

HOUSE BILL No. 5359

February 16, 2016, Introduced by Rep. Poleski and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 3240 (MCL 600.3240), as amended by 2014 PA 431.

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 that has a recorded interest in the property lawfully
4 claiming under the mortgagor or the mortgagor's heirs or personal
5 representative redeems the entire premises sold by paying the
6 amount required under subsection (2) and any amount required under
7 subsection (4), within the applicable time limit prescribed in
8 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)(g)~~, **2558(2)(l)**, and an additional \$5.00 as a fee for the
9 care and custody of the redemption money if the payment is made to
10 the 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~~ **MUST** 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~~**ON**
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 30 days or until the time to
2 provide the notice required by section 3241a(c) expires, whichever
3 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~~**MUST** 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 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

17 Enacting section 2. This amendatory act does not take effect
18 unless all of the following bills of the 98th Legislature are
19 enacted into law:

20 (a) House Bill No. 4924.

21 (b) Senate Bill No. _____ or House Bill No. 5360 (request no.
22 04561'15).