

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.3204 Foreclosure by advertisement; circumstances; installments as separate and independent mortgage; redemption; chain of title.

Sec. 3204. (1) A party may foreclose a mortgage by advertisement if all of the following circumstances exist:

(a) A default in a condition of the mortgage has occurred, by which the power to sell became operative.

(b) An action or proceeding has not been instituted, at law, to recover the debt secured by the mortgage or any part of the mortgage or, if an action or proceeding has been instituted, either the action or proceeding has been discontinued or an execution on a judgment rendered in the action or proceeding has been returned unsatisfied, in whole or in part. For purposes of this subdivision, neither of the following is an action or proceeding to recover the debt:

(i) An action or proceeding for the appointment of a receiver.

(ii) An action or proceeding under the Michigan uniform assignment of rents act to enforce an assignment of rents.

(c) The mortgage containing the power of sale has been properly recorded.

(d) The party foreclosing the mortgage is either the owner of the indebtedness or of an interest in the indebtedness secured by the mortgage or the servicing agent of the mortgage.

(2) If a mortgage is given to secure the payment of money by installments, each of the installments mentioned in the mortgage after the first must be treated as a separate and independent mortgage. The mortgage for each of the installments may be foreclosed in the same manner and with the same effect as if a separate mortgage were given for each subsequent installment. A redemption of a sale by the mortgagor has the same effect as if the sale for the installment had been made upon an independent prior mortgage.

(3) If the party foreclosing a mortgage by advertisement is not the original mortgagee, a record chain of title must exist before the date of sale under section 3216 evidencing the assignment of the mortgage to the party foreclosing the mortgage.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1994, Act 397, Imd. Eff. Dec. 29, 1994;—Am. 2004, Act 186, Imd. Eff. July 1, 2004;—Am. 2009, Act 29, Eff. July 5, 2009;—Am. 2011, Act 72, Imd. Eff. July 1, 2011;—Am. 2011, Act 301, Imd. Eff. Dec. 22, 2011;—Am. 2012, Act 521, Imd. Eff. Dec. 28, 2012;—Am. 2013, Act 103, Imd. Eff. July 3, 2013;—Am. 2014, Act 125, Eff. June 19, 2014;—Am. 2018, Act 15, Eff. May 7, 2018;—Am. 2022, Act 116, Eff. Sept. 22, 2022.

Compiler's note: Enacting section 1 of Act 301 of 2011 provides:

"Enacting section 1. Sections 3204(4), 3205, and 3212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3204, 600.3205, and 600.3212, as amended by this amendatory act, and section 3278 of the revised judicature act of 1961, 1961 PA 236, as added by this amendatory act, apply to foreclosure proceedings in which the first notice under section 3205a of the revised judicature act of 1961, 1961 PA 236, MCL 600.3205a, is mailed to the mortgagor on or after February 1, 2012."