

# HOUSE BILL No. 4875

August 16, 2017, Introduced by Reps. Sabo, Chirkun, Byrd, Gay-Dagnogo, Brann, Lasinski, Hertel and Yanez and referred to the Committee on Military and Veterans Affairs.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 3204 (MCL 600.3204), as amended by 2014 PA 125, and by adding sections 3103, 3104, and 3203.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **SEC. 3103. (1) A MORTGAGEE SHALL NOT DECLARE THE UNPAID**  
2           **BALANCE OF THE INDEBTEDNESS SECURED BY A MORTGAGE DESCRIBED IN**  
3           **SUBSECTION (2) DUE OR ACCELERATE FUTURE PAYMENTS ON THE**  
4           **INDEBTEDNESS UNTIL 6 MONTHS AFTER THE MORTGAGEE HAS FIRST NOTIFIED**  
5           **THE MORTGAGOR OF A DEFAULT BECAUSE OF FAILURE TO PAY A PAYMENT ON**  
6           **THE INDEBTEDNESS, TAXES, OR AN INSURANCE PREMIUM AND OF THE**  
7           **MORTGAGEE'S INTENT TO TAKE ACTION BECAUSE OF THE DEFAULT.**

8           **(2) THIS SECTION APPLIES TO A MORTGAGE OF RESIDENTIAL PROPERTY**  
9           **THAT SECURES A LOAN FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, IF ALL**  
10          **OF THE FOLLOWING APPLY TO A MORTGAGOR:**

1 (A) THE MORTGAGOR IS A VETERAN.

2 (B) THE MORTGAGOR WAS ON ACTIVE DUTY DURING THE YEAR BEFORE  
3 THE NOTIFICATION DESCRIBED IN SUBSECTION (1).

4 (C) THE MORTGAGOR OCCUPIES ALL OR A PORTION OF THE PROPERTY AS  
5 A PRINCIPAL RESIDENCE.

6 (3) IF, WITHIN THE TIME DESCRIBED IN SUBSECTION (1), THE  
7 DEFAULT DESCRIBED IN SUBSECTION (1) IS CURED BY PAYING THE MISSED  
8 PAYMENT, ANY REASONABLE INTEREST AND LATE FEES ALLOWED UNDER THE  
9 MORTGAGE, AND REASONABLE ATTORNEY FEES, THE MORTGAGEE SHALL DECLARE  
10 THE MORTGAGE REINSTATED AND TAKE NO FURTHER ACTION BECAUSE OF THE  
11 DEFAULT.

12 (4) THIS SECTION DOES NOT APPLY TO A MORTGAGE MADE BEFORE THE  
13 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

14 (5) AS USED IN THIS SECTION:

15 (A) "ACTIVE DUTY" MEANS THAT TERM AS DEFINED IN SECTION 3185.

16 (B) "MORTGAGEE" INCLUDES A HOLDER OF THE MORTGAGE AND AN AGENT  
17 OF THE MORTGAGEE OR HOLDER OF THE MORTGAGE, INCLUDING A MORTGAGE  
18 SERVICER.

19 (C) "VETERAN" MEANS AN INDIVIDUAL WHO IS A FORMER SERVICE  
20 MEMBER AS THAT TERM IS DEFINED IN SECTION 3185.

21 SEC. 3104. IF APPLICABLE TO THE MORTGAGE, A PERSON SHALL NOT  
22 COMMENCE AN ACTION TO FORECLOSE A MORTGAGE UNDER THIS CHAPTER  
23 DURING THE PERIOD DESCRIBED IN SECTION 3103(1) OR IF A DEFAULT  
24 UNDER THE MORTGAGE IS CURED AS DESCRIBED IN SECTION 3103(3).

25 SEC. 3203. (1) A MORTGAGEE SHALL NOT DECLARE THE UNPAID  
26 BALANCE OF THE INDEBTEDNESS SECURED BY A MORTGAGE DESCRIBED IN  
27 SUBSECTION (2) DUE OR ACCELERATE FUTURE PAYMENTS ON THE

1 INDEBTEDNESS UNTIL 6 MONTHS AFTER THE MORTGAGEE HAS FIRST NOTIFIED  
2 THE MORTGAGOR OF A DEFAULT BECAUSE OF FAILURE TO PAY A PAYMENT ON  
3 THE INDEBTEDNESS, TAXES, OR AN INSURANCE PREMIUM AND OF THE  
4 MORTGAGEE'S INTENT TO TAKE ACTION BECAUSE OF THE DEFAULT.

5 (2) THIS SECTION APPLIES TO A MORTGAGE OF RESIDENTIAL PROPERTY  
6 THAT SECURES A LOAN FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, IF ALL  
7 OF THE FOLLOWING APPLY TO A MORTGAGOR:

8 (A) THE MORTGAGOR IS A VETERAN.

9 (B) THE MORTGAGOR WAS ON ACTIVE DUTY DURING THE YEAR BEFORE  
10 THE NOTIFICATION DESCRIBED IN SUBSECTION (1).

11 (C) THE MORTGAGOR OCCUPIES ALL OR A PORTION OF THE PROPERTY AS  
12 A PRINCIPAL RESIDENCE.

13 (3) IF, WITHIN THE TIME DESCRIBED IN SUBSECTION (1), THE  
14 DEFAULT DESCRIBED IN SUBSECTION (1) IS CURED BY PAYING THE MISSED  
15 PAYMENT, ANY REASONABLE INTEREST AND LATE FEES ALLOWED UNDER THE  
16 MORTGAGE, AND REASONABLE ATTORNEY FEES, THE MORTGAGEE SHALL DECLARE  
17 THE MORTGAGE REINSTATED AND TAKE NO FURTHER ACTION BECAUSE OF THE  
18 DEFAULT.

19 (4) THIS SECTION DOES NOT APPLY TO A MORTGAGE MADE BEFORE THE  
20 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

21 (5) AS USED IN THIS SECTION:

22 (A) "ACTIVE DUTY" MEANS THAT TERM AS DEFINED IN SECTION 3185.

23 (B) "MORTGAGEE" INCLUDES A HOLDER OF THE MORTGAGE AND AN AGENT  
24 OF THE MORTGAGEE OR HOLDER OF THE MORTGAGE, INCLUDING A MORTGAGE  
25 SERVICER.

26 (C) "VETERAN" MEANS AN INDIVIDUAL WHO IS A FORMER SERVICE  
27 MEMBER AS THAT TERM IS DEFINED IN SECTION 3185.

1           Sec. 3204. (1) A party may foreclose a mortgage by  
2 advertisement if all of the following circumstances exist:

3           (a) A default in a condition of the mortgage has occurred, by  
4 which the power to sell became operative.

5           (b) An action or proceeding has not been instituted, at law,  
6 to recover the debt secured by the mortgage or any part of the  
7 mortgage or, if an action or proceeding has been instituted, either  
8 the action or proceeding has been discontinued or an execution on a  
9 judgment rendered in the action or proceeding has been returned  
10 unsatisfied, in whole or in part.

11           (c) The mortgage containing the power of sale has been  
12 properly recorded.

13           (d) The party foreclosing the mortgage is either the owner of  
14 the indebtedness or of an interest in the indebtedness secured by  
15 the mortgage or the servicing agent of the mortgage.

16           **(E) IF APPLICABLE, THE PERIOD DESCRIBED IN SECTION 3203(1) HAS**  
17 **PASSED AND A DEFAULT UNDER THE MORTGAGE HAS NOT BEEN CURED AS**  
18 **DESCRIBED IN SECTION 3203(3) .**

19           (2) If a mortgage is given to secure the payment of money by  
20 installments, each of the installments mentioned in the mortgage  
21 after the first ~~shall~~**MUST** be treated as a separate and independent  
22 mortgage. The mortgage for each of the installments may be  
23 foreclosed in the same manner and with the same effect as if a  
24 separate mortgage were given for each subsequent installment. A  
25 redemption of a sale by the mortgagor has the same effect as if the  
26 sale for the installment had been made ~~upon~~**ON** an independent prior  
27 mortgage.

1           (3) If the party foreclosing a mortgage by advertisement is  
2 not the original mortgagee, a record chain of title must exist  
3 before the date of sale under section 3216 evidencing the  
4 assignment of the mortgage to the party foreclosing the mortgage.