

HOUSE BILL No. 6046

December 2, 2014, Introduced by Rep. Price and referred to the Committee on Local Government.

A bill to amend 2003 PA 258, entitled
"Land bank fast track act,"
by amending section 9 (MCL 124.759).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) An authority may initiate an expedited quiet title
2 and foreclosure action under this section to quiet title to real
3 property held by the authority or interests in tax reverted
4 property held by the authority by recording with the register of
5 deeds in the county in which the property subject to expedited
6 quiet title and foreclosure is located a notice of pending
7 expedited quiet title and foreclosure action in a form prescribed
8 by the department of treasury. The notice shall include a legal

1 description of the property, the street address of the property if
2 available, the name, address, and telephone number of the
3 authority, a statement that the property is subject to expedited
4 quiet title proceedings and foreclosure under this act, and a
5 statement that any legal interests in the property may be
6 extinguished by a circuit court order vesting title to the property
7 in the authority. If a notice is recorded in error, the authority
8 may correct the error by recording a certificate of correction with
9 the register of deeds. A notice or certificate under this
10 subsection need not be notarized and may be authenticated by a
11 digital signature or other electronic means. Property is not
12 subject to an expedited quiet title and foreclosure action under
13 this section if the property was forfeited under section 78g of the
14 general property tax act, 1893 PA 206, MCL 211.78g, and remains
15 subject to foreclosure under section 78k of the general property
16 tax act, 1893 PA 206, MCL 211.78k. If an authority has reason to
17 believe that a property subject to an expedited quiet title and
18 foreclosure action under this section may be the site of
19 environmental contamination, the authority shall provide the
20 department of environmental quality with any information in the
21 possession of the authority that suggests the property may be the
22 site of environmental contamination.

23 (2) After recording the notice under subsection (1), an
24 authority shall initiate a search of records identified in this
25 subsection to identify the owners of a property interest in the
26 property who are entitled to notice of the quiet title and
27 foreclosure hearing under this section. The authority may enter

1 into a contract with or may request from 1 or more authorized
2 representatives a title search or other title product to identify
3 the owners of a property interest in the property as required under
4 this subsection or to perform the other functions set forth in this
5 section required for the quieting of title to property under this
6 act. The owner of a property interest is entitled to notice under
7 this section if that owner's interest was identifiable by reference
8 to any of the following sources before the date that the authority
9 records the notice under subsection (1):

10 (a) Land title records in the office of the county register of
11 deeds.

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

13 (c) Tax records in the office of the local assessor.

14 (d) Tax records in the office of the local treasurer.

15 (3) An authority may file a single petition with the clerk of
16 the circuit court in which property subject to expedited
17 foreclosure under this section is located listing all property
18 subject to expedited foreclosure by the authority and for which the
19 authority seeks to quiet title. If available to the authority, the
20 list of properties shall include a legal description of, a tax
21 parcel identification number for, and the street address of each
22 parcel of property. The petition shall seek a judgment in favor of
23 the authority against each property listed and shall include a
24 date, within 90 days, on which the authority requests a hearing on
25 the petition. The petition shall request that a judgment be entered
26 vesting absolute title in the authority, without right of
27 redemption for each parcel of property listed, as provided in this

1 section. Prior to the entry of judgment under this section, the
2 authority may request the court to remove property erroneously
3 included in the petition, or any tax delinquent properties redeemed
4 prior to the hearing.

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

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

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

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

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

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

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

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

1 _____."

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

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

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

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

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

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

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

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

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

24 (9) If the authority is unable to ascertain the address
25 reasonably calculated to inform the owners of a property interest
26 entitled to notice under this section, or is unable to provide
27 notice under subsection (6) or (7), the authority shall provide

1 notice by publication. ~~Prior~~ **THROUGH DECEMBER 31, 2014, PRIOR** to
2 the hearing, a notice shall be published for 3 successive weeks,
3 once each week, in a newspaper published and circulated in the
4 county in which the property is located. **BEGINNING JANUARY 1, 2015,**
5 **PRIOR TO THE HEARING, THE AUTHORITY SHALL PROVIDE TIER A PUBLIC**
6 **NOTICE AS PROVIDED IN THE LOCAL GOVERNMENT PUBLIC NOTICE ACT.** If no
7 paper is published in that county, publication shall be made in a
8 newspaper published and circulated in an adjoining county. This
9 publication shall substitute for notice under subsection (6) or
10 (7). The published notice shall include all of the following:

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

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

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

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

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

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

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

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

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

13 (11) If a petition for expedited quiet title and foreclosure
14 is filed under subsection (3), before the hearing, the authority
15 shall file with the clerk of the circuit court proof of notice by
16 certified mail under subsection (6), proof of notice by posting on
17 the property under subsection (7), and proof of notice by
18 publication, if applicable. A person claiming an interest in a
19 parcel of property set forth in the petition for foreclosure who
20 desires to contest that petition shall file written objections with
21 the clerk of the circuit court and serve those objections on the
22 authority before the date of the hearing. The circuit court may
23 appoint and utilize as the court considers necessary a special
24 master for assistance with the resolution of any objections to the
25 foreclosure or questions regarding the title to property subject to
26 foreclosure. If the court withholds property from foreclosure, an
27 authority's ability to include the property in a subsequent

1 petition for expedited quiet title and foreclosure is not
2 prejudiced. No injunction shall issue to stay an expedited quiet
3 title and foreclosure action under this section. The circuit court
4 shall enter judgment on a petition to quiet title and foreclosure
5 filed under subsection (3) not more than 10 days after the
6 conclusion of the hearing or contested case, and the judgment shall
7 be effective 10 days after the conclusion of the hearing or
8 contested case. The circuit court's judgment shall specify all of
9 the following:

10 (a) The legal description and, if known, the street address of
11 the property foreclosed.

12 (b) That fee simple title to property foreclosed by the
13 judgment is vested absolutely in the authority, except as otherwise
14 provided in subdivisions (c) and (e), without any further rights of
15 redemption.

16 (c) That all liens against the property, including any lien
17 for unpaid taxes or special assessments, except future installments
18 of special assessments and liens recorded by this state or the
19 authority under the natural resources and environmental protection
20 act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.

21 (d) That, except as otherwise provided in subdivisions (c) and
22 (e), the authority has good and marketable fee simple title to the
23 property.

24 (e) That all existing recorded and unrecorded interests in
25 that property are extinguished, except a visible or recorded
26 easement or right-of-way, private deed restrictions, plat
27 restrictions, or restrictions or other governmental interests

1 imposed under the natural resources and environmental protection
2 act, 1994 PA 451, MCL 324.101 to 324.90106.

3 (f) A finding that all persons entitled to notice and an
4 opportunity to be heard have been provided that notice and
5 opportunity. A person shall be deemed to have been provided notice
6 and an opportunity to be heard if the authority followed the
7 procedures for provision of notice by mail, for visits to property
8 subject to expedited quiet title and foreclosure, and for
9 publication under this section, or if 1 or more of the following
10 apply:

11 (i) The person had constructive notice of the hearing by
12 acquiring an interest in the property after the date of the
13 recording under subsection (1) of the notice of pending expedited
14 quiet title and foreclosure action.

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

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

20 (12) Except as otherwise provided in subsection (11)(c) and
21 (e), fee simple title to property set forth in a petition for
22 foreclosure filed under subsection (3) shall vest absolutely in the
23 authority upon the effective date of the judgment by the circuit
24 court and the authority shall have absolute title to the property.
25 The authority's title is not subject to any recorded or unrecorded
26 lien, except as provided in subsection (11) and shall not be stayed
27 or held invalid except as provided in subsection (13). A judgment

1 entered under this section is a final order with respect to the
2 property affected by the judgment and shall not be modified,
3 stayed, or held invalid after the effective date of the judgment,
4 except as provided in subsection (14).

5 (13) An authority or a person claiming to have a property
6 interest under subsection (2) in property foreclosed under this
7 section may within 21 days of the effective date of the judgment
8 under subsection (12) appeal the circuit court's order or the
9 circuit court's judgment foreclosing property to the court of
10 appeals. An appeal under this subsection is limited to the record
11 of the proceedings in the circuit court under this section. The
12 circuit court's judgment foreclosing property shall be stayed until
13 the court of appeals has reversed, modified, or affirmed that
14 judgment. If an appeal under this subsection stays the circuit
15 court's judgment foreclosing property, the circuit court's judgment
16 is stayed only as to the property that is the subject of that
17 appeal and the circuit court's judgment foreclosing other property
18 that is not the subject of that appeal is not stayed. To appeal the
19 circuit court's judgment foreclosing property, a person appealing
20 the judgment shall pay to the authority any taxes, interest,
21 penalties, and fees due on the property and provide notice of the
22 appeal to the authority within 21 days after the circuit court's
23 judgment is effective. If the circuit court's judgment foreclosing
24 the property is affirmed on appeal, the amount determined to be due
25 shall be refunded to the person who appealed the judgment. If the
26 circuit court's judgment foreclosing the property is reversed or
27 modified on appeal, the authority shall refund the amount

1 determined to be due to the person who appealed the judgment, if
2 any, and forward the balance to the appropriate taxing
3 jurisdictions in accordance with the order of the court of appeals.

4 (14) The authority shall record a notice of judgment for each
5 parcel of foreclosed property in the office of the register of
6 deeds for the county in which the foreclosed property is located in
7 a form prescribed by the department of treasury. If an authority
8 records a notice of judgment in error, the authority may
9 subsequently record a certificate of correction. A notice or
10 certificate under this subsection need not be notarized and may be
11 authenticated by a digital signature or other electronic means.
12 After the entry of a judgment foreclosing the property under this
13 section, if the property has not been transferred by the authority,
14 the authority may cancel the foreclosure by recording with the
15 register of deeds of the county in which the property is located a
16 certificate of error in a form prescribed by the department of
17 treasury, if the authority discovers any of the following:

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

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

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

1 court.

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

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

26 (a) That notice to the owner was insufficient or inadequate in
27 any way because some other owner of a property interest in the

1 property was not notified.

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

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

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

14 (b) Prior to the transfer of the property to the authority,
15 title to the property vested in a foreclosing governmental unit
16 following a circuit court hearing under section 78k of the general
17 property tax act, 1893 PA 206, MCL 211.78k, and the person or the
18 person's predecessor in title was notified of the hearing under
19 section 78i of the general property tax act, 1893 PA 206, MCL
20 211.78i.

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

27 (19) It is the intent of the legislature that the provisions

1 of this section relating to the expedited quiet title and
2 foreclosure of property by an authority satisfy the minimum
3 requirements of due process required under the constitution of this
4 state and the constitution of the United States but that the
5 provisions do not create new rights beyond those required under the
6 state constitution of 1963 or the constitution of the United
7 States. The failure of an authority, this state, a political
8 subdivision of this state, or a local unit of government to follow
9 a requirement of this section relating to the expedited quiet title
10 and foreclosure of property held by an authority shall not be
11 construed to create a claim or cause of action against an
12 authority, this state, a political subdivision of this state, or a
13 local unit of government unless the minimum requirements of due
14 process accorded under the state constitution of 1963 or the
15 constitution of the United States are violated.

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

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

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

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

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

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. _____ or House Bill No. 5560 (request no.

1 03796'13) of the 97th Legislature is enacted into law.