

SENATE BILL No. 513

June 22, 2011, Introduced by Senator HUNTER and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 3201 and 3240 (MCL 600.3201 and 600.3240), section 3201 as amended by 1981 PA 172 and section 3240 as amended by 2010 PA 303, and by adding section 3117.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3117. (1) IN AN ACTION UNDER THIS CHAPTER TO FORECLOSE A
2 MORTGAGE OF 1- TO 4-UNIT RESIDENTIAL PROPERTY THAT IS OCCUPIED BY
3 THE OWNER, THE COURT MAY MODIFY THE MORTGAGE OR GRANT OTHER RELIEF
4 TO THE MORTGAGOR THAT THE COURT DETERMINES IS APPROPRIATE.

5 (2) A COURT SHALL NOT MODIFY A MORTGAGE OR GRANT OTHER RELIEF
6 UNDER THIS SECTION IF DOING SO WOULD AFFECT THE RIGHTS OF TENANTS
7 OR OTHER LEGAL OCCUPANTS OF THE PROPERTY.

8 Sec. 3201. ~~Every~~ A mortgage of real estate ~~, which~~ THAT

1 contains a power of sale, ~~upon~~ **ON A** default being made in any
 2 condition of ~~such~~ **THE** mortgage, may be foreclosed by advertisement
 3 ~~, in the cases and in the manner specified in~~ **UNDER** this chapter.
 4 However, ~~the procedures set forth in this chapter shall~~ **DOES** not
 5 apply to **THE FOLLOWING** mortgages:

6 (A) **A MORTGAGE** of real estate held by the Michigan state
 7 housing development authority.

8 (B) **A MORTGAGE OF 1- TO 4-UNIT RESIDENTIAL PROPERTY THAT IS**
 9 **OCCUPIED BY THE OWNER.**

10 Sec. 3240. (1) A purchaser's deed is void if the mortgagor,
 11 the mortgagor's heirs or personal representative, or any person
 12 lawfully claiming under the mortgagor or the mortgagor's heirs or
 13 personal representative redeems the entire premises sold by paying
 14 the amount required under subsection (2) and any amount required
 15 under subsection (4), within the applicable time limit prescribed
 16 in subsections (7) to ~~(12)~~ **(11)**, to the purchaser or the
 17 purchaser's personal representative or assigns, or to the register
 18 of deeds in whose office the deed is deposited for the benefit of
 19 the purchaser.

20 (2) The amount required to be paid under subsection (1) is the
 21 sum that was bid for the entire premises sold, with interest from
 22 the date of the sale at the interest rate provided for by the
 23 mortgage, together with the amount of the sheriff's fee paid by the
 24 purchaser under section 2558(2)(q), and an additional \$5.00 as a
 25 fee for the care and custody of the redemption money if the payment
 26 is made to the register of deeds. Except as provided in subsection
 27 ~~(14)~~ **(13)**, the register of deeds shall not determine the amount

1 necessary for redemption. The purchaser shall attach an affidavit
2 with the deed to be recorded under this section that states the
3 exact amount required to redeem the property under this subsection,
4 including any daily per diem amounts, and the date by which the
5 property must be redeemed shall be stated on the certificate of
6 sale. The purchaser may include in the affidavit the name of a
7 designee responsible on behalf of the purchaser to assist the
8 person redeeming the property in computing the exact amount
9 required to redeem the property. The designee may charge a fee as
10 stated in the affidavit and may be authorized by the purchaser to
11 receive redemption funds. The purchaser shall accept the amount
12 computed by the designee.

13 (3) If a distinct lot or parcel separately sold is redeemed,
14 leaving a portion of the premises unredeemed, the deed shall be
15 void only to the redeemed parcel or parcels.

16 (4) If, after the sale, the purchaser, the purchaser's heirs
17 or personal representative, or any person lawfully claiming under
18 the purchaser or the purchaser's heirs or personal representative
19 pays taxes assessed against the property, amounts necessary to
20 redeem senior liens from foreclosure, condominium assessments,
21 homeowner association assessments, community association
22 assessments, or premiums on an insurance policy covering any
23 buildings located on the property that under the terms of the
24 mortgage it would have been the duty of the mortgagor to pay if the
25 mortgage had not been foreclosed and that are necessary to keep the
26 policy in force until the expiration of the period of redemption,
27 redemption shall be made only upon payment of the sum specified in

1 subsection (2) plus the amounts specified in this subsection with
2 interest on the amounts specified in this subsection from the date
3 of the payment to the date of redemption at the interest rate
4 specified in the mortgage. This subsection does not apply unless
5 all of the following are filed with the register of deeds with whom
6 the deed is deposited:

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

10 (b) The receipt or copy of the canceled check evidencing the
11 payment of the taxes, amounts necessary to redeem senior liens from
12 foreclosure, condominium assessments, homeowner association
13 assessments, community association assessments, or insurance
14 premiums.

15 (c) An affidavit of an insurance agent of the insurance
16 company stating that the payment was made and what portion of the
17 payment covers the premium for the period before the expiration of
18 the period of redemption.

19 (5) If the redemption payment in subsection (4) includes an
20 amount used to redeem a senior lien from a nonjudicial foreclosure,
21 the mortgagor shall have the same defenses against the purchaser
22 with respect to the amount used to redeem the senior lien as the
23 mortgagor would have had against the senior lien.

24 (6) The register of deeds shall indorse on the documents filed
25 under subsection (4) the time they are received. The register of
26 deeds shall record the affidavit of the purchaser only and shall
27 preserve in his or her files the recorded affidavit, receipts,

1 insurance receipts, and insurance agent's affidavit until
2 expiration of the period of redemption.

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

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

13 (8) ~~(9)~~ Subject to subsection ~~(10)~~ (9), for a mortgage on
14 residential property not exceeding 4 units, if the property is
15 abandoned as determined under section 3241, the redemption period
16 is 3 months.

17 (9) ~~(10)~~ For a mortgage on residential property not exceeding
18 4 units, if the amount claimed to be due on the mortgage at the
19 date of the notice of foreclosure is more than 66-2/3% of the
20 original indebtedness secured by the mortgage and the property is
21 abandoned as determined under section 3241, the redemption period
22 is 1 month.

23 (10) ~~(11)~~ If the property is abandoned as determined under
24 section 3241a, the redemption period is 30 days or until the time
25 to provide the notice required by section 3241a(c) expires,
26 whichever is later.

27 (11) ~~(12)~~ If subsections (7) to ~~(11)~~ (10) do not apply, the

1 redemption period is 1 year from the date of the sale.

2 (12) ~~(13)~~—The amount stated in any affidavits recorded under
3 this section shall be the amount necessary to satisfy the
4 requirements for redemption under this section.

5 (13) ~~(14)~~—The register of deeds of a county having a
6 population of more than 750,000 and less than 1,500,000, at the
7 request of a person entitled to redeem the property under this
8 section, shall determine the amount necessary for redemption. In
9 determining the amount, the register of deeds shall consider only
10 the affidavits recorded under subsections (2) and (4). A county,
11 register of deeds, or employee of a county or register of deeds is
12 not liable for damages proximately caused by an incorrect
13 determination of an amount necessary for redemption under
14 subsection (2).

15 (14) ~~(15)~~—A register of deeds may charge not more than \$50.00
16 for determining the amount necessary for redemption under this
17 section.