

HOUSE BILL No. 4484

March 27, 2003, Introduced by Reps. Gaffney and DeRossett and referred to the Committee on Land Use and Environment.

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 78i and 131e (MCL 211.78i and 211.131e), section 78i as amended by 2001 PA 101 and section 131e as amended by 1999 PA 123.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78i. (1) Not later than May 1 immediately succeeding
2 the forfeiture of property to the county treasurer under section
3 78g, the foreclosing governmental unit shall ~~initiate~~ **obtain** a
4 title search **or other title product from 1 or more authorized**
5 **representatives** to identify the owners of a property interest in
6 the property, **as disclosed by the land title records at the**
7 **register of deeds office in the county in which the property is**
8 **located**, who are entitled to notice under this section of the
9 show cause hearing under section 78j and the foreclosure hearing

1 under section 78k. ~~The foreclosing governmental unit may enter~~
2 ~~into a contract with 1 or more authorized representatives to~~
3 ~~perform the title search required under this subsection and to~~
4 ~~perform the other functions set forth in this section.~~

5 (2) The foreclosing governmental unit or its authorized
6 representative ~~shall determine the address reasonably calculated~~
7 ~~to apprise those owners of a property interest of the pendency of~~
8 ~~the show cause hearing under section 78j and the foreclosure~~
9 ~~hearing under section 78k and~~ shall send notice of the **pendency**
10 **of the** show cause hearing under section 78j and the foreclosure
11 hearing under section 78k to those owners **identified in**
12 **subsection (6)**, to a person entitled to notice of the return of
13 delinquent taxes under section 78a(4), and to a person to whom a
14 tax deed for property returned for delinquent taxes was issued
15 pursuant to section 72 as determined by the records of the state
16 treasurer, by certified mail, return receipt requested, **to the**
17 **owner's or person's last known address**, not less than 30 days
18 before the show cause hearing. **If the notice under this**
19 **subsection is returned undelivered, the foreclosing governmental**
20 **unit or its authorized representative shall review the local**
21 **phone book, if the notice was sent to an individual, county**
22 **records, if the notice was sent to a partnership, or records**
23 **filed with the department of consumer and industry services, if**
24 **the notice was sent to a corporation, limited partnership,**
25 **limited liability partnership, or limited liability company, to**
26 **determine the correct address. If the foreclosing governmental**
27 **unit or its authorized representative determines that the correct**

1 address is different from the address to which the notice was
2 initially sent, the foreclosing governmental unit or its
3 authorized representative shall send the notice to the correct
4 address by certified mail, return receipt requested, not less
5 than 30 days before the show cause hearing. The failure of the
6 foreclosing governmental unit to comply with any provision of
7 this section shall not invalidate any proceeding under this act
8 if the owner of a property interest or a person to whom a tax
9 deed was issued is accorded the minimum due process required
10 under the state constitution of 1963 and the constitution of the
11 United States.

12 (3) The foreclosing governmental unit or its authorized
13 representative shall make a personal visit to each parcel of
14 property forfeited to the county treasurer under section 78g to
15 ascertain whether or not the property is occupied. If the
16 property appears to be occupied, the foreclosing governmental
17 unit or its authorized representative shall do all of the
18 following:

19 (a) Attempt to personally serve upon a person occupying the
20 property notice of the show cause hearing under section 78j and
21 the foreclosure hearing under section 78k.

22 (b) If a person occupying the property is personally served,
23 orally inform the occupant that the property will be foreclosed
24 and the occupants will be required to vacate unless all forfeited
25 unpaid delinquent taxes, interest, penalties, and fees are paid,
26 of the time within which all forfeited unpaid delinquent taxes,
27 interest, penalties, and fees must be paid, and of agencies or

1 other resources that may be available to assist the owner to
2 avoid loss of the property.

3 (c) If the occupant appears to lack the ability to understand
4 the advice given, notify the family independence agency or
5 provide the occupant with the names and telephone number of the
6 agencies that may be able to assist the occupant.

7 (d) If the foreclosing governmental unit or its authorized
8 representative is not able to personally meet with the occupant,
9 the foreclosing governmental unit or its authorized
10 representative shall place the notice in a conspicuous manner on
11 the property and shall also place in a conspicuous manner on the
12 property a notice that explains, in plain English, that the
13 property will be foreclosed unless forfeited unpaid delinquent
14 taxes, interest, penalties, and fees are paid, the time within
15 which forfeited unpaid delinquent taxes, interest, penalties, and
16 fees must be paid, and the names, addresses, and telephone
17 numbers of agencies or other resources that may be available to
18 assist the occupant to avoid loss of the property. If this state
19 is the foreclosing governmental unit within a county, the
20 department of natural resources shall perform the personal visit
21 to each parcel of property under this subsection on behalf of
22 this state.

23 (4) If the foreclosing governmental unit or its authorized
24 representative discovers any deficiency in the provision of
25 notice, the foreclosing governmental unit shall take reasonable
26 steps in good faith to correct that deficiency not later than 30
27 days before the show cause hearing under section 78j.

1 (5) If the foreclosing governmental unit or its authorized
2 representative is unable to ascertain the address reasonably
3 calculated to apprise the owners of a property interest entitled
4 to notice under this section, or is unable to serve the owner of
5 a property interest, service of the notice shall be made by
6 publication. A notice shall be published for 3 successive weeks,
7 once each week, in a newspaper published and circulated in the
8 county in which the property is located, if there is one. If no
9 paper is published in that county, publication shall be made in a
10 newspaper published and circulated in an adjoining county. This
11 publication shall be instead of service under subsection (2).

12 (6) The owner of a property interest is entitled to notice
13 under this section of the show cause hearing under section 78j
14 and the foreclosure hearing under section 78k if that owner's
15 interest was identifiable by reference to any of the following
16 sources before the date that the county treasurer records the
17 certificate required under section 78g(2):

18 (a) Records in the office of the county register of deeds.

19 (b) Tax records in the office of the county treasurer.

20 (c) Records in the office of the local assessor.

21 (d) Records in the office of the local treasurer.

22 (7) The notice required under subsections ~~-(1)-~~ (2) and (3)
23 shall include all of the following:

24 (a) The date on which the property was forfeited to the
25 county treasurer.

26 (b) A statement that the person notified may lose his or her
27 interest in the property as a result of the foreclosure

1 proceeding under section 78k.

2 (c) A legal description or parcel number of the property and
3 the street address of the property, if possible.

4 (d) The person to whom the notice is addressed.

5 (e) The total taxes, interest, penalties, and fees due on the
6 property.

7 (f) The date and time of the show cause hearing under section
8 78j.

9 (g) The date and time of the hearing on the petition for
10 foreclosure under section 78k, and a statement that unless the
11 forfeited unpaid delinquent taxes, interest, penalties, and fees
12 are paid within 21 days after judgment is entered in the
13 foreclosure proceeding under section 78k, the title to the
14 property shall vest absolutely in the foreclosing governmental
15 unit.

16 (h) An explanation of the person's rights of redemption and
17 notice that the rights of redemption will expire 21 days after
18 judgment is entered in the foreclosure proceeding under section
19 78k.

20 (8) The published notice required under subsection (5) shall
21 include all of the following:

22 (a) A legal description or parcel number of each property.

23 (b) The street address of each property, if possible.

24 (c) The name of any person or entity entitled to notice under
25 this section who has not been notified under subsection ~~(1)~~ (2)
26 or (3).

27 (d) The date and time of the show cause hearing under

1 section 78j.

2 (e) The date and time of the hearing on the petition for
3 foreclosure under section 78k.

4 (f) A statement that unless all forfeited unpaid delinquent
5 taxes, interest, penalties, and fees are paid within 21 days
6 after judgment is entered in the foreclosure proceeding under
7 section 78k, the title to the property shall vest absolutely in
8 the foreclosing governmental unit.

9 (g) A statement that a person with an interest in the
10 property may lose his or her interest in the property as a result
11 of the foreclosure proceeding under section 78k.

12 (9) The owner of a property interest who has been properly
13 served with a notice of the show cause hearing under section 78j
14 and the foreclosure hearing under section 78k and who failed to
15 redeem the property as provided under this act shall not assert
16 any of the following:

17 (a) That notice was insufficient or inadequate on the grounds
18 that some other owner of a property interest was not also
19 served.

20 (b) That the redemption period provided under this act was
21 extended in any way on the grounds that some other owner of a
22 property interest was not also served.

23 **(10) The foreclosing governmental unit or its authorized**
24 **representative shall record all of the following with the**
25 **register of deeds of the county in which the property is**
26 **located:**

27 (a) An affidavit, in a form determined by the department of

1 treasury, attesting to compliance with the requirements of this
2 section.

3 (b) Proof of service of the notice of the show cause hearing
4 under section 78j, notice of the foreclosure hearing under
5 section 78k, and of the personal visit to the property required
6 under this section.

7 (11) ~~(10)~~ As used in this section, "authorized
8 representative" includes all of the following:

9 (a) A title insurance company or agent licensed to conduct
10 business in this state.

11 (b) An attorney licensed to practice law in this state.

12 (c) A person accredited in title search procedures by a
13 nationally recognized organization in the field of title
14 searching.

15 (d) A person with demonstrated experience in the field of
16 title searching, as determined by the foreclosing governmental
17 unit.

18 Sec. 131e. (1) For all property the title to which vested
19 in this state under this section after October 25, 1976 **and**
20 **before the effective date of the amendatory act that added**
21 **subsection (2)**, the redemption period on property deeded to ~~the~~
22 **this** state under section 67a shall be extended until the owners
23 of a recorded property interest in the property have been
24 notified of a hearing before the department of treasury. Proof
25 of the notice of the hearing shall be recorded with the register
26 of deeds in the county in which the property is located.

27 (2) **For all property the title to which vested in this state**

1 under this section on and after the effective date of the
2 amendatory act that added this subsection, the redemption period
3 on property deeded to this state under section 67a shall be
4 extended until this state has undertaken its best effort to
5 notify the owners of a property interest of a hearing before the
6 department of treasury. As used in this subsection, "best
7 effort" means the following:

8 (a) The department of treasury shall conduct a title search
9 to identify the owners of a property interest in the property who
10 are entitled to notice of the hearing under this section. The
11 department of treasury may enter into a contract with 1 or more
12 authorized representatives to perform the title search required
13 under this subdivision. The owner of a property interest is
14 entitled to notice under this subsection if that owner's interest
15 was identifiable by reference to any of the following sources
16 before the date that the county treasurer prepares the statement
17 of unpaid taxes under section 57:

18 (i) Records in the office of the county register of deeds.

19 (ii) Tax records in the office of the county treasurer.

20 (iii) Records in the office of the local assessor.

21 (iv) Records in the office of the local treasurer.

22 (b) The department of treasury or its authorized
23 representative shall determine the address reasonably calculated
24 to apprise the owner of a property interest in the property
25 entitled to notice under subdivision (a) of the pendency of the
26 hearing under this section. The department of treasury or its
27 authorized representative shall send notice of the hearing to all

1 of the following by certified mail, return receipt requested, not
2 less than 30 days before the hearing under this section:

3 (i) The owners of a property interest in the property
4 identified under subdivision (a).

5 (ii) To a person entitled to notice of the return of
6 delinquent taxes under section 57.

7 (iii) To a person to whom a tax deed for property returned
8 for delinquent taxes was issued pursuant to section 72, as
9 determined by the records of the state treasurer.

10 (c) The department of natural resources shall make a
11 personal visit to each parcel of property deeded to this state
12 under section 67a to ascertain whether or not the property is
13 occupied. If the property appears to be occupied, the department
14 of natural resources shall do all of the following:

15 (i) Attempt to personally serve upon a person occupying the
16 property a copy of a notice of the hearing under this section.

17 (ii) If a person occupying the property is personally
18 served, orally inform the occupant that title to the property
19 will vest in this state and that the occupants will be required
20 to vacate unless the amounts set forth in subsection (5) are
21 paid, of the time within which those amounts must be paid, and of
22 agencies or other resources that may be available to assist the
23 owner to avoid loss of the property.

24 (iii) If the occupant appears to lack the ability to
25 understand the advice given, notify the family independence
26 agency or provide the occupant with the names and telephone
27 numbers of the agencies that may be able to assist the occupant.

1 (iv) If the department of natural resources is not able to
2 personally meet with the occupant, the department of natural
3 resources shall place the notice in a conspicuous manner on the
4 property and shall also place in a conspicuous manner on the
5 property a notice that explains, in plain English, that the title
6 to the property will vest in this state unless the amounts set
7 forth in subsection (5) are paid, the time within which those
8 amounts must be paid, and the names, addresses, and telephone
9 numbers of agencies or other resources that may be available to
10 assist the occupant to avoid loss of the property.

11 (d) The department of treasury or its authorized
12 representative shall record the proof of service of the notice of
13 the hearing under this section and of the personal visit to the
14 property with the register of deeds in the county in which the
15 property is located.

16 (e) If the department of treasury or its authorized
17 representative discovers any deficiency in the provision of
18 notice, the department of treasury or its authorized
19 representative shall take reasonable steps in good faith to
20 correct that deficiency not later than 30 days before the hearing
21 provided under this section. Notice under this section is
22 presumed valid unless the contrary is affirmatively shown.

23 (f) If the department of treasury is unable to ascertain the
24 address reasonably calculated to apprise the owners of a property
25 interest entitled to notice under this section, or is unable to
26 serve the owner of a property interest, service of the notice
27 shall be made by publication. The notice shall be published for

1 3 successive weeks, once each week, in a newspaper published and
2 circulated in the county in which the property is located, if
3 there is one. If no paper is published in that county,
4 publication shall be made in a newspaper published and circulated
5 in an adjoining county, and proof of publication, by affidavit of
6 the printer or publisher of the newspaper, shall be recorded with
7 the register of deeds in the county in which the property is
8 located. This publication shall be instead of service under
9 subdivision (b). Publication under this subdivision is subject
10 to the requirements set forth in section 65.

11 (g) The notice required under this subsection shall include
12 all of the following:

13 (i) The date on which the taxes on the property were
14 returned as delinquent.

15 (ii) A statement that the person notified may lose his or
16 her interest in the property if the amounts set forth in
17 subsection (5) remain unpaid.

18 (iii) A legal description or parcel number of the property
19 and the street address of the property, if possible.

20 (iv) All persons to whom the notice is addressed.

21 (v) The total of the amounts set forth in subsection (5)
22 that are due on the property.

23 (vi) The date and time of the hearing under this section.

24 (vii) An explanation of the person's rights of redemption
25 and notice that the rights of redemption will expire 30 days
26 after the hearing.

27 (3) ~~-(2)-~~ For all property the title to which vested in this

1 state under this section after October 25, 1976 **and before the**
2 **effective date of the amendatory act that added subsection (2),** 1
3 hearing shall be held to allow each owner of a recorded property
4 interest the opportunity to show cause why the tax sale and the
5 deed to ~~the~~ **this** state should be canceled for any reason
6 specified in section 98. **For all property the title to which**
7 **vested in this state under this section on and after the**
8 **effective date of the amendatory act that added subsection (2),** 1
9 **hearing shall be held to allow each owner of a property interest**
10 **entitled to notice as provided in subsection (2) the opportunity**
11 **to show cause why the tax sale and the deed to this state should**
12 **be canceled for any reason specified in section 98.** The hearing
13 **under this subsection** shall be held after the expiration of the
14 redemption periods provided in section 131c. The department of
15 treasury may hold combined or separate ~~show cause~~ hearings
16 **under this subsection** for different owners of a ~~recorded~~
17 property interest.

18 (4) ~~(3)~~ For all property the title to which vested in this
19 state under this section after October 25, 1976, after expiration
20 of the redemption periods provided in section 131c, on the first
21 Tuesday in November after title to the property vests in this
22 state, an owner of a ~~recorded~~ property interest may redeem the
23 property up to 30 days following the date of **the hearing under**
24 **subsection (3)** for that owner of a ~~recorded~~ property interest
25 ~~provided by this section~~ by payment of the amounts set forth in
26 subsection ~~(4)~~ (5) and in section 131c(1), plus an additional
27 penalty of 50% of the tax on which foreclosure was made. The

1 additional penalty shall be credited to the delinquent property
2 tax administration fund. A redemption under this section shall
3 reinstate title as provided in section 131c(4).

4 (5) ~~-(4)-~~ For all property the title to which vested in this
5 state under this section after October 25, 1976, if property
6 redeemed under this section has been exempt from taxes levied in
7 any year after the year of foreclosure because a deed to that
8 property was issued to ~~the~~ **this** state, an amount equal to the
9 sum of the following amounts shall be paid, as required by
10 subsection ~~-(3)-~~ (4), before redemption of the property:

11 (a) For taxes and ad valorem special assessments levied
12 before January 1, 1997, an amount computed by applying the
13 special assessment and ad valorem property tax rates levied by
14 taxing units in which the property is located in the years the
15 property was exempt against the most recently established state
16 equalized valuation of the property. For taxes and ad valorem
17 special assessments levied after December 31, 1996, an amount
18 computed by applying the special assessment and ad valorem
19 property tax rates levied by taxing units in which the property
20 is located in the years the property was exempt against the most
21 recently established taxable value of the property. For purposes
22 of this subsection, special assessments do not include special
23 assessments or special assessment installments deferred under
24 section 67a.

25 (b) If the levy of an ad valorem special assessment on the
26 property's taxable value is found to be invalid by a court of
27 competent jurisdiction, the levy of the ad valorem special

1 assessment may be levied on the property's state equalized
2 value.

3 (c) Interest on the delinquent taxes or special assessments
4 to be computed from the date title vested in this state to the
5 date of the application to redeem under this section.

6 (d) Interest and penalties on taxes and special assessments
7 identified by subdivision (a) that would have been imposed by law
8 or charter and would have accrued if the property had not been
9 exempt, computed from the date title vested in the state to the
10 date of the application to redeem under this section.

11 **(6)** ~~-(5)-~~ For all property the title to which vested in this
12 state under this section after October 25, 1976, the owner of a
13 ~~recorded~~ property interest who has been ~~properly~~ served with
14 a notice of the hearing under this section and who fails to
15 redeem the property as provided under this section shall not
16 assert any of the following:

17 (a) That notice was insufficient or inadequate on the grounds
18 that some other owner of a property interest was not also
19 served.

20 (b) That the redemption period provided under this section
21 was extended in any way on the grounds that some other owner of a
22 property interest was not also served.

23 **(7) The failure of the department of treasury or its**
24 **authorized representative to comply with any provision of this**
25 **section shall not invalidate any proceeding under this act if the**
26 **owner of a property interest or a person to whom a tax deed was**
27 **issued is accorded the minimum due process required under the**

1 state constitution of 1963 and the constitution of the United
2 States.

3 (8) For all property the title to which vested in this state
4 under this section after the effective date of the amendatory act
5 that added subsection (2), all of the following apply:

6 (a) The owner of any recorded or unrecorded interest in that
7 property who claims that he or she did not receive any notice
8 required under this act shall not bring an action for possession
9 of the property against any subsequent owner, but may only bring
10 an action to recover monetary damages as provided in subdivision
11 (b).

12 (b) The owner of any recorded or unrecorded interest in
13 property who seeks to recover monetary damages as provided in
14 subdivision (a) shall file his or her claim with the department
15 of treasury. A claim filed with the department of treasury under
16 this subdivision shall be conducted according to the provisions
17 for an informal conference in section 21 of 1941 PA 122, MCL
18 205.21. The owner of any recorded or unrecorded interest in that
19 property may appeal a decision of the department of treasury to
20 the court of claims.

21 (c) An action to recover monetary damages under this
22 subsection shall not be brought more than 2 years after the
23 hearing provided for in subsection (3).

24 (d) Any monetary damages recoverable under this subsection
25 shall be determined as of the date of the hearing provided for in
26 subsection (3) and shall not exceed the fair market value of the
27 property on that date.

1 (9) As used in this section, "authorized representative"
2 includes all of the following:

3 (a) A title insurance company or agent licensed to conduct
4 business in this state.

5 (b) An attorney licensed to practice law in this state.

6 (c) A person accredited in title search procedures by a
7 nationally recognized organization in the field of title
8 searching.

9 (d) A person with demonstrated experience in the field of
10 title searching, as determined by the department of treasury.