

SUBSTITUTE FOR
HOUSE BILL NO. 6614

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3101, 3140, 3208, 3216, and 3240 (MCL
600.3101, 600.3140, 600.3208, 600.3216, and 600.3240), section 3101
as amended by 1981 PA 172, section 3140 as amended by 2004 PA 538,
and section 3240 as amended by 2006 PA 579.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3101. (1) The circuit court has jurisdiction to foreclose
2 mortgages of real estate and land contracts. However, ~~the~~
3 ~~procedures set forth in this chapter shall~~ **DOES** not apply to
4 mortgages of real estate and land contracts held by the Michigan
5 state housing development authority.

6 **(2) AFTER DECEMBER 14, 2008 AND UNTIL THE MICHIGAN HOME**
7 **FORECLOSURE PREVENTION PROGRAM DEVELOPED UNDER SECTION 5 OF THE**

1 HOME FORECLOSURE PREVENTION ACT IS DISCONTINUED, IF SECTION 8 OF
2 THE HOME FORECLOSURE PREVENTION ACT REQUIRES A CERTIFICATION TO BE
3 INCLUDED IN A COMPLAINT TO FORECLOSE A MORTGAGE UNDER THIS CHAPTER,
4 THE PLAINTIFF SHALL INCLUDE THE CERTIFICATION IN THE COMPLAINT. IF
5 THE PLAINTIFF FAILS TO INCLUDE THE CERTIFICATION OR IF THE
6 CERTIFICATION CONTAINS A MATERIALLY INACCURATE STATEMENT, THE COURT
7 MAY DISMISS THE ACTION WITHOUT PREJUDICE AND ORDER THE PLAINTIFF TO
8 PAY THE COSTS INCURRED BY THE DEFENDANT IN DEFENDING THE
9 FORECLOSURE PROCEEDING.

10 Sec. 3140. (1) ~~The~~SUBJECT TO SUBSECTION (7), THE mortgagor,
11 the mortgagor's heirs, executors, or administrators, or any person
12 lawfully claiming from or under the mortgagor or the mortgagor's
13 heirs, executors, or administrators may redeem the entire premises
14 sold by paying, within 6 months from the time of the sale, to the
15 purchaser or the purchaser's executors, administrators, or assigns,
16 or to the register of deeds in whose office the deed of sale is
17 deposited as provided in the court rules, for the benefit of the
18 purchaser, the sum which was bid with interest from the date of the
19 sale at the interest rate provided for by the mortgage.

20 (2) The vendee of a land contract, the vendee's heirs,
21 executors, or administrators, or any person lawfully claiming from
22 or under the vendee or the vendee's heirs, executors, or
23 administrators may redeem the entire premises sold within 6 months
24 from the time of the sale by paying to the purchaser or the
25 purchaser's executors, administrators, or assigns, or to the
26 register of deeds in whose office the deed of sale is deposited as
27 provided in the court rules, for the benefit of the purchaser, the

1 sum which was bid with interest from the date of the sale at the
2 interest rate provided for by the land contract.

3 (3) The register of deeds shall not determine the amount
4 necessary for redemption. The purchaser shall attach an affidavit
5 with the deed to be recorded under this section that states the
6 exact amount required to redeem the property, including any daily
7 per diem amounts, and the date by which the property must be
8 redeemed shall be stated on the certificate of auctioneer. The
9 purchaser may include in the affidavit the name of a designee
10 responsible on behalf of the purchaser to assist the person
11 redeeming the property in computing the exact amount required to
12 redeem the property. The designee may charge a fee as stated in the
13 affidavit and may be authorized by the purchaser to receive
14 redemption funds. The purchaser shall accept the amount computed by
15 the designee.

16 (4) If the sum for redemption is paid to the register of
17 deeds, a fee of \$5.00 shall be paid for the care and custody of the
18 redemption money.

19 (5) If payments are made as provided under this section, the
20 deed of sale is void. If a distinct lot or parcel separately sold
21 is redeemed, leaving a portion of the premises unredeemed, then the
22 deed of sale is void only as to the portion or portions of the
23 premises which are redeemed.

24 (6) The amount stated in any affidavits recorded under this
25 section shall be the amount necessary to satisfy the requirements
26 for redemption under this section.

27 **(7) IF THE DATE TO COMMENCE PROCEEDINGS TO FORECLOSE THE**

1 MORTGAGE WAS EXTENDED UNDER SECTION 6 OF THE HOME FORECLOSURE
 2 PREVENTION ACT, THE TIME TO REDEEM UNDER SUBSECTION (1) SHALL BE
 3 REDUCED BY THE LENGTH OF THE EXTENSION.

4 Sec. 3208. (1) Notice that ~~the~~**A** mortgage will be foreclosed
 5 by a sale of the mortgaged premises, or some part of them, shall be
 6 given by publishing the same for 4 successive weeks at least once
 7 in each week, in a newspaper published in the county where the
 8 premises included in the mortgage and intended to be sold, or some
 9 part of them, are situated. If ~~no~~**A** newspaper is **NOT** published in
 10 the county, the notice shall be published in a newspaper published
 11 in an adjacent county. ~~In every case within~~**WITHIN** 15 days after
 12 the first publication of the notice, a true copy shall be posted in
 13 a conspicuous place upon any part of the premises described in the
 14 notice.

15 (2) AFTER DECEMBER 14, 2008 AND UNTIL THE MICHIGAN HOME
 16 FORECLOSURE PREVENTION PROGRAM DEVELOPED UNDER SECTION 5 OF THE
 17 HOME FORECLOSURE PREVENTION ACT IS DISCONTINUED, IF SECTION 8 OF
 18 THE HOME FORECLOSURE PREVENTION ACT REQUIRES A CERTIFICATION TO BE
 19 INCLUDED IN A NOTICE TO FORECLOSE A MORTGAGE UNDER THIS SECTION,
 20 THE PERSON PUBLISHING THE NOTICE SHALL INCLUDE THE CERTIFICATION IN
 21 THE NOTICE.

22 Sec. 3216. (1) ~~The~~**A** sale **UNDER THIS CHAPTER** shall be at
 23 public sale, between ~~the hour of 9 o'clock in the forenoon and 4~~
 24 ~~o'clock in the afternoon~~**9 A.M. AND 4 P.M.**, at the place of holding
 25 the circuit court ~~within~~**IN** the county in which the premises to be
 26 sold, or some part of them, are situated. ~~and~~**THE SALE** shall be
 27 made by the person appointed for that purpose in the mortgage, or

1 by the sheriff, undersheriff, or a deputy sheriff of the county, to
2 the highest bidder.

3 (2) IF THE NOTICE OF FORECLOSURE SALE UNDER SECTION 3208 FAILS
4 TO INCLUDE THE CERTIFICATION REQUIRED BY SECTION 8 OF THE HOME
5 FORECLOSURE PREVENTION ACT OR IF THE CERTIFICATION CONTAINS A
6 MATERIALLY INACCURATE STATEMENT, THE PERSON MAKING THE SALE UNDER
7 SUBSECTION (1) SHALL NOT CONDUCT THE SALE UNTIL THE PARTY
8 ATTEMPTING TO FORECLOSE BY ADVERTISEMENT HAS COMPLIED WITH THE HOME
9 FORECLOSURE PREVENTION ACT.

10 Sec. 3240. (1) A purchaser's deed is void if the mortgagor,
11 the mortgagor's heirs, executors, or administrators, or any person
12 lawfully claiming under the mortgagor or the mortgagor's heirs,
13 executors, or administrators redeems the entire premises sold by
14 paying the amount required under subsection (2), within the
15 applicable time limit prescribed in subsections (7) to (12), **AS**
16 **REDUCED, IF APPLICABLE, UNDER SUBSECTION (14),** to the purchaser or
17 the purchaser's executors, administrators, or assigns, or to the
18 register of deeds in whose office the deed is deposited for the
19 benefit of the purchaser.

20 (2) The amount required to be paid under subsection (1) is the
21 sum that was bid for the entire premises sold, with interest from
22 the date of the sale at the interest rate provided for by the
23 mortgage, together with the amount of the sheriff's fee paid by the
24 purchaser under section 2558(2)(q), and an additional \$5.00 as a
25 fee for the care and custody of the redemption money if the payment
26 is made to the register of deeds. The register of deeds shall not
27 determine the amount necessary for redemption. The purchaser shall

1 attach an affidavit with the deed to be recorded under this section
2 that states the exact amount required to redeem the property under
3 this subsection, including any daily per diem amounts, and the date
4 by which the property must be redeemed shall be stated on the
5 certificate of sale. The purchaser may include in the affidavit the
6 name of a designee responsible on behalf of the purchaser to assist
7 the person redeeming the property in computing the exact amount
8 required to redeem the property. The designee may charge a fee as
9 stated in the affidavit and may be authorized by the purchaser to
10 receive redemption funds. The purchaser shall accept the amount
11 computed by the designee.

12 (3) If a distinct lot or parcel separately sold is redeemed,
13 leaving a portion of the premises unredeemed, the deed shall be
14 void only to the redeemed parcel or parcels.

15 (4) If after the sale the purchaser, the purchaser's heirs,
16 executors, or administrators, or any person lawfully claiming under
17 the purchaser or the purchaser's heirs, executors, or
18 administrators pays taxes assessed against the property, amounts
19 necessary to redeem senior liens from foreclosure, condominium
20 assessments, homeowner association assessments, community
21 association assessments, or premiums on an insurance policy
22 covering any buildings located on the property that under the terms
23 of the mortgage it would have been the duty of the mortgagor to pay
24 if the mortgage had not been foreclosed and that are necessary to
25 keep the policy in force until the expiration of the period of
26 redemption, redemption shall be made only upon payment of the sum
27 specified in subsection (2) plus the amounts specified in this

1 subsection with interest on the amounts specified in this
2 subsection from the date of the payment to the date of redemption
3 at the interest rate specified in the mortgage, if all of the
4 following are filed with the register of deeds with whom the deed
5 is deposited:

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

9 (b) The receipt or copy of the canceled check evidencing the
10 payment of the taxes, amounts necessary to redeem senior liens from
11 foreclosure, condominium assessments, homeowner association
12 assessments, community association assessments, or insurance
13 premiums.

14 (c) An affidavit of an insurance agent of the insurance
15 company stating that the payment was made and what portion of the
16 payment covers the premium for the period before the expiration of
17 the period of redemption.

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

23 (6) The register of deeds shall indorse on the documents filed
24 under subsection (4) the time they are received. The register of
25 deeds shall record the affidavit of the purchaser only and shall
26 preserve in his or her files the recorded affidavit, receipts,
27 insurance receipts, and insurance agent's affidavit until

1 expiration of the period of redemption.

2 (7) Subject to subsections (9) to (11), for a mortgage
3 executed on or after January 1, 1965, on commercial or industrial
4 property, or multifamily residential property in excess of 4 units,
5 the redemption period is 6 months from the date of the sale.

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

12 (9) Subject to subsection (10), for a mortgage on residential
13 property not exceeding 4 units, if the property is abandoned as
14 determined under section 3241, the redemption period is 3 months.

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

20 (11) If the property is abandoned as determined under section
21 3241a, the redemption period is 30 days or until the time to
22 provide the notice required by section 3241a(c) expires, whichever
23 is later.

24 (12) If subsections (7) to (11) do not apply, the redemption
25 period is 1 year from the date of the sale.

26 (13) The amount stated in any affidavits recorded under this
27 section shall be the amount necessary to satisfy the requirements

1 for redemption under this section.

2 (14) IF THE DATE TO COMMENCE PROCEEDINGS TO FORECLOSE THE
3 MORTGAGE WAS EXTENDED UNDER SECTION 6 OF THE HOME FORECLOSURE
4 PREVENTION ACT, THE TIME TO REDEEM UNDER THIS SECTION SHALL BE
5 REDUCED BY THE LENGTH OF THE EXTENSION.

6 Enacting section 1. This amendatory act does not take effect
7 unless House Bill No. 6615 of the 94th Legislature is enacted into
8 law.