

HOUSE BILL No. 4455

February 24, 2009, Introduced by Reps. Johnson, Roy Schmidt, Simpson, Robert Jones, Cushingberry, Slavens, Lisa Brown, Roberts, Corriveau, Scripps, Kennedy, Huckleberry, Haase, Haugh, Liss, Tlaib, Segal, Switalski, Bledsoe, Nerat, Smith, Ebli, Barnett, Melton, Nathan, Miller and Leland and referred to the Committee on Banking and Financial Services.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9947) by adding sections 3205c, 3205d, and 3205e; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3205C. (1) IF A BORROWER HAS CONTACTED A HOUSING
2 COUNSELOR UNDER SECTION 3205B BUT THE PROCESS HAS NOT RESULTED IN
3 AN AGREEMENT TO MODIFY THE MORTGAGE LOAN, THE BORROWER, HOUSING
4 COUNSELOR, MORTGAGE HOLDER, OR MORTGAGE SERVICER SHALL CALCULATE A
5 MODIFIED PAYMENT AMOUNT UNDER THE FDIC WORKOUT PROGRAM. THE
6 MORTGAGE HOLDER OR MORTGAGE SERVICER SHALL PROVIDE THE BORROWER
7 WITH A COPY OF ANY CALCULATION MADE BY THE MORTGAGE HOLDER OR
8 MORTGAGE SERVICER UNDER THIS SUBSECTION.

1 (2) IF THE RESULTS OF THE CALCULATION UNDER SUBSECTION (1) ARE
2 THAT THE BORROWER IS ELIGIBLE FOR A MODIFICATION, THE MORTGAGE
3 HOLDER OR MORTGAGE SERVICER SHALL NOT FORECLOSE THE MORTGAGE UNDER
4 THIS CHAPTER BUT MAY PROCEED UNDER CHAPTER 31. IF THE RESULTS OF
5 THE CALCULATION UNDER SUBSECTION (1) ARE THAT THE BORROWER IS NOT
6 ELIGIBLE FOR A MODIFICATION WITHOUT AN EXCEPTION, THE MORTGAGE
7 HOLDER OR MORTGAGE LENDER SHALL FORECLOSE THE MORTGAGE UNDER THIS
8 CHAPTER.

9 (3) IF A MORTGAGE HOLDER OR MORTGAGE SERVICER BEGINS
10 FORECLOSURE PROCEEDINGS UNDER THIS CHAPTER IN VIOLATION OF THIS
11 SECTION, THE BORROWER MAY FILE AN ACTION IN THE CIRCUIT COURT FOR
12 THE COUNTY WHERE THE MORTGAGED PROPERTY IS SITUATED TO CONVERT THE
13 FORECLOSURE PROCEEDING TO A JUDICIAL FORECLOSURE. IF A BORROWER
14 FILES AN ACTION UNDER THIS SECTION AND THE COURT DETERMINES THAT
15 THE BORROWER PARTICIPATED IN THE PROCESS UNDER SECTION 3205B, A
16 MODIFICATION AGREEMENT WAS NOT REACHED, AND THE BORROWER IS
17 ELIGIBLE FOR MODIFICATION UNDER THE FDIC WORKOUT PROGRAM, THE COURT
18 SHALL ENJOIN FORECLOSURE OF THE MORTGAGE BY ADVERTISEMENT AND ORDER
19 THAT THE FORECLOSURE PROCEED UNDER CHAPTER 31.

20 SEC. 3205D. THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
21 SHALL DEVELOP THE LIST OF HOUSING COUNSELORS APPROVED BY THE UNITED
22 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR BY THE
23 MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY DESCRIBED IN SECTION
24 3205A(4)(A) WHO MAY PERFORM THE DUTIES OF HOUSING COUNSELOR UNDER
25 SECTIONS 3205A TO 3205C.

26 SEC. 3205E. SECTIONS 3205A TO 3205D ARE REPEALED EFFECTIVE 2
27 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED

1 **THIS SECTION.**

2 Enacting section 1. This amendatory act does not take effect
3 unless all of the following bills of the 95th Legislature are
4 enacted into law:

5 (a) Senate Bill No. _____ or House Bill No. 4453 (request no.
6 02074'09).

7 (b) Senate Bill No. _____ or House Bill No. 4454 (request no.
8 02275'09).