redemption. In
25 determining the amount, the register of deeds shall consider only
26 the affidavits recorded under subsections (2) and (4). A county,
27 register of deeds, or employee of a county or register of deeds is

1 not liable for damages proximately caused by an incorrect
2 determination of an amount necessary for redemption under
3 subsection (2).

4 (17) ~~(16)~~—A register of deeds may charge not more than \$50.00
5 for determining the amount necessary for redemption under this
6 section.

7 (18) ~~(17)~~—For purposes of this section, there is a presumption
8 that the property is used for agricultural purposes if, before the
9 foreclosure sale under this chapter, the mortgagor provides the
10 party foreclosing the mortgage and the foreclosing party's attorney
11 proof that the mortgagor filed a schedule F to the mortgagor's
12 federal income tax form 1040 for the year preceding the year in
13 which the proceedings to foreclose the mortgage were commenced and
14 records an affidavit with the register of deeds for the county in
15 which the property is located stating that the proof has been
16 delivered. If the mortgagor fails to provide proof and record an
17 affidavit as required by this subsection before the foreclosure
18 sale, there is a presumption that the property is not used for
19 agricultural purposes. The party foreclosing the mortgage or the
20 mortgagor may file a civil action to produce evidence to rebut a
21 presumption created by this subsection. An action under this
22 section shall be filed before the expiration of the redemption
23 period that would apply if the property is determined not to be
24 used for agricultural purposes.

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 97th Legislature are
27 enacted into law:

1 (a) Senate Bill No. _____ or House Bill No. 4764 (request no.
2 02406'13).

3 (b) Senate Bill No. _____ or House Bill No. 4765 (request no.
4 02407'13).

5 (c) Senate Bill No. _____ or House Bill No. 4766 (request no.
6 02408'13).