



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

RESIDENTIAL MORTGAGE FORECLOSURE

RECEIVED

APR 24 1990

House Bill 5676

Sponsor: Rep. Nick Ciaramitaro, Mich. State Law Library
Committee: Judiciary

Complete to 9-24-90

A SUMMARY OF HOUSE BILL 5676 AS INTRODUCED 4-9-90

The bill would amend the Revised Judicature Act to enact alternative mortgage foreclosure provisions to apply to residential property with no more than four units sitting on no more than three acres. Current provisions for foreclosure by advertisement give the former mortgagor a set period of time after the sheriff's sale to pay the debt and reclaim the property; the "redemption period" varies from thirty days to one year, depending on circumstances. Rather than a post-sale redemption period, the bill would provide for a period in advance of the sale in which the debtor could "cure the default" by paying the amount due.

Generally, the bill would require the lender to publish four notices at various points in the process: upon initiating the process, prior to accelerating the debt, and twice prior to sale. The first notice would also be sent to the debtor and would include an explanation of the debtor's rights and responsibilities under the bill, plus a list of the housing counseling or credit counseling agencies in the area. The debtor's period to cure the default would be the same as the redemption period would have been, and would commence when the first notice was issued. There would be a period of 30 to 100 days after the first notice before the lender could accelerate the loan and require full payment; until that time, the borrower could cure the default by paying the arrearage. Expedited procedures would be available for abandoned property and for chronic or longstanding defaults.

Property foreclosed upon and sold would be sold by sealed bid in which the purchaser provided earnest money of at least five percent of the bid plus a written commitment from a lender to finance the remainder; there would be no right of redemption. The purchase would have to be closed within 60 days after the sale, or the property would go to the next highest bidder. As of the date of sale, the property would be considered foreclosed upon and sold. After satisfying the mortgage and paying foreclosure costs, the sheriff or other person conducting the sale would send any surplus to the mortgagor, unless another claimant sought payment of a lien on the property; in that case, the circuit court would settle the disposition of the surplus.

The bill would delete existing language that provides for varying redemption periods for residential property; the redemption period for foreclosed mortgages other than those specifically described in the law would continue to be one year. (The law would continue to specify a six-month redemption period for commercial or industrial property, or multifamily residential property in excess of four units.) The bill also would repeal a section of law that provides for expedited foreclosure by advertisement for abandoned residential property.

MCL 600.3240 et al.

House Bill 5676 (9-24-90)