

SENATE BILL No. 705

September 28, 2011, Introduced by Senator HUNTER and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
 "Revised judicature act of 1961,"
 by amending sections 3150 and 3280 (MCL 600.3150 and 600.3280).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SENATE BILL No. 705

1 Sec. 3150. (1) ~~In~~**SUBJECT TO SUBSECTION (2), IN** the original
 2 judgment in ~~A~~ foreclosure ~~eases~~**ACTION UNDER THIS CHAPTER**, the
 3 court shall determine ~~and adjudge~~ which defendants, if any, are
 4 personally liable on the land contract or for the mortgage debt.
 5 The judgment shall provide that ~~upon the~~**ON** confirmation of the
 6 report of sale, ~~that if either~~ the principal, interest, or costs
 7 ordered to be paid, ~~is left unpaid~~**ARE NOT FULLY PAID** after
 8 applying the amount received ~~upon~~**FROM** the sale of the premises,
 9 the clerk of the court shall issue execution for the amount of the
 10 deficiency, ~~upon the~~**ON** application of ~~of~~**BY** the attorney for the
 11 plaintiff, without notice to the defendant or ~~his~~**THE DEFENDANT'S**

1 attorney. The court may order and compel the delivery of the
2 possession of the premises to the purchaser at the sale.

3 (2) A PERSON WHO FORECLOSES A MORTGAGE OF RESIDENTIAL PROPERTY
4 UNDER THIS CHAPTER IS NOT ENTITLED TO A DEFICIENCY JUDGMENT AGAINST
5 ANY PERSON LIABLE FOR THE INDEBTEDNESS SECURED BY THE MORTGAGE. IN
6 AN ACTION UNDER THIS CHAPTER TO FORECLOSE A MORTGAGE OF RESIDENTIAL
7 PROPERTY, THE COURT SHALL NOT ENTER A DEFICIENCY JUDGMENT AND THE
8 CLERK OF THE COURT SHALL NOT ISSUE EXECUTION UNDER SUBSECTION (1).

9 (3) REGARDLESS OF WHETHER AN ACTION TO FORECLOSE A MORTGAGE
10 HAS BEEN COMMENCED UNDER THIS CHAPTER OR PROCEEDINGS TO FORECLOSE A
11 MORTGAGE BY ADVERTISEMENT HAVE BEEN COMMENCED UNDER CHAPTER 32, IF
12 A MORTGAGE HOLDER OR SERVICER REACHES AN AGREEMENT WITH A MORTGAGOR
13 WHO HAS DEFAULTED IN AN OBLIGATION UNDER THE NOTE SECURED BY THE
14 MORTGAGE TO ALLOW THE SALE OF THE MORTGAGED PROPERTY WITH PAYMENT
15 TO THE MORTGAGE HOLDER OF LESS THAN THE FULL AMOUNT DUE ON THE
16 NOTE, THE MORTGAGE HOLDER OR ANY PERSON WHO SUCCEEDS TO THE
17 MORTGAGE HOLDER'S INTEREST SHALL NOT BRING AN ACTION AND IS NOT
18 ENTITLED TO THE ENTRY OF JUDGMENT FOR THE BALANCE DUE ON THE NOTE.

19 Sec. 3280. (1) ~~When, in the foreclosure of a mortgage by~~
20 ~~advertisement, any sale of real property has been made after~~
21 ~~February 11, 1933, or shall be hereafter made by a mortgagee,~~
22 ~~trustee, or other person authorized to make the same pursuant to~~
23 ~~the power of sale contained therein, at which~~ **IF** ~~the mortgagee,~~
24 ~~payee, or other holder of the obligation thereby secured has become~~
25 ~~or becomes the purchaser~~ **MORTGAGE, DEED OF TRUST, OR OTHER**
26 **INSTRUMENT PURCHASES THE SUBJECT PROPERTY AT THE SALE UNDER THIS**
27 **CHAPTER, or takes or has taken title thereto** **TO THE PROPERTY** at

~~such~~ **THE** sale, either directly or indirectly, and thereafter such
 mortgagee, payee or other holder of the secured obligation, as
 aforesaid, shall sue for and undertake **SUBSEQUENTLY BRINGS AN**
ACTION to recover a deficiency judgment against the mortgagor,
 trustor, or other maker of any such obligation, **THE INSTRUMENT** or
AGAINST any other person liable thereon **ON THE MORTGAGE, DEED OF**
TRUST, OR INSTRUMENT, it shall be competent and lawful for the
 defendant against whom such deficiency judgment is sought to allege
 and show as matter of **MAY CLAIM AS A COMPLETE OR PARTIAL** defense
 and **OR** set-off, to the extent only of the amount of the plaintiff's
 claim, that the property sold was fairly worth the amount of the
 debt secured by it **THE MORTGAGE, DEED OF TRUST, OR INSTRUMENT** at
 the time and place of sale or that the amount bid was substantially
 less than its true value. , and such showing shall constitute a
 defense to such action and shall defeat the deficiency judgment
 against him, either in whole or in part to such extent.

(2) This section shall ~~shall~~ **DOES** not affect ~~nor~~ **OR** apply to the
 rights of other purchasers or of innocent third parties, ~~nor shall~~
~~it be held to~~ **OR** affect or defeat the negotiability of any note,
 bond, or other obligation secured by such ~~such~~ **THE** mortgage, deed of
 trust, or other instrument. ~~Such proceedings, as aforesaid, shall~~
~~in no way~~ **THIS SECTION DOES NOT** affect the title of the purchaser
 to the ~~lands~~ **PROPERTY** acquired by such ~~such~~ **THE** purchase.

(3) This section shall ~~shall~~ **DOES** not apply to **A** foreclosure sales
SALE made pursuant to an order ~~or decree~~ of **A** court ~~nor~~ **OR** to any **A**
 judgment sought or rendered in any **A** foreclosure suit ~~nor to any~~
~~chancery sale heretofore or hereafter made and confirmed~~ **ACTION**.

1 (4) A PERSON WHO FORECLOSES A MORTGAGE OF RESIDENTIAL PROPERTY
2 BY ADVERTISEMENT UNDER THIS CHAPTER IS NOT ENTITLED TO A DEFICIENCY
3 JUDGMENT AGAINST ANY PERSON LIABLE FOR THE INDEBTEDNESS SECURED BY
4 THE MORTGAGE.