

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

600.3285 Validity of foreclosure; violation of subsection (2); penalty; filing of action by attorney general; applicability of section to mortgage entered into before effective date of act; definitions.

Sec. 3285.

(1) If a mortgagor is a service member, either the mortgagor entered into the mortgage before becoming a service member or the mortgagor is deployed in overseas service, and, during the service member's period of military service or within 6 months after the end of the period of military service, the mortgage given by the service member is foreclosed by advertisement or the mortgaged real estate sold under a power of sale, the foreclosure or sale is invalid unless the foreclosure or sale was ordered by a court.

(2) A person shall not, individually or acting through another person, foreclose, sell, or attempt to foreclose or sell real estate with the knowledge that the foreclosure or sale is invalid under this section. A person who violates this subsection is subject to a civil fine of \$2,000.00.

(3) The attorney general may file an action in the circuit court to collect a civil fine under this section. A civil fine collected under this section shall be deposited in the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.

(4) This section does not apply to a mortgage entered into before the effective date of the amendatory act that added this section.

(5) As used in this section:

(a) "Active duty" means full-time duty in the active military service of the United States. Active duty includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. Active duty does not include full-time national guard duty.

(b) "Military service" means any of the following:

(i) Active duty.

(ii) If the service member is a member of the national guard, service under a call to active service authorized by the president or secretary of defense of the United States for a period of more than 30 consecutive days under 32 USC 502(f) to respond to a national emergency declared by the president and supported by federal money.

(iii) A period during which the service member is absent from active duty because of sickness, wounds, leave, or other lawful cause.

(c) "Period of military service" means the period beginning on the date on which the service member enters military service and ending on the date on which the service member is released from military service or dies while in military service.

(d) "Service member" means an individual who is in military service and is a member of the armed services or reserve forces of the United States or a member of the Michigan national guard.

History: Add. 2008, Act 138, Imd. Eff. May 21, 2008