

HOUSE BILL No. 4046

January 22, 2009, Introduced by Rep. Bettie Scott and referred to the Committee on Banking and Financial Services.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending the title and sections 3115, 3204, and 3236 (MCL 600.3115, 600.3204, and 600.3236), the title as amended by 1999 PA 239 and section 3204 as amended by 2004 PA 186, and by adding sections 3116, 3117, 3205, 3237, and 3238.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to

1 provide remedies and penalties for the violation of certain
2 provisions of this act; **TO PROVIDE FOR THE POWERS AND DUTIES OF**
3 **CERTAIN STATE GOVERNMENTAL AGENCIES; TO AUTHORIZE THE PROMULGATION**
4 **OF RULES;** to repeal all acts and parts of acts inconsistent with or
5 contravening any of the provisions of this act; and to repeal acts
6 and parts of acts.

7 Sec. 3115. ~~Whenever a complaint is filed~~ **SUBJECT TO SECTIONS**
8 **3116 AND 3117, IN AN ACTION** for the foreclosure or satisfaction of
9 ~~any~~ **A** mortgage on real estate or land contract, the court ~~has power~~
10 ~~to~~ **MAY** order a sale of the premises ~~which~~ **THAT** are the subject of
11 the mortgage ~~on real estate or land contract~~, or of ~~that~~ part of
12 the premises ~~which~~ **THAT** is sufficient to discharge the amount due
13 on the mortgage ~~on real estate or land contract~~ plus costs. ~~But the~~
14 ~~circuit judge~~ **THE COURT** shall not order that the lands subject to
15 the mortgage be sold within 6 months after the filing of the
16 complaint for foreclosure of the mortgage or that the lands ~~which~~
17 **THAT** are the subject of the land contract be sold within 3 months
18 after the filing of the complaint for foreclosure of the land
19 contract.

20 **SEC. 3116. (1) SUBJECT TO SUBSECTIONS (7) AND (8), BEFORE**
21 **COMMENCING AN ACTION TO FORECLOSE A MORTGAGE OF RESIDENTIAL**
22 **PROPERTY UNDER THIS CHAPTER, THE PLAINTIFF SHALL SEND A NOTICE IN**
23 **THE FORM ADOPTED UNDER SUBSECTION (2) TO THE MORTGAGOR. THE**
24 **PLAINTIFF SHALL SEND A NOTICE UNDER THIS SUBSECTION BY CERTIFIED**
25 **MAIL TO THE MORTGAGOR'S LAST KNOWN ADDRESS NO EARLIER THAN 60 DAYS**
26 **AFTER THE MORTGAGOR BECOMES DELINQUENT IN THE PAYMENT OF PRINCIPAL**
27 **OR INTEREST UNDER THE MORTGAGE OR VIOLATES ANY OTHER PROVISION OF**

1 THE MORTGAGE.

2 (2) THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY SHALL
3 ADOPT A NOTICE UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
4 1969 PA 306, MCL 24.201 TO 24.328, WHICH SHALL BE IN PLAIN LANGUAGE
5 AND INCLUDE ALL OF THE FOLLOWING:

6 (A) A STATEMENT THAT THE MORTGAGOR IS DELINQUENT IN MAKING A
7 PRINCIPAL OR INTEREST PAYMENT OR IS OTHERWISE IN DEFAULT UNDER THE
8 MORTGAGE AND, UNLESS THE MORTGAGOR HAS A FACE-TO-FACE MEETING
9 WITHIN 30 DAYS AFTER THE DATE OF THE NOTICE WITH THE PERSON WHO
10 SENT THE NOTICE OR A CONSUMER CREDIT COUNSELING AGENCY TO ATTEMPT
11 TO RESOLVE THE DELINQUENCY OR DEFAULT BY RESTRUCTURING THE LOAN
12 PAYMENT SCHEDULE OR OTHERWISE, THE PERSON WHO SENT THE NOTICE MAY
13 PROCEED TO FORECLOSE THE MORTGAGE.

14 (B) A PLACE TO INCLUDE THE NAME, TELEPHONE NUMBER, AND ADDRESS
15 OF A LOCAL CONSUMER CREDIT COUNSELING AGENCY.

16 (3) A PERSON SHALL NOT COMMENCE AN ACTION TO FORECLOSE A
17 MORTGAGE OF RESIDENTIAL PROPERTY UNDER THIS CHAPTER OR TAKE ANY
18 OTHER ACTION TO RECOVER OR ENFORCE THE INDEBTEDNESS SECURED BY THE
19 MORTGAGE UNTIL THE LATER OF 33 DAYS AFTER SENDING A NOTICE TO THE
20 MORTGAGOR UNDER SUBSECTION (1) OR, IF THE MORTGAGOR MEETS WITH THE
21 MORTGAGEE UNDER SUBSECTION (4) OR A CREDIT COUNSELING AGENCY UNDER
22 SUBSECTION (5), UNTIL THE EXPIRATION OF THE APPLICABLE TIME PERIOD
23 UNDER SUBSECTION (4) OR (5).

24 (4) IF A MORTGAGOR MEETS WITH A MORTGAGEE IN ACCORDANCE WITH A
25 NOTICE UNDER SUBSECTION (1), THE MORTGAGEE SHALL NOT COMMENCE AN
26 ACTION TO FORECLOSE THE MORTGAGE UNTIL 30 DAYS AFTER THE DATE THE
27 MORTGAGOR FIRST MEETS WITH THE MORTGAGEE.

1 (5) IF A MORTGAGOR MEETS WITH A CONSUMER CREDIT COUNSELING
2 AGENCY IN ACCORDANCE WITH A NOTICE UNDER SUBSECTION (1), THE
3 CONSUMER CREDIT COUNSELING AGENCY SHALL PROMPTLY NOTIFY ALL PERSONS
4 THAT HOLD MORTGAGES OF THE MORTGAGOR'S REAL PROPERTY OF THE
5 MEETING. A PERSON NOTIFIED UNDER THIS SUBSECTION SHALL NOT COMMENCE
6 AN ACTION TO FORECLOSE A MORTGAGE OF THE PROPERTY UNTIL 30 DAYS
7 AFTER THE DATE THAT THE MORTGAGOR FIRST MEETS WITH THE CONSUMER
8 CREDIT COUNSELING AGENCY.

9 (6) SUBJECT TO SUBSECTIONS (7) AND (8), IN AN ACTION TO
10 FORECLOSE A MORTGAGE OF RESIDENTIAL PROPERTY UNDER THIS CHAPTER
11 THAT WAS FILED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
12 ADDED THIS SECTION BUT IN WHICH THE PROPERTY HAS NOT BEEN SOLD
13 UNDER A JUDGMENT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
14 ADDED THIS SECTION, THE COURT SHALL ISSUE A TEMPORARY STAY OF THE
15 ACTION UNTIL THE LATER OF 33 DAYS AFTER A NOTICE UNDER SUBSECTION
16 (1) HAS BEEN SENT TO THE DEFENDANT OR, IF THE DEFENDANT MEETS WITH
17 THE MORTGAGEE OR A CREDIT COUNSELING AGENCY UNDER THIS SECTION,
18 UNTIL THE EXPIRATION OF THE APPLICABLE TIME PERIOD UNDER SUBSECTION
19 (4) OR (5). THE PLAINTIFF IN AN ACTION THAT IS STAYED UNDER THIS
20 SUBSECTION SHALL SEND THE DEFENDANT A NOTICE UNDER SUBSECTION (1).

21 (7) A PLAINTIFF IS NOT REQUIRED TO SEND A NOTICE UNDER
22 SUBSECTION (1) IF 1 OR MORE OF THE FOLLOWING APPLY:

23 (A) THE MORTGAGOR IS MORE THAN 24 CONSECUTIVE OR
24 NONCONSECUTIVE MONTHS IN ARREARS IN PAYMENTS UNDER THE MORTGAGE.

25 (B) THE TOTAL AMOUNT DUE UNDER THE MORTGAGE, NOT INCLUDING ANY
26 ACCELERATED BALANCE BUT INCLUDING PRINCIPAL, INTEREST, TAXES,
27 ASSESSMENTS, GROUND RENTS, HAZARD INSURANCE, OR MORTGAGE INSURANCE

1 OR CREDIT INSURANCE PREMIUMS, IS MORE THAN \$60,000.00.

2 (C) THE MORTGAGOR HAS RECEIVED A NOTICE UNDER SUBSECTION (1)
3 FROM ANOTHER PERSON WHO HOLDS A MORTGAGE OF THE SUBJECT PROPERTY.

4 (8) A PLAINTIFF IS NOT REQUIRED TO SEND A SECOND OR SUBSEQUENT
5 NOTICE UNDER SUBSECTION (1) IF EITHER OF THE FOLLOWING APPLIES:

6 (A) THE MORTGAGEE HAS RECEIVED ONLY PARTIAL PAYMENT OF ARREARS
7 FROM THE MORTGAGOR UNDER ANY AGREEMENT MADE UNDER THIS SECTION
8 AFTER THE PREVIOUS NOTICE.

9 (B) A NOTICE WAS SENT UNDER SUBSECTION (1) WHILE THE MORTGAGOR
10 WAS IN BANKRUPTCY, REGARDLESS OF WHETHER THE MORTGAGOR RECEIVED A
11 DISCHARGE, THE BANKRUPTCY PETITION WAS DISMISSED, OR THE MORTGAGEE
12 WAS GIVEN RELIEF FROM THE AUTOMATIC STAY.

13 SEC. 3117. (1) IN AN ACTION TO FORECLOSE A MORTGAGE OF
14 RESIDENTIAL PROPERTY IN WHICH A JUDGMENT OF FORECLOSURE HAS NOT
15 BEEN ENTERED BY THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
16 THIS SECTION, THE COURT, ON MOTION OF A DEFENDANT, SHALL ORDER THE
17 ACTION STAYED UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF THE
18 AMENDATORY ACT THAT ADDED THIS SECTION.

19 (2) IN AN ACTION TO FORECLOSE A MORTGAGE OF RESIDENTIAL
20 PROPERTY IN WHICH A JUDGMENT OF FORECLOSURE HAS BEEN ENTERED BUT
21 THE PERIOD OF REDEMPTION HAS NOT EXPIRED BY THE EFFECTIVE DATE OF
22 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE COURT, ON MOTION OF
23 A DEFENDANT, SHALL DO 1 OF THE FOLLOWING:

24 (A) IF THE PROPERTY HAS NOT BEEN SOLD UNDER THE JUDGMENT,
25 AMEND THE JUDGMENT TO INCLUDE A STAY OF THE SALE UNTIL 1 YEAR AFTER
26 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

27 (B) IF THE PROPERTY HAS BEEN SOLD UNDER THE JUDGMENT, INCLUDE

1 IN THE ORDER CONFIRMING THE REPORT OF SALE OR, IF THE ORDER
2 CONFIRMING THE REPORT OF SALE HAS BEEN ENTERED, AMEND THE ORDER TO
3 INCLUDE A PROVISION EXTENDING THE PERIOD OF REDEMPTION UNTIL 1 YEAR
4 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
5 SECTION. THE REGISTER OF DEEDS SHALL ENDORSE, RECORD, AND INDEX AN
6 ORDER AMENDING AN ORDER CONFIRMING THE REPORT OF SALE UNDER THIS
7 SUBDIVISION IN THE MANNER PROVIDED FOR DEEDS OF SALE UNDER SECTION
8 3130 AND NOTE THE EXISTENCE OF THE ORDER AMENDING THE ORDER
9 CONFIRMING THE REPORT OF SALE ON THE RECORD OF THE DEED OF SALE.

10 (3) SUBJECT TO SUBSECTION (4), THE COURT MAY INCLUDE IN AN
11 ORDER ENTERED UNDER SUBSECTION (1) OR A JUDGMENT OR ORDER ENTERED
12 UNDER SUBSECTION (2) ANY OF THE FOLLOWING PROVISIONS RELATING TO
13 THE PROPERTY DURING THE STAY OR EXTENSION:

14 (A) POSSESSION OF THE PROPERTY. IN MAKING AN ORDER UNDER THIS
15 SUBDIVISION, THE COURT SHALL GIVE PREFERENCE TO THE OWNER IN
16 POSSESSION.

17 (B) A FAIR AMOUNT TO BE PAID AS RENTAL BY THE PERSON IN
18 POSSESSION.

19 (C) THE APPLICATION OF MONEY RECEIVED FROM RENT UNDER
20 SUBDIVISION (B) OR ANY OTHER INCOME OR PROFITS OF THE PROPERTY. THE
21 COURT MAY ORDER THAT PAYMENT AND DISTRIBUTION OF MONEY BE MADE
22 THROUGH THE CLERK OF THE COURT OR ANOTHER PERSON.

23 (D) PRESERVATION OF THE PROPERTY, INCLUDING PAYMENT OF TAXES
24 AND MAINTENANCE OF INSURANCE.

25 (4) IF THE PARTIES TO AN ACTION UNDER THIS CHAPTER HAVE AGREED
26 TO RESTRUCTURE THE LOAN PAYMENT SCHEDULE OR MADE ANOTHER AGREEMENT
27 UNDER SECTION 3116, UNLESS THE COURT DETERMINES THAT THERE IS GOOD

1 CAUSE TO ORDER OTHERWISE, THE PROVISIONS INCLUDED IN AN ORDER OR
2 JUDGMENT UNDER SUBSECTION (3) SHALL NOT CONTRADICT THE AGREEMENT.

3 (5) THE COURT MAY SET ASIDE OR MODIFY AN ORDER OR JUDGMENT
4 ENTERED UNDER SUBSECTION (1) OR (2) IF A DEFENDANT SUBSTANTIALLY
5 VIOLATES A PROVISION ORDERED UNDER SUBSECTION (3) OR (4) OR FOR ANY
6 OTHER REASON THAT THE COURT DETERMINES IN ITS DISCRETION TO JUSTIFY
7 THE CHANGE. IF AN ORDER OR JUDGMENT ENTERED UNDER SUBSECTION (1) OR
8 (2) IS SET ASIDE, THE RIGHTS OF A PERSON INTERESTED IN THE PROPERTY
9 THAT WERE AFFECTED BY THE ORDER OR JUDGMENT REVEST IN THE PERSON
10 EFFECTIVE THE DATE THE ORDER OR JUDGMENT IS SET ASIDE AS IF THE
11 ORDER OR JUDGMENT HAD NOT BEEN ENTERED.

12 (6) THIS SECTION DOES NOT APPLY IF THE DEFENDANT HAS FAILED TO
13 MEET WITH THE MORTGAGEE OR A CREDIT COUNSELING AGENCY AS DESCRIBED
14 IN SECTION 3116(4) AND (5) AFTER RECEIVING A NOTICE UNDER SECTION
15 3116(1).

16 Sec. 3204. (1) A party may foreclose a mortgage by
17 advertisement if all of the following circumstances exist:

18 (a) A default in a condition of the mortgage has occurred, by
19 which the power to sell became operative.

20 (b) An action or proceeding has not been instituted, at law,
21 to recover the debt secured by the mortgage or any part of the
22 mortgage; or, if an action or proceeding has been instituted, the
23 action or proceeding has been discontinued; or an execution on a
24 judgment rendered in an action or proceeding has been returned
25 unsatisfied, in whole or in part.

26 (c) The mortgage containing the power of sale has been
27 properly recorded.

1 (d) The party foreclosing the mortgage is either the owner of
2 the indebtedness or of an interest in the indebtedness secured by
3 the mortgage or the servicing agent of the mortgage.

4 (E) IF THE MORTGAGE IS OF RESIDENTIAL PROPERTY, THE PARTY HAS
5 GIVEN NOTICE AS REQUIRED UNDER SECTION 3205 AND 33 DAYS HAVE PASSED
6 SINCE SENDING THE NOTICE OR, IF THE MORTGAGOR HAS MET WITH THE
7 PARTY OR A CREDIT COUNSELING AGENCY UNDER SECTION 3205, THE
8 APPLICABLE TIME PERIOD UNDER SECTION 3205(3) OR (4) HAS EXPIRED,
9 WHICHEVER IS LATER.

10 (F) IF THE MORTGAGE IS OF RESIDENTIAL PROPERTY, THE OWNER OF
11 THE MORTGAGED PROPERTY OR A PERSON LIABLE UNDER THE MORTGAGE OR
12 MORTGAGE NOTE HAS NOT FILED AN ACTION UNDER SUBSECTION (4).

13 (2) If a mortgage is given to secure the payment of money by
14 installments, each of the installments mentioned in the mortgage
15 after the first shall be treated as a separate and independent
16 mortgage. The mortgage for each of the installments may be
17 foreclosed in the same manner and with the same effect as if a
18 separate mortgage were given for each subsequent installment. A
19 redemption of a sale by the mortgagor has the same effect as if the
20 sale for the installment had been made upon an independent prior
21 mortgage.

22 (3) If the party foreclosing a mortgage by advertisement is
23 not the original mortgagee, a record chain of title shall exist
24 prior to the date of sale under section 3216 evidencing the
25 assignment of the mortgage to the party foreclosing the mortgage.

26 (4) BEFORE 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY
27 ACT THAT ADDED THIS SUBSECTION, THE OWNER OF MORTGAGED RESIDENTIAL

1 PROPERTY OR A PERSON LIABLE UNDER A MORTGAGE OF OR MORTGAGE NOTE
2 RELATING TO RESIDENTIAL PROPERTY MAY FILE AN ACTION IN THE CIRCUIT
3 COURT FOR THE COUNTY WHERE THE PROPERTY IS LOCATED TO ENJOIN
4 FORECLOSURE OF THE MORTGAGE BY ADVERTISEMENT. THE COURT IN AN
5 ACTION FILED UNDER THIS SUBSECTION SHALL ENJOIN FORECLOSURE OF THE
6 MORTGAGE BY ADVERTISEMENT AND ORDER THE FORECLOSURE TO PROCEED
7 UNDER CHAPTER 31. THIS SUBSECTION DOES NOT APPLY IF THE OWNER OR
8 PERSON LIABLE HAS FAILED TO MEET WITH THE MORTGAGEE OR A CREDIT
9 COUNSELING AGENCY AS DESCRIBED IN SECTION 3205(3) AND (4) AFTER
10 RECEIVING A NOTICE UNDER SECTION 3205(1).

11 SEC. 3205. (1) SUBJECT TO SUBSECTIONS (5) AND (6), BEFORE
12 TAKING ANY ACTION TO FORECLOSE A MORTGAGE OF RESIDENTIAL PROPERTY
13 BY ADVERTISEMENT UNDER THIS CHAPTER, THE PERSON FORECLOSING THE
14 MORTGAGE SHALL SEND A NOTICE IN THE FORM ADOPTED UNDER SECTION
15 3116(2) TO THE MORTGAGOR. THE PERSON SHALL SEND A NOTICE UNDER THIS
16 SUBSECTION BY CERTIFIED MAIL TO THE MORTGAGOR'S LAST KNOWN ADDRESS
17 NO EARLIER THAN 60 DAYS AFTER THE MORTGAGOR BECOMES DELINQUENT IN
18 THE PAYMENT OF PRINCIPAL OR INTEREST UNDER THE MORTGAGE OR VIOLATES
19 ANY OTHER PROVISION OF THE MORTGAGE.

20 (2) A PERSON SHALL NOT TAKE ANY ACTION TO FORECLOSE A MORTGAGE
21 OF RESIDENTIAL PROPERTY BY ADVERTISEMENT UNDER THIS CHAPTER OR TAKE
22 ANY OTHER ACTION TO RECOVER OR ENFORCE THE INDEBTEDNESS SECURED BY
23 THE MORTGAGE UNTIL THE LATER OF 33 DAYS AFTER SENDING A NOTICE TO
24 THE MORTGAGOR UNDER SUBSECTION (1) OR, IF THE MORTGAGOR MEETS WITH
25 THE MORTGAGEE OR A CREDIT COUNSELING AGENCY UNDER THIS SECTION,
26 UNTIL THE EXPIRATION OF THE APPLICABLE TIME PERIOD UNDER SUBSECTION
27 (3) OR (4).

1 (3) IF A MORTGAGOR MEETS WITH A MORTGAGEE IN ACCORDANCE WITH A
2 NOTICE UNDER SUBSECTION (1), THE MORTGAGEE SHALL NOT TAKE ANY
3 ACTION TO FORECLOSE THE MORTGAGE UNTIL 30 DAYS AFTER THE DATE THE
4 MORTGAGOR FIRST MEETS WITH THE MORTGAGEE.

5 (4) IF A MORTGAGOR MEETS WITH A CONSUMER CREDIT COUNSELING
6 AGENCY IN ACCORDANCE WITH A NOTICE UNDER SUBSECTION (1), THE
7 CONSUMER CREDIT COUNSELING AGENCY SHALL PROMPTLY NOTIFY ALL PERSONS
8 THAT HOLD MORTGAGES OF THE MORTGAGOR'S REAL PROPERTY OF THE
9 MEETING. A PERSON NOTIFIED UNDER THIS SUBSECTION SHALL NOT TAKE ANY
10 ACTION TO FORECLOSE A MORTGAGE OF THE PROPERTY UNTIL 30 DAYS AFTER
11 THE DATE THAT THE MORTGAGOR FIRST MEETS WITH THE CONSUMER CREDIT
12 COUNSELING AGENCY.

13 (5) A PERSON IS NOT REQUIRED TO SEND A NOTICE UNDER SUBSECTION
14 (1) IF EITHER OF THE FOLLOWING APPLIES:

15 (A) THE MORTGAGOR IS MORE THAN 24 CONSECUTIVE OR
16 NONCONSECUTIVE MONTHS IN ARREARS IN PAYMENTS UNDER THE MORTGAGE.

17 (B) THE TOTAL AMOUNT DUE UNDER THE MORTGAGE, NOT INCLUDING ANY
18 ACCELERATED BALANCE BUT INCLUDING PRINCIPAL, INTEREST, TAXES,
19 ASSESSMENTS, GROUND RENTS, HAZARD INSURANCE, OR MORTGAGE INSURANCE
20 OR CREDIT INSURANCE PREMIUMS, IS MORE THAN \$60,000.00.

21 (C) THE MORTGAGOR HAS RECEIVED A NOTICE UNDER SUBSECTION (1)
22 FROM ANOTHER PERSON WHO HOLDS A MORTGAGE OF THE SUBJECT PROPERTY.

23 (6) A PERSON IS NOT REQUIRED TO SEND A SECOND OR SUBSEQUENT
24 NOTICE UNDER SUBSECTION (1) IF EITHER OF THE FOLLOWING APPLIES:

25 (A) THE PERSON HAS RECEIVED ONLY PARTIAL PAYMENT OF ARREARS
26 FROM THE MORTGAGOR UNDER ANY AGREEMENT REACHED UNDER THIS SECTION
27 WITH THE MORTGAGOR TO RESTRUCTURE THE PAYMENT SCHEDULE.

1 (B) A NOTICE WAS SENT UNDER SUBSECTION (1) WHILE THE MORTGAGOR
 2 WAS IN BANKRUPTCY, REGARDLESS OF WHETHER THE MORTGAGOR RECEIVED A
 3 DISCHARGE, THE BANKRUPTCY PETITION WAS DISMISSED, OR THE MORTGAGEE
 4 WAS GIVEN RELIEF FROM THE AUTOMATIC STAY.

5 Sec. 3236. (1) ~~Unless~~ EXCEPT AS PROVIDED IN SECTION 3237,
 6 UNLESS the premises described in ~~such~~ THE deed ~~shall be~~ OF SALE ARE
 7 redeemed within the ~~time limited for such~~ APPLICABLE PERIOD OF
 8 redemption ~~as hereinafter provided~~ , ~~such~~ IN THIS CHAPTER, THE deed
 9 ~~shall thereupon become~~ BECOMES operative , ~~ON THE EXPIRATION OF THE~~
 10 PERIOD OF REDEMPTION and ~~shall vest~~ VESTS in the grantee therein
 11 named , ~~his~~ IN THE DEED OR THE GRANTEE'S heirs or assigns , ~~all the~~
 12 right, title, and interest ~~which~~ the mortgagor had at the time of
 13 the execution of the mortgage, or at any time ~~thereafter~~ AFTER THE
 14 EXECUTION, except as to any parcel or parcels ~~which may~~ THAT have
 15 been redeemed and ~~canceled~~, ~~as hereinafter provided~~ ; ~~and the~~ IN
 16 THIS CHAPTER.

17 (2) AFTER THE PERIOD OF REDEMPTION EXPIRES, THE record thereof
 18 ~~shall thereafter~~, OF THE DEED OF SALE IS for all purposes ~~be deemed~~
 19 a valid record of ~~said~~ THE deed OF SALE without being re-recorded.
 20 , ~~but no~~ HOWEVER, A person ~~having any~~ WHO HAS A valid subsisting
 21 lien ~~upon~~ ON the mortgaged premises, or any part thereof OF THE
 22 MORTGAGED PREMISES, created before the lien of ~~such~~ THE mortgage
 23 took effect, shall NOT be prejudiced by ~~any such~~ THE sale, ~~nor~~
 24 ~~shall his~~ AND THE PERSON'S rights or interests ~~be~~ ARE NOT in any
 25 way affected ~~thereby~~ BY THE SALE.

26 SEC. 3237. IF THE APPLICABLE PERIOD OF REDEMPTION PROVIDED
 27 UNDER THIS CHAPTER FOR A MORTGAGE OF RESIDENTIAL PROPERTY THAT IS

1 BEING FORECLOSED BY ADVERTISEMENT HAS NOT EXPIRED BEFORE THE
2 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE
3 PERSON FORECLOSING THE MORTGAGE SHALL SEND THE MORTGAGOR A NOTICE
4 IN THE FORM ADOPTED UNDER SECTION 3116(2) AND, IF THE SALE HAS BEEN
5 CONDUCTED, SHALL SEND A COPY OF THE NOTICE TO THE PERSON WHO
6 PURCHASED THE PROPERTY AT THE SALE. SECTION 3205(3) TO (6) APPLIES
7 AFTER A NOTICE IS SENT UNDER THIS SECTION. THE PERSON FORECLOSING
8 THE MORTGAGE AND ANY PURCHASER SHALL TAKE NO FURTHER ACTION TOWARD
9 FORECLOSURE UNTIL THE LATER OF 33 DAYS AFTER THE NOTICE HAS BEEN
10 SENT TO THE MORTGAGOR OR, IF THE MORTGAGOR HAS MET WITH THE
11 MORTGAGEE OR A CREDIT COUNSELING AGENCY IN ACCORDANCE WITH THE
12 NOTICE, THE EXPIRATION OF THE APPLICABLE TIME PERIOD UNDER SECTION
13 3205(3) OR (4).

14 SEC. 3238. (1) IF THE APPLICABLE PERIOD OF REDEMPTION PROVIDED
15 UNDER THIS CHAPTER FOR A MORTGAGE OF RESIDENTIAL PROPERTY THAT IS
16 BEING FORECLOSED BY ADVERTISEMENT HAS NOT EXPIRED BY 1 YEAR AFTER
17 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, A
18 PERSON DESCRIBED IN SUBSECTION (2) MAY FILE A COMPLAINT IN THE
19 CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED
20 REQUESTING THE RELIEF DESCRIBED IN SUBSECTION (3).

21 (2) ONE OR MORE OF THE FOLLOWING MAY FILE AN ACTION UNDER THIS
22 SECTION:

23 (A) THE MORTGAGOR.

24 (B) THE OWNER OF THE MORTGAGED PROPERTY.

25 (C) A PERSON WHO IS LIABLE ON THE MORTGAGE OR NOTE.

26 (3) THE COURT IN AN ACTION UNDER THIS SECTION SHALL ENTER AN
27 ORDER ENJOINING UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF THE

1 AMENDATORY ACT THAT ADDED THIS SECTION THE ISSUANCE OF A WRIT OF
2 RESTITUTION OR OTHER ORDER TO GIVE A PURCHASER UNDER A DEED OF SALE
3 POSSESSION OF THE MORTGAGED PROPERTY. SUBJECT TO SUBSECTION (4),
4 THE COURT MAY INCLUDE IN THE ORDER A PROVISION LISTED IN SECTION
5 3117(3).

6 (4) IF THE PARTIES TO AN ACTION UNDER THIS SECTION HAVE AGREED
7 TO RESTRUCTURE THE LOAN PAYMENT SCHEDULE OR MADE ANOTHER AGREEMENT
8 UNDER SECTION 3205, UNLESS THE COURT DETERMINES THAT THERE IS GOOD
9 CAUSE TO ORDER OTHERWISE, THE PROVISIONS INCLUDED IN AN ORDER UNDER
10 SUBSECTION (3) SHALL NOT CONTRADICT THE AGREEMENT.

11 (5) THE REGISTER OF DEEDS SHALL ENDORSE, RECORD, AND INDEX AN
12 ORDER UNDER SUBSECTION (3) IN THE MANNER PROVIDED FOR DEEDS OF SALE
13 UNDER SECTION 3232 AND NOTE THE EXISTENCE OF THE ORDER ON THE
14 RECORD OF THE DEED OF SALE.

15 (6) THE COURT MAY SET ASIDE OR MODIFY AN ORDER ENTERED UNDER
16 SUBSECTION (3) IF A DEFENDANT SUBSTANTIALLY VIOLATES A PROVISION
17 LISTED IN SECTION 3117(3) THAT IS INCLUDED IN THE ORDER OR FOR ANY
18 OTHER REASON THAT THE COURT DETERMINES IN ITS DISCRETION TO JUSTIFY
19 THE CHANGE. IF AN ORDER ENTERED UNDER SUBSECTION (3) IS SET ASIDE,
20 THE RIGHTS OF A PERSON INTERESTED IN THE PROPERTY THAT WERE
21 AFFECTED BY THE ORDER REVEST IN THE PERSON EFFECTIVE THE DATE THE
22 ORDER IS SET ASIDE AS IF THE ORDER HAD NOT BEEN ENTERED.

23 (7) THIS SECTION DOES NOT APPLY IF THE DEFENDANT HAS FAILED TO
24 MEET WITH THE MORTGAGEE OR A CREDIT COUNSELING AGENCY AS DESCRIBED
25 IN SECTION 3205(3) AND (4) AFTER RECEIVING A NOTICE UNDER SECTION
26 3205(1).