

LAND BANK FAST TRACK ACT (EXCERPT)
Act 258 of 2003

124.759 Expedited quiet title and foreclosure action; procedure.

Sec. 9.

(1) An authority may initiate an expedited quiet title and foreclosure action under this section to quiet title to real property held by the authority or interests in tax reverted property held by the authority by recording with the register of deeds in the county in which the property subject to expedited quiet title and foreclosure is located a notice of pending expedited quiet title and foreclosure action in a form prescribed by the department of treasury. The notice shall include a legal description of the property, the street address of the property if available, the name, address, and telephone number of the authority, a statement that the property is subject to expedited quiet title proceedings and foreclosure under this act, and a statement that any legal interests in the property may be extinguished by a circuit court order vesting title to the property in the authority. If a notice is recorded in error, the authority may correct the error by recording a certificate of correction with the register of deeds. A notice or certificate under this subsection need not be notarized and may be authenticated by a digital signature or other electronic means. Property is not subject to an expedited quiet title and foreclosure action under this section if the property was forfeited under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k. If an authority has reason to believe that a property subject to an expedited quiet title and foreclosure action under this section may be the site of environmental contamination, the authority shall provide the department of environmental quality with any information in the possession of the authority that suggests the property may be the site of environmental contamination.

(2) After recording the notice under subsection (1), an authority shall initiate a search of records identified in this subsection to identify the owners of a property interest in the property who are entitled to notice of the quiet title and foreclosure hearing under this section. The authority may enter into a contract with or may request from 1 or more authorized representatives a title search or other title product to identify the owners of a property interest in the property as required under this subsection or to perform the other functions set forth in this section required for the quieting of title to property under this act. The owner of a property interest is entitled to notice under this section if that owner's interest was identifiable by reference to any of the following sources before the date that the authority records the notice under subsection (1):

- (a) Land title records in the office of the county register of deeds.
- (b) Tax records in the office of the county treasurer.
- (c) Tax records in the office of the local assessor.
- (d) Tax records in the office of the local treasurer.

(3) An authority may file a single petition with the clerk of the circuit court in which property subject to expedited foreclosure under this section is located listing all property subject to expedited foreclosure by the authority and for which the authority seeks to quiet title. If available to the authority, the list of properties shall include a legal description of, a tax parcel identification number for, and the street address of each parcel of property. The petition shall seek a judgment in favor of the authority against each property listed and shall include a date, within 90 days, on which the authority requests a hearing on the petition. The petition shall request that a judgment be entered vesting absolute title in the authority, without right of redemption for each parcel of property listed, as provided in this section. Prior to the entry of judgment under this section, the authority may request the court to remove property erroneously included in the petition, or any tax delinquent properties redeemed prior to the hearing.

(4) The clerk of the circuit court in which a petition is filed under subsection (3) shall immediately set the date, time, and place for a hearing on the petition for foreclosure. The date shall be set by the clerk and shall not be more than 10 days after the date requested by the authority in the petition. In no event may the clerk schedule the hearing later than 90 days after the filing of a petition by the authority under subsection (3).

(5) After completing the records search under subsection (2), an authority shall determine the address or addresses reasonably calculated to inform those owners of a property interest in property subject to expedited foreclosure under this section of the pendency of the quiet title and foreclosure hearing under subsection (11). If, after conducting the title search, the authority is unable to determine an address reasonably calculated to inform persons with a property interest in property subject to expedited tax foreclosure, or if the authority discovers a deficiency in notice under subsection (10), the following shall be considered reasonable steps by the authority to ascertain the addresses of persons with a property interest in the property subject to expedited foreclosure or to ascertain an address necessary to correct a deficiency in notice under subsection (10):

(a) For an individual, a search of records of the county probate court for the county in which the property is located.

(b) For an individual, a search of the qualified voter file established under section 509o of the Michigan election law, 1954 PA 116, MCL 168.509o, which is authorized by this subdivision.

(c) For a partnership, a search of partnership records filed with the county clerk.

(d) For a business entity other than a partnership, a search of business entity records filed with the corporation division of the department.

(6) Not less than 30 days before the quiet title and foreclosure hearing under subsection (11), the authority shall send notice by certified mail, return receipt requested, of the hearing to the persons identified under subsection (5) with a property interest in property subject to expedited foreclosure. The authority shall also send a notice via regular mail addressed to the "Occupant" for each property subject to expedited foreclosure if an address for the property is ascertainable.

(7) Not less than 30 days before the quiet title and foreclosure hearing under subsection (11), the authority or its authorized representative or authorized agent shall visit each parcel of property subject to expedited foreclosure and post conspicuously on the property notice of the hearing. In addition to the requirements of subsection (8), the notice shall also include the following statement: "THIS PROPERTY HAS BEEN TRANSFERRED TO THE LAND BANK FAST TRACK AUTHORITY AND IS SUBJECT TO AN EXPEDITED QUIET TITLE AND FORECLOSURE ACTION. PERSONS WITH INFORMATION REGARDING THE PRIOR OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT THE LAND BANK FAST TRACK AUTHORITY AT _____."

(8) The notice required under subsections (6) and (7) shall include:

(a) The date on which the authority recorded under subsection (1) notice of the pending expedited quiet title and foreclosure action.

(b) A statement that a person with a property interest in the property may lose his or her interest, if any, as a result of the quiet title and foreclosure hearing under subsection (11).

(c) A legal description, parcel number of the property, and the street address of the property, if available.

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

(e) The date and time of the hearing on the petition for foreclosure under subsection (11) and a statement that the judgment of the court may result in title to the property vesting in the authority.

(f) An explanation of any rights of redemption and notice that the judgment of the court may extinguish any ownership interest in or right to redeem the property.

(g) The name, address, and telephone number of the authority.

(h) A statement that persons with information regarding the owner or prior owner of any of the properties are requested to contact the authority.

(9) If the authority is unable to ascertain the address reasonably calculated to inform the owners of a property interest entitled to notice under this section, or is unable to provide notice under subsection (6) or (7), the authority shall provide notice by publication. Prior to the hearing, a notice shall be published for 3 successive weeks, once each week, in a newspaper published and circulated in the county in which the property is located. If no paper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county. This publication shall substitute for notice under subsection (6) or (7). The published notice shall include all of the following:

(a) A legal description, parcel number of the property, and the street address of the property, if available.

(b) The name of any person not notified under subsection (6) or (7) that the authority reasonably believes may be entitled to notice under this section of the quiet title and foreclosure hearing under subsection (11).

(c) A statement that a person with a property interest in the property may lose his or her interest, if any, as a result of the foreclosure proceeding under subsection (11).

(d) The date and time of the hearing on the petition for foreclosure under subsection (11).

(e) A statement that the judgment of the court may result in title to the property vesting in the authority.

(f) An explanation of any rights of redemption and notice that judgment of the court may extinguish any ownership interest in or right to redeem the property.

(g) The name, address, and telephone number of the authority.

(h) A statement that persons with information regarding the owner or prior owner of any of the properties are requested to contact the authority.

(10) If prior to the quiet title and foreclosure hearing under subsection (11) the authority discovers any deficiency in the provision of notice under this section, the authority shall take reasonable steps in good faith to correct the deficiency before the hearing. The provisions of this section relating to notice of the quiet title and foreclosure hearing are exclusive and exhaustive. Other requirements relating to notice and proof of service under other law, rule, or other legal requirement are not applicable to notice or proof of service under this section.

(11) If a petition for expedited quiet title and foreclosure is filed under subsection (3), before the hearing, the authority shall file with the clerk of the circuit court proof of notice by certified mail under subsection (6), proof of notice by posting on the property under subsection (7), and proof of notice by publication, if applicable. 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 authority

before the date of the hearing. The circuit court may appoint and utilize as the court considers necessary a special master for assistance with the resolution of any objections to the foreclosure or questions regarding the title to property subject to foreclosure. If the court withholds property from foreclosure, an authority's ability to include the property in a subsequent petition for expedited quiet title and foreclosure is not prejudiced. No injunction shall issue to stay an expedited quiet title and foreclosure action under this section. The circuit court shall enter judgment on a petition to quiet title and foreclosure filed under subsection (3) not more than 10 days after the conclusion of the hearing or contested case, and the judgment shall be effective 10 days after the conclusion of the hearing or contested case. 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.
- (b) That fee simple title to property foreclosed by the judgment is vested absolutely in the authority, except as otherwise provided in subdivisions (c) and (e), without any further rights of redemption.
- (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 authority under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.
- (d) That, except as otherwise provided in subdivisions (c) and (e), the authority has good and marketable fee simple title to the property.
- (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, plat restrictions, or restrictions or other governmental interests imposed under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(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 authority followed the procedures for provision of notice by mail, for visits to property subject to expedited quiet title and foreclosure, and for publication under this section, or if 1 or more of the following apply:

- (i) The person had constructive notice of the hearing by acquiring an interest in the property after the date of the recording under subsection (1) of the notice of pending expedited quiet title and foreclosure action.
- (ii) The person appeared at the hearing under this subsection or submitted written objections to the clerk of the circuit court under this subsection prior to the hearing.
- (iii) Prior to the hearing under this subsection, the person had actual notice of the hearing.

(12) Except as otherwise provided in subsection (11)(c) and (e), fee simple title to property set forth in a petition for foreclosure filed under subsection (3) shall vest absolutely in the authority upon the effective date of the judgment by the circuit court and the authority shall have absolute title to the property. The authority's title is not subject to any recorded or unrecorded lien, except as provided in subsection (11) and shall not be stayed or held invalid except as provided in subsection (13). A judgment entered under this section is a final order with respect to the property affected by the judgment and shall not be modified, stayed, or held invalid after the effective date of the judgment, except as provided in subsection (14).

(13) An authority or a person claiming to have a property interest under subsection (2) in property foreclosed under this section may within 21 days of the effective date of the judgment under subsection (12) 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. 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 authority any taxes, interest, penalties, and fees due on the property and provide notice of the appeal to the authority within 21 days after the circuit court's judgment is effective. 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 authority shall refund the amount determined to be due to the person who appealed the judgment, if any, and forward the balance to the appropriate taxing jurisdictions in accordance with the order of the court of appeals.

(14) The authority 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. If an authority records a notice of judgment in error, the authority may subsequently record a certificate of correction. A notice or certificate under this subsection need not be notarized and may be authenticated by a digital signature or other electronic means. After the entry of a judgment foreclosing the property under this section, if the property has not been transferred by the authority, the authority may cancel the foreclosure by recording with the register of deeds of the county in which the property is located a certificate of error in a form prescribed by the department of treasury, if the authority discovers any of the following:

- (a) The description of the property used in the expedited quiet title and foreclosure proceeding was so indefinite or erroneous that the foreclosure of the property was void.

(b) An owner of an interest in the property entitled to notice of the expedited quiet title and proceedings against the property under this section was not provided notice sufficient to satisfy the minimum due process requirements of the constitution of this state and the constitution of the United States.

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

(15) If a judgment of foreclosure is entered under subsection (12), and all existing recorded and unrecorded interests in a parcel of property are extinguished as provided in subsection (12), the owner of any extinguished recorded or unrecorded interest in that property who claims that he or she did not receive notice of the expedited quiet title and foreclosure action shall not bring an action for possession of the property against any subsequent owner, but may only bring an action to recover monetary damages as provided in this subsection. The court of claims has original and exclusive jurisdiction in any action to recover monetary damages under this subsection. An action to recover monetary damages under this subsection shall not be brought more than 2 years after a judgment for foreclosure is entered under subsection (12). Any monetary damages recoverable under this subsection shall be determined as of the date a judgment for foreclosure is entered under subsection (12) and shall not exceed the fair market value of the interest in the property held by the person bringing the action under this section on that date, less any taxes, interest, penalties, and fees owed on the property as of that date. The right to sue for monetary damages under this subsection shall not be transferable except by testate or intestate succession.

(16) The owner of a property interest with notice of the quiet title and foreclosure hearing under subsection (11) may not assert any of the following:

(a) That notice to the owner was insufficient or inadequate in any way because some other owner of a property interest in the property was not notified.

(b) That any right to redeem tax reverted property was extended in any way because some other person was not notified.

(17) A person holding or formerly holding an interest in tax reverted property subject to expedited foreclosure under this section is barred from questioning the validity of the expedited foreclosure under this section if 1 or more of the following apply:

(a) Prior to the transfer of the property to the authority, the property was deeded to this state under section 67a of the general property tax act, 1893 PA 206, MCL 211.67a, and the person or the person's predecessor in title was notified of a hearing regarding the deeding of the property as required by section 131e of the general property tax act, 1893 PA 206, MCL 211.131e.

(b) Prior to the transfer of the property to the authority, title to the property vested in a foreclosing governmental unit following a circuit court hearing under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, and the person or the person's predecessor in title was notified of the hearing under section 78i of the general property tax act, 1893 PA 206, MCL 211.78i.

(18) The failure of an authority to comply with any provision of this section shall not invalidate any proceeding under this section if a person with a property interest in property subject to foreclosure was accorded the minimum due process required under the state constitution of 1963 and the constitution of the United States.

(19) It is the intent of the legislature that the provisions of this section relating to the expedited quiet title and foreclosure of property by an authority satisfy the minimum requirements of due process required under the constitution of this state and the constitution of the United States but that the provisions do not create new rights beyond those required under the state constitution of 1963 or the constitution of the United States. The failure of an authority, this state, a political subdivision of this state, or a local unit of government to follow a requirement of this section relating to the expedited quiet title and foreclosure of property held by an authority shall not be construed to create a claim or cause of action against an authority, this state, a political subdivision of this state, or a local unit of government unless the minimum requirements of due process accorded under the state constitution of 1963 or the constitution of the United States are violated.

(20) As used in this section, "authorized representative" includes 1 or more of the following:

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

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

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

(d) A person with demonstrated experience in the field of searching land title records, as determined by the authority.

History: 2003, Act 258, Imd. Eff. Jan. 5, 2004

Compiler's Notes: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919. For transfer of powers and duties relative to land bank fast track act, 2003 PA 258, performed by Michigan strategic fund to Michigan state housing development authority, see E.R.O. No. 2013-3, compiled at MCL 125.1393. For abolishment of the existing board of directors and position of director of the state land bank fast track authority, the renaming the state land bank fast track authority to the state land bank authority, the type I transfer of the powers and duties of the state land bank authority, including revenue bonding powers from the Michigan strategic fund, to the department of labor and economic opportunity, and the reestablishment of the board of directors of the state land bank authority, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

