

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

***** 600.3238.added THIS ADDED SECTION IS EFFECTIVE JUNE 19, 2014 *****

600.3238.added Interior and exterior inspection of property; notice; commencement of summary proceedings by purchaser for possession of property; judgment; "damage" defined.

Sec. 3238. (1) After a foreclosure sale under this chapter and providing notice under section 3237, the purchaser at the sale may inspect the property, including the exterior and interior of any structures on the property as provided in this section.

(2) The purchaser may conduct an initial inspection of the interior of any structures on the property. In addition to the notice provided in section 3237, the purchaser shall provide notice to the mortgagor by certified mail, physical posting on the property, or in any manner reasonably calculated to achieve actual notice of the purchaser's intent to inspect the property at least 72 hours in advance and shall set the time of the inspection at a reasonable time of day, in coordination with the mortgagor if possible.

(3) The purchaser may conduct any number of exterior inspections of the property and any structures on the property during the redemption period.

(4) After the initial inspection described in subsection (2), the purchaser may request by certified mail, physical posting on the property, or in any manner reasonably calculated to achieve actual notice that the mortgagor provide information on or evidence of the condition of the interior of any structures on the property, in any form reasonably necessary to assess the condition of the property. The purchaser shall not make such a request more than once in a calendar month or more often than 3 times in any 6 months of the redemption period, unless the purchaser has reasonable cause to believe that damage to the property is imminent or has occurred.

(5) If the mortgagor refuses to provide information or evidence requested under subsection (4) within 5 business days after receipt of the request, or if the information or evidence provided reveals that damage has occurred or is imminent, the mortgagor may schedule an inspection of the interior of any structures on the property. For an inspection under this subsection, the purchaser shall provide notice as described in subsection (2) of the purchaser's intent to inspect the property at least 72 hours in advance, and shall set the time of the inspection at a reasonable time of day, in coordination with the mortgagor if possible. If the mortgagor provides the information or evidence requested under subsection (4) and damage has not occurred or does not appear imminent, the purchaser shall not conduct an interior inspection under this subsection related to that request.

(6) If an inspection under this section is unreasonably refused or if damage to the property is imminent or has occurred, the purchaser may immediately commence summary proceedings for possession of the property under chapter 57 or file an action for any other relief necessary to protect the property from damage. If a purchaser commences an action for possession or any other relief under this section, the purchaser may also name as a party to the action any person who may redeem the property under section 3240.

(7) Before commencing summary proceedings for possession of the property under this section, the purchaser shall provide notice to the mortgagor by certified mail, physical posting on the property, or in any other manner reasonably calculated to achieve actual notice, that the purchaser intends to commence summary proceedings if the damage or condition causing reasonable belief that damage is imminent is not repaired or corrected within 7 days after receipt of the notice.

(8) A purchaser shall not commence summary proceedings for possession under this section if either of the following conditions exists:

(a) The damage or condition causing reasonable belief that damage is imminent is repaired or corrected within the 7-day period described in the notice of intent under subsection (7).

(b) The mortgagor and the purchaser agree on procedures and a timeline to repair the damage or correct the condition causing reasonable belief that damage is imminent and the procedures are completed by the original date agreed to by the mortgagor and purchaser or by an extended date that is agreed to by the mortgagor and purchaser.

(9) In determining whether to enter judgment for possession in favor of the purchaser in summary proceedings under this section, the judge shall consider the totality of the circumstances surrounding the damage or condition that threatens imminent damage, including, but not limited to, all of the following:

(a) The cause of the damage or condition.

(b) Whether the mortgagor has taken appropriate steps to repair the damage or correct the condition and to secure the property from further damage.

(c) Whether the mortgagor has promptly contacted the purchaser and any property insurer regarding the damage or condition.

(d) Whether any delay in repairs or corrections is affirmatively caused by the purchaser or the property insurer.

(10) If a judgment for possession is entered in favor of the purchaser in an action under chapter 57 as described in subsection (6), the right of redemption under section 3240 is extinguished and title to the property vests in the purchaser as provided in section 3236 as to all persons against whom judgment was entered.

(11) As used in this section, "damage" includes, but is not limited to, any of the following:

(a) The failure to comply with local ordinances regarding maintenance of the property or blight prevention, if the failure is the subject of enforcement action by the appropriate governmental unit.

(b) An exterior condition that presents a significant risk to the security of the property or significant risk of criminal activity occurring on the property.

(c) Stripped plumbing, electrical wiring, siding, or other metal material.

(d) Missing or destroyed structural aspects or fixtures, including, but not limited to, a furnace, water heater, air-conditioning unit, countertop, cabinetry, flooring, wall, ceiling, roofing, toilet, or any other fixtures. As used in this subdivision, "fixtures" means that term as defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

(e) Deterioration below, or being in imminent danger of deteriorating below, community standards for public safety and sanitation that are established by statute or local ordinance.

(f) A condition that would justify recovery of the premises under section 5714(1)(d).

History: Add. 2014, Act 125, Eff. June 19, 2014.

Compiler's note: In subsection (5), the words "the mortgagor may schedule an inspection..." evidently should read "the purchaser may schedule an inspection...".