

SENATE BILL No. 1203

March 30, 2006, Introduced by Senator CROPSEY and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3240 and 3241a (MCL 600.3240 and 600.3241a),
section 3240 as amended by 2004 PA 538 and section 3241a as added
by 1986 PA 94.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3240. (1) A purchaser's deed is void if the mortgagor,
2 the mortgagor's heirs, executors, or administrators, or any person
3 lawfully claiming under the mortgagor or the mortgagor's heirs,
4 executors, or administrators redeems the entire premises sold by
5 paying the amount required under subsection (2), within the
6 applicable time limit prescribed in subsections (7) to (12), to the
7 purchaser or the purchaser's executors, administrators, or assigns,

1 or to the register of deeds in whose office the deed is deposited
2 for the benefit of the purchaser.

3 (2) The amount required to be paid under subsection (1) is the
4 sum that was bid for the entire premises sold, with interest from
5 the date of the sale at the interest rate provided for by the
6 mortgage, together with the amount of the sheriff's fee paid by the
7 purchaser under section 2558(2)(q), and an additional \$5.00 as a
8 fee for the care and custody of the redemption money if the payment
9 is made to the register of deeds. The register of deeds shall not
10 determine the amount necessary for redemption. The purchaser shall
11 attach an affidavit with the deed to be recorded under this section
12 that states the exact amount required to redeem the property under
13 this subsection, including any daily per diem amounts, and the date
14 by which the property must be redeemed shall be stated on the
15 certificate of sale. The purchaser may include in the affidavit the
16 name of a designee responsible on behalf of the purchaser to assist
17 the person redeeming the property in computing the exact amount
18 required to redeem the property. The designee may charge a fee as
19 stated in the affidavit and may be authorized by the purchaser to
20 receive redemption funds. The purchaser shall accept the amount
21 computed by the designee.

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

25 (4) If after the sale the purchaser, the purchaser's heirs,
26 executors, or administrators, or any person lawfully claiming under
27 the purchaser or the purchaser's heirs, executors, or

1 administrators pays taxes assessed against the property, amounts
2 necessary to redeem senior liens from foreclosure, condominium
3 assessments, homeowner association assessments, community
4 association assessments, or premiums on an insurance policy
5 covering any buildings located on the property that under the terms
6 of the mortgage it would have been the duty of the mortgagor to pay
7 if the mortgage had not been foreclosed and that are necessary to
8 keep the policy in force until the expiration of the period of
9 redemption, redemption shall be made only upon payment of the sum
10 specified in subsection (2) plus the amounts specified in this
11 subsection with interest on the amounts specified in this
12 subsection from the date of the payment to the date of redemption
13 at the interest rate specified in the mortgage, if all of the
14 following are filed with the register of deeds with whom the deed
15 is deposited:

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

19 (b) The receipt or copy of the canceled check evidencing the
20 payment of the taxes, amounts necessary to redeem senior liens from
21 foreclosure, condominium assessments, homeowner association
22 assessments, community association assessments, or insurance
23 premiums.

24 (c) An affidavit of an insurance agent of the insurance
25 company stating that the payment was made and what portion of the
26 payment covers the premium for the period before the expiration of
27 the period of redemption.

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

6 (6) The register of deeds shall indorse on the documents filed
7 under subsection (4) the time they are received. The register of
8 deeds shall record the affidavit of the purchaser only and shall
9 preserve in his or her files the recorded affidavit, receipts,
10 insurance receipts, and insurance agent's affidavit until
11 expiration of the period of redemption.

12 (7) ~~For~~ **SUBJECT TO SUBSECTIONS (9) TO (11), FOR** a mortgage
13 executed on or after January 1, 1965, on commercial or industrial
14 property, or multifamily residential property in excess of 4 units,
15 the redemption period is 6 months from the date of the sale.

16 (8) ~~For~~ **SUBJECT TO SUBSECTIONS (9) TO (11), FOR** a mortgage
17 executed on or after January 1, 1965, on residential property not
18 exceeding 4 units and not more than 3 acres in size, if the amount
19 claimed to be due on the mortgage at the date of the notice of
20 foreclosure is more than 66-2/3% of the original indebtedness
21 secured by the mortgage, the redemption period is 6 months.

22 (9) ~~For~~ **SUBJECT TO SUBSECTION (10), FOR** a mortgage on
23 residential property, ~~not exceeding 4 units and not more than 3~~
24 ~~acres in size,~~ if the property is abandoned as determined under
25 section 3241, the redemption period is 3 months.

26 (10) For a mortgage on residential property, ~~not exceeding 4~~
27 ~~units and not more than 3 acres in size,~~ if the amount claimed to

1 be due on the mortgage at the date of the notice of foreclosure is
2 more than 66-2/3% of the original indebtedness secured by the
3 mortgage and the property is abandoned as determined under section
4 3241, the redemption period is 1 month.

5 (11) If the property is abandoned as determined under section
6 3241a, the redemption period is 30 days **OR UNTIL THE TIME TO**
7 **PROVIDE THE NOTICE REQUIRED BY SECTION 3241A(C) EXPIRES, WHICHEVER**
8 **IS LATER.**

9 (12) ~~In any other case~~ **IF SUBSECTIONS (7) TO (11) DO NOT**
10 **APPLY**, the redemption period is 1 year from the date of the sale.

11 (13) The amount stated in any affidavits recorded under this
12 section shall be the amount necessary to satisfy the requirements
13 for redemption under this section.

14 Sec. 3241a. ~~(1)~~ For purposes of this chapter, if foreclosure
15 proceedings have been commenced under this chapter against
16 residential property, ~~not exceeding 4 units and not more than 3~~
17 ~~acres in size,~~ abandonment of premises shall be conclusively
18 presumed upon satisfaction of **ALL OF** the following requirements
19 **BEFORE THE END OF THE REDEMPTION PERIOD:**

20 (a) The mortgagee has made a personal inspection of the
21 mortgaged premises and the inspection does not reveal that the
22 mortgagor or persons claiming under the mortgagor are presently
23 occupying or will occupy the premises.

24 (b) The mortgagee has posted a notice at the time of making
25 the personal inspection and has mailed by certified mail, return
26 receipt requested, a notice to the mortgagor at the mortgagor's
27 last known address, which notices state that the mortgagee

1 considers the premises abandoned and that the mortgagor will lose
2 all rights of ownership 30 days after the foreclosure sale **OR WHEN**
3 **THE TIME TO PROVIDE THE NOTICE REQUIRED BY SUBDIVISION (C) EXPIRES,**
4 **WHICHEVER IS LATER,** unless the mortgagor; the mortgagor's heirs,
5 executor, or administrator; or a person lawfully claiming from or
6 under 1 of them provides the notice required by subdivision (c).

7 (c) Within 15 days after ~~receipt of a~~ **THE** notice required by
8 subdivision (b) **WAS POSTED AND MAILED,** the mortgagor; the
9 mortgagor's heirs, executor, or administrator; or a person lawfully
10 claiming from or under 1 of them ~~does not give~~ **HAS NOT GIVEN**
11 written notice by first-class mail to the mortgagee at an address
12 provided by the mortgagee in the notices required by subdivision
13 (b) stating that the premises are not abandoned.

14 ~~—— (2) This section applies to a foreclosure proceeding filed or~~
15 ~~pending after May 15, 1986.~~