

SENATE BILL No. 1048

September 10, 2014, Introduced by Senator BOOHER 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 3130, 3208, and 3236 (MCL 600.3130, 600.3208, and 600.3236) and by adding section 3106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3106. (1) AN INTEREST OF RECORD UNDER AN OIL AND GAS LEASE
2 OR OTHER INSTRUMENT RELATED TO THE EXPLORATION FOR OR PRODUCTION OF
3 OIL, GAS, OR OTHER HYDROCARBONS FROM PROPERTY IS NOT AFFECTED IN
4 ANY WAY BY A JUDGMENT ENTERED IN AN ACTION UNDER THIS CHAPTER TO
5 FORECLOSE A MORTGAGE OF THE PROPERTY, BY AN ACT TAKEN UNDER THIS
6 CHAPTER AS A RESULT OF THE FILING OF THE ACTION, OR BY A
7 FORECLOSURE PURSUANT TO THE ACTION, UNLESS EITHER OF THE FOLLOWING
8 OCCURS:

1 (A) WITHIN 15 DAYS AFTER THE ACTION IS FILED, A COPY OF THE
 2 COMPLAINT IS SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO
 3 THE HOLDER OF RECORD OF THE INTEREST.

4 (B) THE HOLDER IS MADE A PARTY TO THE ACTION AND PROPERLY
 5 SERVED WITH A SUMMONS AND A COPY OF THE COMPLAINT.

6 (2) THIS SECTION DOES NOT APPLY TO AN ACTION FILED BEFORE THE
 7 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

8 Sec. 3130. (1) The person making ~~the~~ **A** sale **UNDER SECTION 3125**
 9 shall execute deeds specifying the names of the parties in the
 10 action **TO FORECLOSE THE MORTGAGE OR LAND CONTRACT**, the date of the
 11 ~~land contract or mortgage~~ **OR LAND CONTRACT**, when and where it was
 12 recorded, a description of the ~~premises~~ **PROPERTY** sold, and the
 13 amount for which each parcel of land described in the deed was
 14 sold. ~~and he~~

15 (2) **THE PERSON MAKING A SALE UNDER SECTION 3125** shall indorse
 16 ~~upon~~ **ON** each deed **EXECUTED UNDER SUBSECTION (1)** the time it becomes
 17 operative if the ~~premises are~~ **PROPERTY IS** not redeemed according to
 18 law. ~~Unless~~ **EXCEPT AS PROVIDED IN SUBSECTION (3), UNLESS** the
 19 ~~premises~~ **PROPERTY** or ~~any~~ **A** parcel of ~~them are~~ **THE PROPERTY IS**
 20 redeemed within the time limited for redemption, the deed shall
 21 ~~become~~ **BECOMES** operative as to all parcels not redeemed ~~and shall~~
 22 ~~vest~~ **VESTS** in the grantee named in the deed ~~his~~ **OR THE GRANTEE'S**
 23 heirs ~~or~~ assigns all the right, title, and interest ~~which~~ **THAT**
 24 the mortgagor had at the time of the execution of the mortgage **OR**
 25 **LAND CONTRACT** or at any time ~~thereafter~~ **AFTER THE EXECUTION OF THE**
 26 **MORTGAGE OR LAND CONTRACT.**

27 (3) **AN INTEREST OF RECORD IN A NON-SURFACE-ACTIVITY OIL AND**

1 GAS LEASE OF RECORD OF PROPERTY DESCRIBED IN A DEED EXECUTED UNDER
2 THIS SECTION THAT WAS CREATED OR RECORDED AFTER THE LIEN OF THE
3 MORTGAGE TOOK EFFECT HAS PRIORITY OVER THE MORTGAGE, EVEN THOUGH
4 CREATED OR RECORDED AFTER THE LIEN OF THE MORTGAGE TOOK EFFECT. THE
5 GRANTEE NAMED IN A DEED EXECUTED UNDER THIS SECTION AND THE
6 GRANTEE'S HEIRS AND ASSIGNS ARE SUBJECT TO THE NON-SURFACE-ACTIVITY
7 OIL AND GAS LEASE AND ARE ENTITLED TO ALL ROYALTIES PROVIDED FOR IN
8 THE NON-SURFACE-ACTIVITY OIL AND GAS LEASE THAT ACCRUE TO THE
9 ROYALTY INTEREST THAT THE MORTGAGOR HAD BY REASON OF PRODUCTION
10 AFTER THE EXECUTION OF THE DEED AND THE RECEIPT OF NOTICE OF THE
11 DEED BY THE PERSON RESPONSIBLE FOR PAYMENT OF THE ROYALTY.
12 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE NON-SURFACE-
13 ACTIVITY OIL AND GAS LEASE OR ANY AMENDMENT TO THE LEASE, THE RATE
14 OF ROYALTY PAYABLE TO THE GRANTEE NAMED IN THE DEED AND THE
15 GRANTEE'S HEIRS AND ASSIGNS SHALL BE THE GREATER OF 1/8 OR THE RATE
16 STATED IN THE LEASE OR THE AMENDMENT TO THE LEASE. AS USED IN THIS
17 SUBSECTION, "NON-SURFACE-ACTIVITY OIL AND GAS LEASE" MEANS AN OIL
18 AND GAS LEASE THAT DOES NOT GRANT THE RIGHT TO CONDUCT SURFACE
19 OPERATIONS OF ANY KIND ON THE LANDS SUBJECT TO THE OIL AND GAS
20 LEASE, INCLUDING, BUT NOT LIMITED TO, DRILLING OF A WELL FROM THE
21 SURFACE, PIPELINE INSTALLATION, OR THE CREATION OF A ROUTE FOR
22 INGRESS AND EGRESS.

23 (4) SUBSECTION (3) DOES NOT APPLY TO A MORTGAGE ENTERED INTO
24 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
25 SUBSECTION.

26 (5) ~~(2) The deed of sale as~~ AS soon as practicable and within
27 20 days after the sale, THE PERSON EXECUTING A DEED UNDER THIS

1 ~~SECTION shall be deposited~~ **DEPOSIT THE DEED** with the register of
 2 deeds of the county in which the ~~land therein~~ **PROPERTY** described **IN**
 3 **THE DEED** is situated, ~~and the~~ **LOCATED. THE** register shall indorse
 4 ~~upon~~ **ON** the deed the time it was received, ~~and shall~~ record the
 5 deed at length in a book ~~to be provided in his~~ **THE REGISTER'S**
 6 office for that purpose, and ~~shall~~ index the deed in the regular
 7 index of deeds. ~~, and the~~ **THE** fee for recording the deed shall be
 8 included among the other costs and expenses allowed by law.

9 (6) If the ~~premises~~ **PROPERTY DESCRIBED IN A DEED EXECUTED**
 10 **UNDER THIS SECTION** or ~~any~~ **A** parcel of ~~them~~ ~~are~~ **THE PROPERTY IS**
 11 redeemed, the register of deeds shall write on the face of the
 12 record the ~~work~~ **WORD** "Redeemed" and ~~he shall write at what~~ **THE** date
 13 the entry is made and **SHALL** sign the entry with his **OR HER** official
 14 signature.

15 Sec. 3208. (1) Notice that ~~the~~ **A** mortgage will be foreclosed
 16 **UNDER THIS CHAPTER** by a sale of the mortgaged ~~premises,~~ **PROPERTY,**
 17 or ~~some~~ part of ~~them,~~ **THE PROPERTY,** shall be given by publishing
 18 the ~~same~~ **NOTICE** for 4 successive weeks at least once in each week,
 19 in a newspaper published in the county where the ~~premises included~~
 20 ~~in the mortgage and intended to be sold, or some~~ **PROPERTY OR** part
 21 of ~~them, are situated.~~ **THE PROPERTY IS LOCATED.** If no newspaper is
 22 published in the county, the notice shall be published in a
 23 newspaper published in an adjacent county. ~~In every case within~~
 24 **WITHIN** 15 days after the first publication of the notice **UNDER THIS**
 25 **SUBSECTION,** a true copy **OF THE NOTICE** shall be posted in a
 26 conspicuous place ~~upon~~ **ON** any part of the ~~premises~~ **PROPERTY**
 27 described in the notice.

1 (2) THE INTEREST OF RECORD UNDER AN OIL AND GAS LEASE OR OTHER
 2 INSTRUMENT RELATED TO THE EXPLORATION FOR OR PRODUCTION OF OIL,
 3 GAS, OR OTHER HYDROCARBONS FROM PROPERTY IS NOT AFFECTED IN ANY WAY
 4 BY THE FORECLOSURE OF A MORTGAGE OF THE PROPERTY UNDER THIS CHAPTER
 5 OR BY ANY ACTION TAKEN PURSUANT TO THIS CHAPTER AS A RESULT OF THE
 6 FORECLOSURE UNLESS, WITHIN 15 DAYS AFTER THE FIRST PUBLICATION OF
 7 THE NOTICE UNDER SUBSECTION (1), A COPY OF THE NOTICE IS SENT BY
 8 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE HOLDER OF RECORD
 9 OF THE INTEREST OF RECORD.

10 (3) SUBSECTION (2) DOES NOT APPLY TO A FORECLOSURE IN WHICH
 11 THE FIRST NOTICE UNDER SUBSECTION (1) IS PUBLISHED BEFORE THE
 12 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

13 Sec. 3236. (1) Unless the ~~premises~~ **PROPERTY** described in such
 14 A deed ~~shall be~~ **EXECUTED UNDER SECTION 3232 IS** redeemed within the
 15 time limited for ~~such~~ redemption as ~~hereinafter~~ provided **IN THIS**
 16 **CHAPTER**, ~~such~~ **THE** deed shall ~~thereupon become~~ **BECOMES** operative ~~;~~
 17 and, ~~shall vest~~ **SUBJECT TO SUBSECTION (3), VESTS** in the grantee
 18 ~~therein named~~ ~~;~~ ~~his~~ **IN THE DEED AND THE GRANTEE'S** heirs or assigns
 19 ~~;~~ ~~all the right, title, and interest which~~ **THAT** the mortgagor had
 20 at the time of the execution of the mortgage, or at any time
 21 ~~thereafter,~~ **AFTER THE EXECUTION OF THE MORTGAGE**, except as to any
 22 parcel or parcels ~~which may~~ **THAT** have been redeemed and canceled ~~;~~
 23 as ~~hereinafter~~ provided ~~;~~ ~~and the record thereof shall thereafter,~~
 24 ~~for all purposes be deemed~~ **IN THIS CHAPTER. AFTER THE OPERATIVE**
 25 **DATE OF THE DEED, THE PREVIOUS RECORDING OF THE DEED IS** a valid
 26 record ~~of said deed without~~ **THE DEED** being re-recorded, ~~but no~~
 27 **RERECORDED.**

1 (2) A person ~~having any~~ WHO HAS A valid subsisting lien upon
2 ~~the mortgaged premises,~~ ON PROPERTY SOLD UNDER SECTION 3216 or any
3 part thereof, ~~OF THE PROPERTY THAT WAS~~ created before the lien of
4 ~~such~~ THE mortgage took effect, ~~shall be~~ IS NOT prejudiced by any
5 ~~such~~ THE sale, ~~nor shall his~~ OF THE PROPERTY AND THE PERSON'S
6 rights ~~or~~ AND interests ~~be~~ ARE NOT in any way affected thereby. BY
7 THE SALE.

8 (3) AN INTEREST OF RECORD IN A NON-SURFACE-ACTIVITY OIL AND
9 GAS LEASE OF RECORD OF PROPERTY SOLD UNDER SECTION 3216 THAT WAS
10 CREATED OR RECORDED AFTER THE LIEN OF THE MORTGAGE TOOK EFFECT HAS
11 PRIORITY OVER THE MORTGAGE, EVEN THOUGH CREATED OR RECORDED AFTER
12 THE LIEN OF THE MORTGAGE TOOK EFFECT. THE GRANTEE NAMED IN THE DEED
13 EXECUTED UNDER SECTION 3232 AND THE GRANTEE'S HEIRS AND ASSIGNS ARE
14 SUBJECT TO THE NON-SURFACE-ACTIVITY OIL AND GAS LEASE AND ARE
15 ENTITLED TO ALL ROYALTIES PROVIDED FOR IN THE NON-SURFACE-ACTIVITY
16 OIL AND GAS LEASE THAT ACCRUE TO THE ROYALTY INTEREST THAT THE
17 MORTGAGOR HAD BY REASON OF PRODUCTION AFTER THE EXECUTION OF THE
18 DEED AND THE RECEIPT OF NOTICE OF THE DEED BY THE PERSON
19 RESPONSIBLE FOR PAYMENT OF THE ROYALTY. NOTWITHSTANDING ANYTHING TO
20 THE CONTRARY IN THE NON-SURFACE-ACTIVITY OIL AND GAS LEASE OR ANY
21 AMENDMENT TO THE LEASE, THE RATE OF ROYALTY PAYABLE TO THE GRANTEE
22 NAMED IN THE DEED AND THE GRANTEE'S HEIRS AND ASSIGNS SHALL BE THE
23 GREATER OF 1/8 OR THE AMOUNT STATED IN THE LEASE OR AMENDMENT TO
24 THE LEASE. AS USED IN THIS SUBSECTION, "NON-SURFACE-ACTIVITY OIL
25 AND GAS LEASE" MEANS AN OIL AND GAS LEASE THAT DOES NOT GRANT THE
26 RIGHT TO CONDUCT SURFACE OPERATIONS OF ANY KIND ON THE LANDS
27 SUBJECT TO THE OIL AND GAS LEASE, INCLUDING, BUT NOT LIMITED TO,

1 DRILLING OF A WELL FROM THE SURFACE, PIPELINE INSTALLATION, OR
2 CREATION OF A ROUTE FOR INGRESS AND EGRESS.

3 (4) SUBSECTION (3) DOES NOT APPLY TO A MORTGAGE ENTERED INTO
4 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
5 SUBSECTION.