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DELINQUENT PROPERTY TAXES

House Bill 5354 (Substitute H-4)
First Analysis (5-26-98)

Sponsor: Rep. Bill Bobier
Committee: Tax Policy

THE APPARENT PROBLEM:

Property taxes not paid by March 1 of the year after they are assessed are declared delinquent, and most are turned over to county treasurers for collection. (Typically, county revolving funds are established to disburse money to local units to cover revenue lost due to tax delinquencies.) If taxes remain delinquent after three years, they are put up for "sale" in May, at which time tax lien investors can pay the taxes, along with fees and interest, and gain the right to collect a premium from property owners who want to reclaim or "redeem" their property. The sale is conducted by the county treasurer, and the property available is listed in a newspaper circulating in the county. According to tax specialists, the sale is competitive and tax liens are sold to those who will take the least undivided interest in the property.

Taxes not bought by investors are "bid off" to the state, and the property can be redeemed during the following year for all outstanding taxes and 15 percent interest. Before the state can acquire the property, according to tax officials, property owners must be given an additional six months to pay all delinquent taxes and special assessments and then, the Department of Treasury must give all those with an interest in the property notice and an opportunity for a hearing (called a "Dow" hearing, after the court case that led to the procedure). After the hearing, redemption of the property is permitted for another 30 days. At that point, the Department of Natural Resources can attempt to sell the property.

If investors do buy the taxes, they must allow owners to redeem the property during the next year for the price of the taxes and 15 percent annual interest from the date of the sale to the date of redemption. If the property is not redeemed during that period, the tax lien investor is issued a "tax deed" and can send a demand for payment of taxes plus a 50 percent penalty from all those with a recorded interest in the property. (Notice must be served within five years after issuance of the tax deed.) A copy of the notice must also be sent to the county social services department if residential property is involved, and the local department may -- but is not required to -- investigate the situation. If the taxes and penalty are not paid within the six months after notice is served, tax experts say, the tax lien buyer can become the owner of the property and can evict anyone occupying the property. (Tax lien buyers have testified that they are not as a rule interested in acquiring property but buy back taxes as an investment and thus are interested in having property owners redeem the property. Their value to the process, they say, is paying much needed property taxes to governments sooner than would otherwise be the case.)

The property tax foreclosure process has been criticized as too time consuming, too complicated and cumbersome, and too easily abused. Among the problems are the following. 1) It takes too long -- five or more years from delinquency -- to get tax-delinquent property back on the tax rolls and in the hands of new owners or, in the case of abandoned property, demolished. 2) Homes can be lost unnecessarily due to confusion or carelessness by homeowners, particularly the elderly, despite their having more equity in their property than they owe in taxes. There are not enough efforts made to help people who might be able to save their property. 3) The private tax lien buyer system is subject to abuses that lead to people losing their homes for back taxes to private investors who profit from their misfortune (and, it is alleged, who sometimes mislead homeowners). 4) The state is too slow in selling properties it acquires and in distributing proceeds to county treasurers.

Critics of the process say, generally, that it is outdated and subject to abuse. They say that the private tax lien buyer system developed many years ago before the advent of county revolving funds. Counties issue notes to support such funds, which get tax revenues otherwise lost due to delinquent taxes into the hands of local units in a timely manner, rendering the services of private investors unnecessary. A proposal has been developed by county treasurers and others that would speed up the process somewhat, eliminate the role of private tax investors, and otherwise modernize and improve the process.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to make changes in the delinquent tax foreclosure process. The new provisions would apply to taxes levied after December 31, 1995. The following is a brief description of the bill's provisions.

-- The role of private tax lien buyers in the delinquent tax foreclosure process would be eliminated. Instead, delinquent taxes would be forfeited to the state by the county treasurer on March 1 of each year. (For example, property taxes levied July 1 and December 1 of 1996 and considered delinquent on March 1, 1997, would be forfeited to the state on March 1, 1999.) An additional $15 title search fee would be charged to the property under the bill, which if collected would go to the state.

-- The process by which the state could obtain title to tax delinquent property would be shortened by about one year. Forfeited property (or part of the property) could be redeemed by an owner at any time before September 1 in the year following the forfeiture by the payment to the county treasurer of taxes due plus 1.25 percent interest per month.

-- A hearing before the Department of Treasury would be scheduled after the initial redemption period. Following the hearing, property could be redeemed for up to 30 days by payment to the county treasurer of the taxes plus 1.25 percent interest and a 50 percent penalty, along with a processing fee of $50 per parcel. (The penalty and $40 of the processing fee would go to the state general fund to the credit of the delinquent property tax administration fund; $10 of the processing fee would remain with the county.) Title to property subject to a lien for delinquent taxes would not vest in the state until this redemption period had expired.

-- Prior to the hearing cited above, the Department of Treasury would have to conduct a title search to determine the owners of a recorded property interest in the property. If the required personal visit to the property by the Department of Natural Resources had not occurred, it would have to be done then. The DNR would have to make a personal visit to each parcel to see if the property is occupied. If it appears to be occupied, the DNR would have to attempt to personally serve a copy of a notice of the hearing before the treasury department. If unable to serve the notice personally, the DNR would have to place the notice in a conspicuous manner on the premises. Proof of the notice and personal visit would have to be recorded with the county register of deeds.

-- If the county sheriff in which the property was located was unable to ascertain the whereabouts or the post office address of a person with a recorded property interest in the property, service of the notice would be by publication for four successive weeks in a newspaper circulated in the county. This would replace personal service of the notice.

-- Provisions regarding the sale of property by the Department of Natural Resources are found in House Bill 5353, to which House Bill 5354 is tie-barred. (That bill has been referred from the House Tax Policy Committee to the House Committee on Urban Policy and Economic Development.) The DNR would offer the forfeited land for sale, except for those parcels held from the sale by the state or by a local tax collecting unit. Further, a revised schedule of notices to owners of property is contained in Senate Bill 791.

-- The bill also takes many duties now assigned in the act to the auditor general and specifies that they belong to the state treasurer.

[Note: County treasurers say that under the bill, property on which taxes were levied in July 1 and December 1, 1996 and that went unpaid would be sold by November 30, 2000 and returned to the tax roll by January of 2001. Currently, they say, such property not redeemed or acquired by a private buyer would be sold by the DNR in September or November of 2001 and returned to the tax roll in January of 2002.]

MCL 211.55a et al.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no direct fiscal impact on local revenues. State revenues would increase slightly as fees are increased to cover expenses involving title searches. Local costs would decrease somewhat as administrative costs on counties would be reduced. (HFA fiscal note dated 11-10-97)

ARGUMENTS:

For:

The current process for dealing with delinquent property taxes is a relic of the late 1800's; it is no longer necessary. The development several decades ago of county revolving funds has meant that local units no longer go without tax revenues due to unpaid property taxes. The reduction in property taxes as a result of Proposal A in 1994 has lessened the burden on property owners and should result in fewer delinquencies. There is no longer a need for the role played by private tax lien buyers and annual county tax sales. This proposal would do away with tax sales and the role of private investors, and instead property would be forfeited directly to the state. The process would be streamlined somewhat, with the redemption process shortened by one year. This means property will get back on the tax rolls that much faster, including abandoned property blighting urban neighborhoods. At the same time, there will be ample time for property owners to redeem their property (by paying back taxes, interest, and fees) and there will be increased notification to property owners that taxes are delinquent. Under this bill, property owners will no longer have to deal with the private tax lien buyers to redeem property on which back taxes are owed. With the private investors no longer needed to provide local units with tax revenue, why should the property tax statute allow them to profit from the misfortunes of others? County treasurers have testified that some tax lien buyers engage in deceptive and abusive practices in their dealings with homeowners and other property owners. Some in the business advertise widely about the great investment opportunity that exists in Michigan for anyone willing to invest in the business of buying tax liens. Does it make sense for state tax statutes to permit this exploitation?

Response:

While this bill moves the process in the right direction, some people believe more needs to be done to streamline the process for blighted and abandoned property, particularly in urban areas.

Against:

This bill contemplates shifting huge amounts of work now carried out by the private sector to a few state agencies. Is this wise? It would unfairly deprive private citizens of investment opportunities and, in some cases, of their livelihoods by eliminating the private buyer from the tax foreclosure process. These investors serve a useful function by getting much-needed tax dollars to local units of government faster than would otherwise be the case. To transfer the work these individuals and companies do in dealing with delinquent taxpayers to the state would be a monumental task. Government's role will expand when what taxpayers want is a smaller government. The expertise of the private sector in financing delinquent taxes, perfecting titles, and selling delinquent property will be lost. The Department of Natural Resources will be presented with more work than it can handle. Plus the amount of time taxpayers have to redeem their property will be shortened. Tax lien buyers are not preying on the public as is sometimes represented. In most cases, property owners pay off their tax liens and keep their property. Getting people to pay their taxes is usually the main interest of the private investors (rather than acquiring property) and thus they make efforts to contact all the relevant parties (which otherwise might not get done). If there are abuses of the process, they should be dealt with. If special provisions are necessary for blighted or abandoned property, they should be enacted. If the process needs to be shortened, that too can be accomplished by itself. But to completely overhaul the current statute and eliminate an entire profession is extreme and unnecessary.

POSITIONS:

The Michigan Association of County Treasurers supports the bill. (5-20-98)

The Michigan Tax Certificate Association opposes the bills. (5-20-98)

The Department of Treasury has indicated that it supports the concept of the bill but testified that more work needs to be done on the issue. (5-20-98)

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.