



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5859 (Substitute H-3 as passed by the House)
Sponsor: Representative Alexander C. Lipsey
House Committee: Commerce
Senate Committee: Banking and Financial Institutions

Date Completed: 5-27-04

CONTENT

The bill would amend the Revised Judicature Act (RJA) to do both of the following:

- Require that a record chain of title exist before the sale date, if the party foreclosing a mortgage by advertisement were not the original mortgagee.**
- Require that, if a mortgage had been assigned, a notice of foreclosure by advertisement include the date of the assignment and the name of the original mortgagee.**

Chain of Title

The RJA allows a party to foreclose a mortgage by advertisement if certain circumstances exist. Among other things, if the foreclosing party is not the original mortgagee, there must be a record chain of title evidencing the assignment of the mortgage to the foreclosing party. Under the bill, this record chain of title would have to exist before the date of sale.

Notice Requirements

Under the RJA, every notice of foreclosure by advertisement must contain certain information, including the date of the mortgage and the date the mortgage was recorded. The bill would require that, if the mortgage had been assigned, the foreclosure notice also contain the date of the assignment or, if it had been assigned more than once, the date of the last assignment.

Every notice of foreclosure by advertisement also must include the names of the mortgagor, the mortgagee, and the foreclosing assignee of a recorded assignment of the mortgage. The bill specifies that the notice would have to include the names of the mortgagor, the *original* mortgagee, and the foreclosing assignee, if any.

MCL 600.3204 & 600.3212

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bethany Wicksall

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