

HOUSE BILL No. 5176

November 10, 2011, Introduced by Rep. Olson and referred to the Committee on Banking and Financial Services.

A bill to amend 1961 PA 236, entitled
 "Revised judicature act of 1961,"
 by amending sections 3232 and 3240 (MCL 600.3232 and 600.3240),
 section 3240 as amended by 2010 PA 303.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3232. (1) ~~The~~ **IMMEDIATELY AFTER A SALE UNDER SECTION**
 2 **3216, THE** officer or person making the sale shall forthwith
 3 execute, acknowledge, and deliver ~~to~~ to each purchaser a deed of the
 4 ~~premises~~ **PROPERTY** bid off. ~~by him, and if~~ **IF** the lands ~~are~~ **PROPERTY**
 5 **IS** situated in several counties, ~~he~~ **THE OFFICER OR PERSON MAKING**
 6 **THE SALE** shall make separate deeds of the lands ~~PROPERTY~~ **PROPERTY** in each
 7 county. ~~and specify therein~~ **THE OFFICER OR PERSON MAKING THE SALE**
 8 **SHALL STATE IN A DEED EXECUTED UNDER THIS SECTION** the precise
 9 ~~amounts~~ **AMOUNT** for which each parcel of land therein described **IN**

1 **THE DEED** was sold ~~. And he shall endorse upon each deed~~ **AND** the
 2 time when the ~~same~~ **DEED** will become operative in case the premises
 3 are not redeemed according to law **AS DETERMINED UNDER SECTION 3240.**
 4 Such

5 (2) A deed ~~or deeds~~ **EXECUTED UNDER THIS SECTION** shall, as soon
 6 as practicable ~~,~~ and within 20 days after such ~~THE~~ sale **UNDER**
 7 **SECTION 3216**, be deposited with the register of deeds of the county
 8 in which the ~~land therein~~ **PROPERTY** described **IN THE DEED** is
 9 situated. ~~,~~ and the ~~THE~~ register shall endorse thereon **ON THE DEED**
 10 the time the ~~same~~ **DEED** was received, and ~~for the better~~
 11 ~~preservation thereof,~~ shall record the ~~same~~ **DEED** at length in a
 12 book ~~to be provided~~ **KEPT** in his ~~his~~ **THE** office **OF THE REGISTER OF DEEDS**
 13 for that purpose, ~~,~~ and shall index the ~~same~~ **DEED** in the regular
 14 index of deeds. ~~,~~ and the ~~THE~~ fee for recording the ~~same~~ **DEED UNDER**
 15 **THIS SUBSECTION** shall be included among the other costs and
 16 expenses allowed by law. ~~In case such premises shall be~~

17 (3) **IF PROPERTY SOLD AT A SALE UNDER SECTION 3216 IS** redeemed
 18 **AS PROVIDED IN SECTION 3240**, the register of deeds shall, at the
 19 time of destroying such ~~THE~~ deed ~~,~~ as provided in ~~UNDER~~ section
 20 3244, ~~of this chapter,~~ write on the face of such ~~THE~~ record the
 21 word "Redeemed", stating at ~~what~~ **THE** date such ~~THE~~ entry is made ~~,~~
 22 and signing such ~~THE~~ entry. ~~with his official signature.~~

23 Sec. 3240. (1) A purchaser's deed is void if the mortgagor,
 24 the mortgagor's heirs or personal representative, or any person
 25 lawfully claiming under the mortgagor or the mortgagor's heirs or
 26 personal representative redeems the entire premises sold by paying
 27 the amount required under subsection (2) and any amount required

1 under subsection (4), within the applicable time limit prescribed
2 in subsections (7) to ~~(12)~~, ~~(14)~~, to the purchaser or the
3 purchaser's personal representative or assigns, or to the register
4 of deeds in whose office the deed is deposited for the benefit of
5 the purchaser.

6 (2) The amount required to be paid under subsection (1) is the
7 sum that was bid for the entire premises sold, with interest from
8 the date of the sale at the interest rate provided for by the
9 mortgage, together with the amount of the sheriff's fee paid by the
10 purchaser under section 2558(2)(q), and an additional \$5.00 as a
11 fee for the care and custody of the redemption money if the payment
12 is made to the register of deeds. Except as provided in subsection
13 (14), the register of deeds shall not determine the amount
14 necessary for redemption. The purchaser shall attach an affidavit
15 with the deed to be recorded under this section that states the
16 exact amount required to redeem the property under this subsection,
17 including any daily per diem amounts, and the date by which the
18 property must be redeemed shall be stated on the certificate of
19 sale. The purchaser may include in the affidavit the name of a
20 designee responsible on behalf of the purchaser to assist the
21 person redeeming the property in computing the exact amount
22 required to redeem the property. The designee may charge a fee as
23 stated in the affidavit and may be authorized by the purchaser to
24 receive redemption funds. The purchaser shall accept the amount
25 computed by the designee.

26 (3) If a distinct lot or parcel separately sold is redeemed,
27 leaving a portion of the premises unredeemed, the deed shall be

1 void only to the redeemed parcel or parcels.

2 (4) If, after the sale, the purchaser, the purchaser's heirs
3 or personal representative, or any person lawfully claiming under
4 the purchaser or the purchaser's heirs or personal representative
5 pays taxes assessed against the property, amounts necessary to
6 redeem senior liens from foreclosure, condominium assessments,
7 homeowner association assessments, community association
8 assessments, or premiums on an insurance policy covering any
9 buildings located on the property that under the terms of the
10 mortgage it would have been the duty of the mortgagor to pay if the
11 mortgage had not been foreclosed and that are necessary to keep the
12 policy in force until the expiration of the period of redemption,
13 redemption shall be made only upon payment of the sum specified in
14 subsection (2) plus the amounts specified in this subsection with
15 interest on the amounts specified in this subsection from the date
16 of the payment to the date of redemption at the interest rate
17 specified in the mortgage. This subsection does not apply unless
18 all of the following are filed with the register of deeds with whom
19 the deed is deposited:

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

23 (b) The receipt or copy of the canceled check evidencing the
24 payment of the taxes, amounts necessary to redeem senior liens from
25 foreclosure, condominium assessments, homeowner association
26 assessments, community association assessments, or insurance
27 premiums.

1 (c) An affidavit of an insurance agent of the insurance
2 company stating that the payment was made and what portion of the
3 payment covers the premium for the period before the expiration of
4 the period of redemption.

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

10 (6) The register of deeds shall indorse on the documents filed
11 under subsection (4) the time they are received. The register of
12 deeds shall record the affidavit of the purchaser only and shall
13 preserve in his or her files the recorded affidavit, receipts,
14 insurance receipts, and insurance agent's affidavit until
15 expiration of the period of redemption.

16 (7) ~~For~~ **SUBJECT TO SUBSECTION (14), FOR** a mortgage executed on
17 or after January 1, 1965, ~~en-OF~~ commercial or industrial property,
18 or multifamily residential property in excess of 4 units, the
19 redemption period is 6 months from the date of the sale.

20 (8) Subject to subsections (9) to ~~(11),~~ **(13)**, for a mortgage
21 executed on or after January 1, 1965, ~~en-OF~~ residential property
22 not exceeding 4 units, ~~and not more than 3 acres in size,~~ if the
23 amount claimed to be due on the mortgage at the date of the notice
24 of foreclosure is more than 66-2/3% of the original indebtedness
25 secured by the mortgage, the redemption period is 6 months.

26 (9) Subject to subsection (10) **OR (13)**, for a mortgage ~~en-OF~~
27 residential property not exceeding 4 units, if the property is

1 abandoned as determined under section 3241, the redemption period
2 is 3 months.

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

8 (11) If the property is abandoned as determined under section
9 3241a, the redemption period is 30 days or until the time to
10 provide the notice required by section 3241a(c) expires, whichever
11 is later.

12 (12) **SUBJECT TO SUBSECTION (13), FOR A MORTGAGE OF PROPERTY**
13 **THAT IS USED FOR AGRICULTURAL PURPOSES, THE REDEMPTION PERIOD IS 1**
14 **YEAR FROM THE DATE OF THE SALE.**

15 (13) **UNLESS SUBSECTION (10) OR (11) APPLIES, IF THE ORIGINAL**
16 **MORTGAGEE HAS NEVER ASSIGNED THE MORTGAGE OR THE INDEBTEDNESS**
17 **SECURED BY THE MORTGAGE AND HAS NOT TRANSFERRED THE POWER TO**
18 **SERVICE THE MORTGAGE, THE REDEMPTION PERIOD IS 90 DAYS FROM THE**
19 **DATE OF THE SALE.**

20 (14) ~~(12)~~ If subsections (7) to ~~(11)~~ **(13)** do not apply, the
21 redemption period is 1 year from the date of the sale.

22 (15) ~~(13)~~ The amount stated in any affidavits recorded under
23 this section shall be the amount necessary to satisfy the
24 requirements for redemption under this section.

25 (16) ~~(14)~~ The register of deeds of a county having a
26 population of more than 750,000 and less than 1,500,000, at the
27 request of a person entitled to redeem the property under this

1 section, shall determine the amount necessary for redemption. In
2 determining the amount, the register of deeds shall consider only
3 the affidavits recorded under subsections (2) and (4). A county,
4 register of deeds, or employee of a county or register of deeds is
5 not liable for damages proximately caused by an incorrect
6 determination of an amount necessary for redemption under
7 subsection (2).

8 (17) ~~(15)~~—A register of deeds may charge not more than \$50.00
9 for determining the amount necessary for redemption under this
10 section.

11 (18) FOR PURPOSES OF THIS SECTION, THERE IS A PRESUMPTION THAT
12 THE PROPERTY IS USED FOR AGRICULTURAL PURPOSES IF, BEFORE THE
13 FORECLOSURE SALE UNDER THIS CHAPTER, THE MORTGAGOR PROVIDES THE
14 PARTY FORECLOSING THE MORTGAGE PROOF THAT THE MORTGAGOR FILED A
15 SCHEDULE F TO THE MORTGAGOR'S FEDERAL INCOME TAX FORM 1040 FOR THE
16 YEAR PRECEDING THE YEAR IN WHICH THE PROCEEDINGS TO FORECLOSE THE
17 MORTGAGE WERE COMMENCED. IF THE MORTGAGOR FAILS TO PROVIDE PROOF AS
18 DESCRIBED IN THIS SUBSECTION BEFORE THE FORECLOSURE SALE, THERE IS
19 A PRESUMPTION THAT THE PROPERTY IS NOT USED FOR AGRICULTURAL
20 PURPOSES. THE PARTY FORECLOSING THE MORTGAGE OR THE MORTGAGOR MAY
21 FILE A CIVIL ACTION TO PRODUCE EVIDENCE TO REBUT A PRESUMPTION
22 CREATED BY THIS SUBSECTION.