

MORTGAGE FORECLOSURE BY ADVERTISEMENT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4306 (proposed substitute H-2)
Sponsor: Rep. Triston Cole
Committee: Government Operations
Complete to 4-30-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4306 would amend the Revised Judicature Act to require a notice of foreclosure by advertisement to include certain information.

Chapter 32 of the act provides a process under which certain mortgages may be foreclosed by advertising the foreclosure sale rather than by filing a lawsuit against the borrower. (The foreclosure sale is a public auction won by the highest bidder.) The act requires a notice to be published in a local newspaper at least once a week, for four consecutive weeks, that the mortgage will be foreclosed by sale of the property. The notice must contain such information as the names of the parties to the mortgage, a description of the property, and the current amount due under the mortgage.

House Bill 4306 would require that the notice also include the following:

- The street address of the property. (However, the validity of the notice and any eventual sale would not be affected by a wrong or missing street address.)
- The name, address, and telephone number of the attorney for the foreclosing party.
- For a residential mortgage, a statement addressed to the homeowner in the following form: "If you are a military service member on active duty, if your period of active duty has concluded less than 90 days ago, or if you have been ordered to active duty, please contact the attorney for the party foreclosing the mortgage at the telephone number stated in this notice."
- A statement indicating that the notice is for a foreclosure by advertisement under the Revised Judicature Act. The statement would indicate the time and place of the sale. The statement would advise that the amount due on the mortgage might be greater on the day of the sale and that placing the highest bid does not automatically convey free and clear ownership. It would encourage a potential purchaser to contact the county register of deeds or a title insurance company, either of which might charge a fee, for further information. (The language of the statement is specified by the bill.)

The bill would take effect 30 days after being enacted.

MCL 600.3212

FISCAL IMPACT:

House Bill 4306 would have no fiscal impact on the state or on local units of government.

Legislative Analyst: Rick Yuille
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.