

HOUSE BILL No. 4431

March 15, 2011, Introduced by Reps. Melton, Santana, Hobbs, Dillon, Brunner, Segal, Smiley, Haugh, Ananich, Lipton, Darany, Kandrevas, McCann, Slavens, Switalski, Geiss, Barnett, Bauer, Liss, Howze, Meadows and Jackson and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78k (MCL 211.78k), as amended by 2006 PA 611.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78k. (1) If a petition for foreclosure is filed under
2 section 78h, not later than the date of the hearing, the
3 foreclosing governmental unit shall file with the clerk of the
4 circuit court proof of service of the notice of the show cause
5 hearing under section 78j, proof of service of the notice of the
6 foreclosure hearing under this section, and proof of the personal
7 visit to the property and publication under section 78i.

8 (2) A person claiming an interest in a parcel of property set
9 forth in the petition for foreclosure may contest the validity or
10 correctness of the forfeited unpaid delinquent taxes, interest,

1 penalties, and fees for 1 or more of the following reasons:

2 (a) No law authorizes the tax.

3 (b) The person appointed to decide whether a tax shall be
4 levied under a law of this state acted without jurisdiction, or did
5 not impose the tax in question.

6 (c) The property was exempt from the tax in question, or the
7 tax was not legally levied.

8 (d) The tax has been paid within the time limited by law for
9 payment or redemption.

10 (e) The tax was assessed fraudulently.

11 (f) The description of the property used in the assessment was
12 so indefinite or erroneous that the forfeiture was void.

13 (3) A person claiming an interest in a parcel of property set
14 forth in the petition for foreclosure who desires to contest that
15 petition shall file written objections with the clerk of the
16 circuit court and serve those objections on the foreclosing
17 governmental unit prior to the date of the hearing required under
18 this section.

19 (4) If the court determines that the owner of property subject
20 to foreclosure is a minor heir, is incompetent, is without means of
21 support, or is undergoing a substantial financial hardship, the
22 court may withhold that property from foreclosure for 1 year or may
23 enter an order extending the redemption period as the court
24 determines to be equitable. If the court withholds property from
25 foreclosure under this subsection, a taxing unit's lien for taxes
26 due is not prejudiced and that property shall be included in the
27 immediately succeeding year's tax foreclosure proceeding.

1 (5) The circuit court shall enter final judgment on a petition
2 for foreclosure filed under section 78h at any time after the
3 hearing under this section but not later than the March 30
4 immediately succeeding the hearing with the judgment effective on
5 the March 31 immediately succeeding the hearing for uncontested
6 cases or 10 days after the conclusion of the hearing for contested
7 cases. All redemption rights to the property expire on the March 31
8 immediately succeeding the entry of a judgment foreclosing the
9 property under this section, or in a contested case 21 days after
10 the entry of a judgment foreclosing the property under this
11 section. The circuit court's judgment shall specify all of the
12 following:

13 (a) The legal description and, if known, the street address of
14 the property foreclosed and the forfeited unpaid delinquent taxes,
15 interest, penalties, and fees due on each parcel of property.

16 (b) That fee simple title to property foreclosed by the
17 judgment will vest absolutely in the foreclosing governmental unit,
18 except as otherwise provided in subdivisions (c) and (e), without
19 any further rights of redemption, if all forfeited delinquent
20 taxes, interest, penalties, and fees are not paid on or before the
21 March 31 immediately succeeding the entry of a judgment foreclosing
22 the property under this section, or in a contested case within 21
23 days of the entry of a judgment foreclosing the property under this
24 section.

25 (c) That all liens against the property, including any lien
26 for unpaid taxes or special assessments, except future installments
27 of special assessments and liens recorded by this state or the

1 foreclosing governmental unit pursuant to the natural resources and
2 environmental protection act, 1994 PA 451, MCL 324.101 to
3 324.90106, are extinguished, if all forfeited delinquent taxes,
4 interest, penalties, and fees are not paid on or before the March
5 31 immediately succeeding the entry of a judgment foreclosing the
6 property under this section, or in a contested case within 21 days
7 of the entry of a judgment foreclosing the property under this
8 section.

9 (d) That, except as otherwise provided in subdivisions (c) and
10 (e), the foreclosing governmental unit has good and marketable fee
11 simple title to the property, if all forfeited delinquent taxes,
12 interest, penalties, and fees are not paid on or before the March
13 31 immediately succeeding the entry of a judgment foreclosing the
14 property under this section, or in a contested case within 21 days
15 of the entry of a judgment foreclosing the property under this
16 section.

17 (e) That all existing recorded and unrecorded interests in
18 that property are extinguished, except a visible or recorded
19 easement or right-of-way, private deed restrictions, interests of a
20 lessee or an assignee of an interest of a lessee under a recorded
21 oil or gas lease, interests in oil or gas in that property that are
22 owned by a person other than the owner of the surface that have
23 been preserved as provided in section 1(3) of 1963 PA 42, MCL
24 554.291, or restrictions or other governmental interests imposed
25 pursuant to the natural resources and environmental protection act,
26 1994 PA 451, MCL 324.101 to 324.90106, if all forfeited delinquent
27 taxes, interest, penalties, and fees are not paid on or before the

1 March 31 immediately succeeding the entry of a judgment foreclosing
2 the property under this section, or in a contested case within 21
3 days of the entry of a judgment foreclosing the property under this
4 section.

5 (f) A finding that all persons entitled to notice and an
6 opportunity to be heard have been provided that notice and
7 opportunity. A person shall be deemed to have been provided notice
8 and an opportunity to be heard if the foreclosing governmental unit
9 followed the procedures for provision of notice by mail, for visits
10 to forfeited property, and for publication under section 78i, or if
11 1 or more of the following apply:

12 (i) The person had constructive notice of the hearing under
13 this section by acquiring an interest in the property after the
14 date the notice of forfeiture is recorded under section 78g.

15 (ii) The person appeared at the hearing under this section or
16 filed written objections with the clerk of the circuit court under
17 subsection (3) prior to the hearing.

18 (iii) Prior to the hearing under this section, the person had
19 actual notice of the hearing.

20 (g) A judgment entered under this section is a final order
21 with respect to the property affected by the judgment and except as
22 provided in subsection ~~(7)~~-(8) shall not be modified, stayed, or
23 held invalid after the March 31 immediately succeeding the entry of
24 a judgment foreclosing the property under this section, or for
25 contested cases 21 days after the entry of a judgment foreclosing
26 the property under this section.

27 **(6) THE FORECLOSING GOVERNMENTAL UNIT SHALL SEND A NOTICE OF**

1 JUDGMENT BY FIRST-CLASS MAIL TO EACH PERSON WITH A LEGAL INTEREST
2 IN AN IMPROVED PROPERTY AND TO THE OCCUPANT, IF ANY, AT THE ADDRESS
3 FOR THE PROPERTY LISTED IN THE TAX ROLLS OR ASCERTAINED DURING THE
4 PERSONAL VISIT TO THE PROPERTY UNDER SECTION 78I, IF THE ADDRESS IS
5 EVIDENT. THE NOTICE OF JUDGMENT SHALL STATE THE LAST DATE ON WHICH
6 THE PROPERTY MAY BE REDEEMED, WHICH DATE SHALL BE MARCH 31
7 IMMEDIATELY SUCCEEDING THE ENTRY OF A JUDGMENT FORECLOSING THE
8 PROPERTY UNDER THIS SECTION OR IN A CONTESTED CASE WITHIN 21 DAYS
9 OF THE ENTRY OF A JUDGMENT FORECLOSING THE PROPERTY UNDER THIS
10 SECTION.

11 (7) ~~(6)~~—Except as otherwise provided in subsection (5)(c) and
12 (e), fee simple title to property set forth in a petition for
13 foreclosure filed under section 78h on which forfeited delinquent
14 taxes, interest, penalties, and fees are not paid on or before the
15 March 31 immediately succeeding the entry of a judgment foreclosing
16 the property under this section, or in a contested case within 21
17 days of the entry of a judgment foreclosing the property under this
18 section, shall vest absolutely in the foreclosing governmental
19 unit, and the foreclosing governmental unit shall have absolute
20 title to the property, including all interests in oil or gas in
21 that property except the interests of a lessee or an assignee of an
22 interest of a lessee under an oil or gas lease in effect as to that
23 property or any part of that property if the lease was recorded in
24 the office of the register of deeds in the county in which the
25 property is located before the date of filing the petition for
26 foreclosure under section 78h, and interests preserved as provided
27 in section 1(3) of 1963 PA 42, MCL 554.291. The foreclosing

1 governmental unit's title is not subject to any recorded or
2 unrecorded lien and shall not be stayed or held invalid except as
3 provided in subsection ~~(7)~~-(8) or ~~(9)~~-(10).

4 (8) ~~(7)~~-The foreclosing governmental unit or a person claiming
5 to have a property interest under section 78i in property
6 foreclosed under this section may appeal the circuit court's order
7 or the circuit court's judgment foreclosing property to the court
8 of appeals. An appeal under this subsection is limited to the
9 record of the proceedings in the circuit court under this section
10 and shall not be de novo. The circuit court's judgment foreclosing
11 property shall be stayed until the court of appeals has reversed,
12 modified, or affirmed that judgment. If an appeal under this
13 subsection stays the circuit court's judgment foreclosing property,
14 the circuit court's judgment is stayed only as to the property that
15 is the subject of that appeal and the circuit court's judgment
16 foreclosing other property that is not the subject of that appeal
17 is not stayed. To appeal the circuit court's judgment foreclosing
18 property, a person appealing the judgment shall pay to the county
19 treasurer the amount determined to be due to the county treasurer
20 under the judgment on or before the March 31 immediately succeeding
21 the entry of a judgment foreclosing the property under this
22 section, or in a contested case within 21 days of the entry of a
23 judgment foreclosing the property under this section, together with
24 a notice of appeal. If the circuit court's judgment foreclosing the
25 property is affirmed on appeal, the amount determined to be due
26 shall be refunded to the person who appealed the judgment. If the
27 circuit court's judgment foreclosing the property is reversed or

1 modified on appeal, the county treasurer shall refund the amount
2 determined to be due to the person who appealed the judgment, if
3 any, and retain the balance in accordance with the order of the
4 court of appeals.

5 (9) ~~(8)~~—The foreclosing governmental unit shall record a
6 notice of judgment for each parcel of foreclosed property in the
7 office of the register of deeds for the county in which the
8 foreclosed property is located in a form prescribed by the
9 department of treasury.

10 (10) ~~(9)~~—After the entry of a judgment foreclosing the
11 property under this section, if the property has not been
12 transferred under section 78m to a person other than the
13 foreclosing governmental unit, a foreclosing governmental unit may
14 cancel the foreclosure by recording with the register of deeds for
15 the county in which the property is located a certificate of error
16 in a form prescribed by the department of treasury, if the
17 foreclosing governmental unit discovers any of the following:

18 (a) The foreclosed property was not subject to taxation on the
19 date of the assessment of the unpaid taxes for which the property
20 was foreclosed.

21 (b) The description of the property used in the assessment of
22 the unpaid taxes for which the property was foreclosed was so
23 indefinite or erroneous that the forfeiture of the property was
24 void.

25 (c) The taxes for which the property was foreclosed had been
26 paid to the proper officer within the time provided under this act
27 for the payment of the taxes or the redemption of the property.

1 (d) A certificate, including a certificate issued under
2 section 135, or other written verification authorized by law was
3 issued by the proper officer within the time provided under this
4 act for the payment of the taxes for which the property was
5 foreclosed or for the redemption of the property.

6 (e) An owner of an interest in the property entitled to notice
7 under section 78i was not provided notice sufficient to satisfy the
8 minimum requirements of due process required under the state
9 constitution of 1963 and the constitution of the United States.

10 (f) A judgment of foreclosure was entered under this section
11 in violation of an order issued by a United States bankruptcy
12 court.

13 (11) ~~(10)~~—A certificate of error submitted to the county
14 register of deeds for recording under subsection ~~(9)~~—(10) need not
15 be notarized and may be authenticated by a digital signature of the
16 foreclosing governmental unit or by other electronic means.