

Act No. 433
Public Acts of 2016
Approved by the Governor
January 3, 2017
Filed with the Secretary of State
January 4, 2017
EFFECTIVE DATE: March 29, 2017

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Rep. Nesbitt

ENROLLED HOUSE BILL No. 5912

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 78k (MCL 211.78k), as amended by 2006 PA 611.

The People of the State of Michigan enact:

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

(2) A person claiming an interest in a parcel of property set forth in the petition for foreclosure may contest the validity or correctness of the forfeited unpaid delinquent taxes, interest, penalties, and fees for 1 or more of the following reasons:

- (a) No law authorizes the tax.
- (b) The person appointed to decide whether a tax shall be levied under a law of this state acted without jurisdiction, or did not impose the tax in question.
- (c) The property was exempt from the tax in question, or the tax was not legally levied.
- (d) The tax has been paid within the time limited by law for payment or redemption.
- (e) The tax was assessed fraudulently.
- (f) The description of the property used in the assessment was so indefinite or erroneous that the forfeiture was void.

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

(4) If the court determines that the owner of property subject to foreclosure is a minor heir, is incompetent, is without means of support, or is undergoing a substantial financial hardship, the court may withhold that property from foreclosure for 1 year or may enter an order extending the redemption period as the court determines to be equitable.

If the court withholds property from foreclosure under this subsection, a taxing unit's lien for taxes due is not prejudiced and that property shall be included in the immediately succeeding year's tax foreclosure proceeding.

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

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

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

(c) That all liens against the property, including any lien for unpaid taxes or special assessments, except future installments of special assessments and liens recorded by this state or the foreclosing governmental unit pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished, if all forfeited delinquent taxes, interest, penalties, and fees are not paid on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under this section, or in a contested case within 21 days of the entry of a judgment foreclosing the property under this section.

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

(e) That all existing recorded and unrecorded interests in that property are extinguished, except a visible or recorded easement or right-of-way, private deed restrictions, interests of a lessee or an assignee of an interest of a lessee under a recorded oil or gas lease, interests in oil or gas in that property that are owned by a person other than the owner of the surface that have been preserved as provided in section 1(3) of 1963 PA 42, MCL 554.291, interests in property assessable as personal property under section 8(g), or restrictions or other governmental interests imposed pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, if all forfeited delinquent taxes, interest, penalties, and fees are not paid on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under this section, or in a contested case within 21 days of the entry of a judgment foreclosing the property under this section.

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

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

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

(iii) Before the hearing under this section, the person had actual notice of the hearing.

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

(6) Except as otherwise provided in subsection (5)(c) and (e), fee simple title to property set forth in a petition for foreclosure filed under section 78h on which forfeited delinquent taxes, interest, penalties, and fees are not paid on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under this section, or in a contested case within 21 days of the entry of a judgment foreclosing the property under this section, shall vest absolutely in the foreclosing governmental unit, and the foreclosing governmental unit shall have absolute title to the property, including all interests in oil or gas in that property except the interests of a lessee or an assignee of an interest of a lessee under an oil or gas lease in effect as to that property or any part of that property if the lease was recorded in the office of the register of deeds in the county in which the property is located before the date of filing the petition for foreclosure under section 78h, and interests preserved as provided in section 1(3) of 1963 PA 42, MCL 554.291. The foreclosing governmental unit's title is not subject to any recorded or unrecorded lien and shall not be stayed or held invalid except as provided in subsection (7) or (9).

(7) The foreclosing governmental unit or a person claiming to have a property interest under section 78i in property foreclosed under this section may appeal the circuit court's order or the circuit court's judgment foreclosing property to the court of appeals. An appeal under this subsection is limited to the record of the proceedings in the circuit court

under this section and shall not be de novo. The circuit court's judgment foreclosing property shall be stayed until the court of appeals has reversed, modified, or affirmed that judgment. If an appeal under this subsection stays the circuit court's judgment foreclosing property, the circuit court's judgment is stayed only as to the property that is the subject of that appeal and the circuit court's judgment foreclosing other property that is not the subject of that appeal is not stayed. To appeal the circuit court's judgment foreclosing property, a person appealing the judgment shall pay to the county treasurer the amount determined to be due to the county treasurer under the judgment on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under this section, or in a contested case within 21 days of the entry of a judgment foreclosing the property under this section, together with a notice of appeal. If the circuit court's judgment foreclosing the property is affirmed on appeal, the amount determined to be due shall be refunded to the person who appealed the judgment. If the circuit court's judgment foreclosing the property is reversed or modified on appeal, the county treasurer shall refund the amount determined to be due to the person who appealed the judgment, if any, and retain the balance in accordance with the order of the court of appeals.

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

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

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

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

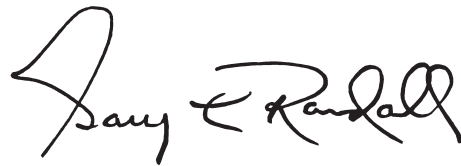
(c) The taxes for which the property was foreclosed had been paid to the proper officer within the time provided under this act for the payment of the taxes or the redemption of the property.

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

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

(f) A judgment of foreclosure was entered under this section in violation of an order issued by a United States Bankruptcy Court.

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



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor