

SENATE BILL No. 929

January 28, 2004, Introduced by Senator HAMMERSTROM and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 3140, 3240, 6062, and 6066 (MCL 600.3140, 600.3240, 600.6062, and 600.6066), section 3240 as amended by 2000 PA 380; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3140. (1) The mortgagor, ~~his~~ **the mortgagor's** heirs,
2 executors, **or** administrators, or any person lawfully claiming
3 from or under ~~him or them~~ **the mortgagor or the mortgagor's**
4 **heirs, executors, or administrators** may redeem the entire
5 premises sold by paying, within 6 months from the time of the
6 sale, to the purchaser ~~, his~~ **or the purchaser's** executors,
7 administrators, or assigns, ~~or to the register of deeds in whose~~
8 ~~office the deed of sale is deposited as provided in the court~~
9 ~~rules, for the benefit of the purchaser,~~ the sum which was bid

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1 with interest from the ~~time~~ **date** of the sale at the **interest**
 2 rate ~~percent borne~~ **provided for** by the mortgage.

3 (2) The vendee of a land contract, ~~his~~ **the vendee's** heirs,
 4 executors, **or** administrators, or any person lawfully claiming
 5 from or under ~~him or them~~ **the vendee or the vendee's heirs,**
 6 **executors, or administrators** may redeem the entire premises sold
 7 within 6 months from the time of the sale by paying to the
 8 purchaser ~~, his~~ **or the purchaser's** executors, administrators,
 9 or assigns, ~~or to the register of deeds in whose office the deed~~
 10 ~~of sale is deposited as provided in the court rules, for the~~
 11 ~~benefit of the purchaser,~~ the sum which was bid with interest
 12 from the ~~time~~ **date** of the sale at the **interest** rate ~~percent~~
 13 ~~borne~~ **provided for** by the land contract. ~~In case the sum is~~
 14 ~~paid to the register of deeds the sum of \$5.00 shall be paid to~~
 15 ~~him as a fee for the care and custody of the redemption money.~~
 16 ~~After these sums have been paid~~

17 (3) **If payments are made as provided under this section,** the
 18 deed of sale is void. ~~and of no effect, but in case any~~ **If a**
 19 distinct lot or parcel separately sold is redeemed, leaving a
 20 portion of the premises unredeemed, then the deed of sale is
 21 ~~inoperative merely~~ **void only** as to the portion or portions of
 22 the premises which are redeemed. ~~and to the portions not~~
 23 ~~redeemed it remains valid and of full effect.~~

24 Sec. 3240. (1) A purchaser's deed is void if the mortgagor,
 25 the mortgagor's heirs, executors, or administrators, or any
 26 person lawfully claiming under the mortgagor ~~, or the~~
 27 mortgagor's heirs, executors, or administrators redeems the

1 entire premises sold by paying the amount required under
2 subsection (2), within the applicable time limit prescribed in
3 subsections (7) to (12), to the purchaser ~~— or the purchaser's~~
4 ~~executors, administrators, or assigns. —, or to the register of~~
5 ~~deeds in whose office the deed is deposited for the benefit of~~
6 ~~the purchaser.~~

7 (2) The amount required to be paid under subsection (1) is
8 the sum that was bid for the entire premises sold, with interest
9 from the ~~time~~ **date** of the sale at the **interest** rate ~~percent~~
10 ~~borne~~ **provided for** by the mortgage, together with the amount of
11 the sheriff's fee paid by the purchaser under section 2558(2)(q).
12 ~~—, and an additional \$3.00 as a fee for the care and custody of~~
13 ~~the redemption money if the payment is made to the register of~~
14 ~~deeds.~~

15 (3) If a distinct lot or parcel separately sold is redeemed,
16 leaving a portion of the premises unredeemed, the deed shall be
17 ~~inoperative~~ **void** only to the redeemed parcel or parcels. ~~—, and~~
18 ~~to those portions that have not been redeemed the deed shall~~
19 ~~remain valid.~~

20 (4) If after the sale the purchaser, the purchaser's heirs,
21 executors, or administrators, or any person lawfully claiming
22 under the purchaser ~~— or the purchaser's heirs, executors, or~~
23 administrators pays taxes assessed against the property, amounts
24 necessary to redeem senior liens from foreclosure, condominium
25 assessments, homeowner association assessments, community
26 association assessments, or premiums on an insurance policy
27 covering any buildings located on the property that under the

1 terms of the mortgage it would have been the duty of the
2 mortgagor to pay if the mortgage had not been foreclosed and that
3 are necessary to keep the policy in force until the expiration of
4 the period of redemption, redemption shall be made only upon
5 payment of the sum specified in subsection (2) plus the amounts
6 specified in this subsection with interest on the amounts
7 specified in this subsection from the date of the payment to the
8 date of redemption at the **interest** rate specified in the
9 mortgage, if all of the following are filed with the register of
10 deeds with whom the deed is deposited:

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

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

19 (c) An affidavit of an insurance agent of the insurance
20 company stating that the payment was made and what portion of the
21 payment covers the premium for the period ~~prior to~~ **before** the
22 expiration of the period of redemption.

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

1 lien.

2 (6) The register of deeds shall indorse on the documents
3 filed ~~pursuant to~~ **under** subsection (4) the time they are
4 received. The register of deeds shall record the affidavit of
5 the purchaser only and shall preserve in his or her files the
6 recorded affidavit, receipts, insurance receipts, and insurance
7 agent's affidavit until expiration of the period of redemption.

8 (7) For a mortgage executed on or after January 1, 1965, on
9 commercial or industrial property, or multifamily residential
10 property in excess of 4 units, the redemption period is 6 months
11 from the ~~time~~ **date** of the sale.

12 (8) For a mortgage executed on or after January 1, 1965, on
13 residential property not exceeding 4 units and not more than 3
14 acres in size, if the amount claimed to be due on the mortgage at
15 the date of the notice of foreclosure is more than 66-2/3% of the
16 original indebtedness secured by the mortgage, the redemption
17 period is 6 months.

18 (9) For a mortgage on residential property not exceeding 4
19 units and not more than 3 acres in size, if the property is
20 abandoned as determined ~~pursuant to~~ **under** section 3241, the
21 redemption period is 3 months.

22 (10) For a mortgage on residential property not exceeding 4
23 units and not more than 3 acres in size, if the amount claimed to
24 be due on the mortgage at the date of the notice of foreclosure
25 is more than 66-2/3% of the original indebtedness secured by the
26 mortgage and the property is abandoned as determined ~~pursuant~~
27 ~~to~~ **under** section 3241, the redemption period is 1 month.

1 (11) If the property is abandoned as determined ~~pursuant to~~
 2 **under** section 3241a, the redemption period is 30 days.

3 (12) In any other case, the redemption period is 1 year from
 4 the date of the sale.

5 Sec. 6062. (1) ~~Within~~ **Not later than** 1 year from the
 6 ~~time~~ **date** when sale on execution is made, the real estate ~~so~~
 7 sold or any distinct lot, tract, or portion that is separately
 8 sold or the interest in real estate so sold ~~—~~ may be redeemed
 9 by payment to the purchaser, ~~his~~ **to the purchaser's** personal
 10 representatives or assigns, or to the officer who makes ~~such~~
 11 sale, ~~or to the register of deeds in whose office such~~
 12 ~~certificate is recorded,~~ **the sale** for the use of ~~such~~ **the**
 13 purchaser, of the sum of money bid on the sale of ~~such~~ **the** lot
 14 or tract, together with the interest on that sum from the ~~time~~
 15 **date** of sale, computed at the **interest** rate ~~per cent per annum~~
 16 ~~borne~~ **provided for** by the judgment under which ~~such~~ **the** sale
 17 was made.

18 (2) Redemption may be made by **any of the following:**

19 (a) The person against whom the execution is issued ~~—~~ and
 20 whose right and title are sold in pursuance ~~thereof, or~~ **of the**
 21 **execution.**

22 (b) If ~~such~~ **the** person is dead, by his **or her** devisee of
 23 the premises sold, ~~if the same have been devised, and if the~~
 24 ~~same have not been devised~~ **and if there is no devisee**, by the
 25 executor or administrator with the approval of the judge of
 26 probate, ~~—~~ or by the **person's** heirs. ~~of such person, or~~

27 (c) By any grantee of ~~such~~ **the** person who acquires an

1 absolute title by deed, sale under mortgage, or under an
2 execution, or by any other means, to the premises sold ~~—~~ or to
3 any lot, tract, parcel, or portion which is separately sold. ~~→~~
4 ~~or~~

5 (d) The purchaser of the title and right of redemption of the
6 person against whom the execution issues. ~~—, or~~

7 (e) Any heir or devisee of ~~such~~ **the** person, or any grantee
8 of ~~such~~ **the** heir or devisee, who acquires an absolute title to
9 a portion of the estate sold, or to a portion of any lot, tract,
10 or parcel that is separately sold, or the executor or
11 administrator of ~~such~~ **the** person, with the approval of the
12 judge of probate. ~~—, and such~~ **The** person has the same remedy to
13 enforce contribution from those who own the residue of the lot,
14 tract, or parcel ~~—~~ as if the sum required to be paid by him **or**
15 **her** to effect redemption was collected by a sale of the portion
16 belonging to ~~such~~ **the** grantee. ~~—, or~~

17 (f) Each of several persons having undivided shares, as joint
18 tenants or tenants in common, in the premises sold, or in any
19 particular lot or tract sold, by paying to the purchaser or
20 officer a sum that bears the same proportion to the whole sum bid
21 for the premises or for the particular lot or tract as the share
22 proposed to be redeemed bears to the whole number of shares of
23 the premises, lot, or tract, together with the interest on ~~such~~
24 **the** sum. ~~—, or~~

25 (g) A defendant lessee where the unexpired term of the lease
26 exceeds 3 years at the date of sale on execution. ~~—, and on such~~
27 **On the** redemption, the defendant is entitled to repossess,

1 recover, and enjoy the premises from the execution purchaser or
2 ~~his~~ **the purchaser's** assigns.

3 (3) Upon payment being made by any person so entitled to
4 redeem any real estate so sold, the sale of the premises so
5 redeemed and the certificate of ~~such~~ **the** sale and deed to the
6 extent of the premises or shares so redeemed ~~, shall be null~~
7 ~~and~~ **are** void.

8 Sec. 6066. (1) The sums required to be paid by the
9 foregoing provisions, to acquire the title of the original
10 purchaser ~~, or to become a purchaser from any creditor, may be~~
11 paid to ~~such~~ **the** purchaser or creditor, **to his or her**
12 representatives or assigns, or to the officer who made the sale
13 ~~, or to the register of deeds in whose office the certificate of~~
14 ~~sale is recorded,~~ for the use of the purchaser or creditor
15 entitled to the ~~same~~ **sums paid**.

16 (2) If the purchaser of any equity of redemption, or any
17 creditor having acquired the rights of ~~such~~ **the** purchaser,
18 shall pay the debt due on the mortgage, or the amount of any sale
19 of said premises sold on execution, or any part ~~thereof~~ **of the**
20 **property**, the amount ~~so~~ paid on the mortgage or execution sale
21 shall be paid, with interest, to ~~such~~ **the** purchaser or
22 creditor, in redeeming the premises, or purchasing the rights of
23 ~~such~~ **the** purchaser or creditor, as ~~the case may be according~~
24 ~~to the provisions of~~ **provided under** this chapter.

25 (3) Upon ~~such~~ payment being made, the title of the
26 original purchaser shall be ~~thereby~~ transferred to the creditor
27 acquiring ~~the same pursuant to~~ **title under** the foregoing

1 provisions ~~—~~ and from ~~such~~ **the** creditor to any other creditor
2 becoming a purchaser ~~thereof as hereinbefore provided~~ **of the**
3 **property.**

4 Enacting section 1. Sections 3272 and 6058 of the revised
5 judicature act of 1961, 1961 PA 236, MCL 600.3272 and 600.6058,
6 are repealed.