

SENATE BILL NO. 809

January 12, 2022, Introduced by Senators JOHNSON, CHANG, WOZNIAK and RUNESTAD and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 78h and 78k (MCL 211.78h and 211.78k), section 78h as amended by 2014 PA 499 and section 78k as amended by 2020 PA 33.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78h. (1) Not later than June 15 in each tax year, the
2 foreclosing governmental unit shall file a single petition with the
3 clerk of the circuit court of that county listing all property
4 forfeited and not redeemed to the county treasurer under section

1 78g to be foreclosed under section 78k for the total of the
2 forfeited unpaid delinquent taxes, interest, penalties, and fees.
3 If available to the foreclosing governmental unit, the petition
4 shall ~~must~~ include the street address of each parcel of property
5 set forth in the petition. The petition shall ~~must~~ seek a judgment
6 in favor of the foreclosing governmental unit for the forfeited
7 unpaid delinquent taxes, interest, penalties, and fees listed
8 against each parcel of property. The petition shall ~~must~~ request
9 that a judgment be entered vesting absolute title to each parcel of
10 property in the foreclosing governmental unit, without right of
11 redemption.

12 (2) If property is redeemed after the petition for foreclosure
13 is filed under this section, the foreclosing governmental unit
14 shall request that the circuit court remove that property from the
15 petition for foreclosure before entry of judgment foreclosing the
16 property under section 78k.

17 (3) The foreclosing governmental unit may withhold the
18 following property from the petition for foreclosure filed under
19 this section:

20 (a) Property the title to which is held by minor heirs or
21 persons who are incompetent, persons without means of support, or
22 persons unable to manage their affairs due to age or infirmity,
23 until a guardian is appointed to protect that person's rights and
24 interests.

25 (b) Property the title to which is held by a person undergoing
26 substantial financial hardship, as determined under a written
27 policy developed and adopted by the foreclosing governmental unit.
28 The foreclosing governmental unit shall make available to the
29 public the written policy adopted under this subdivision. The

1 written policy adopted under this subdivision ~~shall~~**must** include,
2 but is not limited to, all of the following:

3 (i) The person requesting that the property be withheld from
4 the petition for foreclosure holds the title to the property.

5 (ii) The total household resources of the person requesting
6 that the property be withheld from the petition for foreclosure
7 meets the federal poverty income standards as defined and
8 determined annually by the United States ~~office~~**Office** of
9 ~~management~~**Management** and ~~budget~~**Budget** or alternative guidelines
10 adopted by the foreclosing governmental unit, provided that the
11 alternative guidelines include all persons who would otherwise meet
12 the federal poverty income standards under this subparagraph. As
13 used in this subparagraph, "total household resources" means that
14 term as defined in section 508 of the income tax act of 1967, 1967
15 PA 281, MCL 206.508.

16 (c) Property the title to which is held by a person subject to
17 a delinquent property tax installment payment plan or tax
18 foreclosure avoidance agreement under section 78q.

19 (d) **Property on which a payment was made for taxes levied**
20 **after the levy of taxes for which the property is subject to**
21 **foreclosure, if the amount paid was equal to or greater than the**
22 **amount necessary at the time of the payment to redeem the property.**
23 **A person with an interest in that property may notify the**
24 **foreclosing governmental unit of the payment using a form**
25 **prescribed by the department of treasury, which the foreclosing**
26 **governmental unit shall make available to the public.**

27 (4) If a foreclosing governmental unit withholds property from
28 the petition for foreclosure under subsection (3), a taxing unit's
29 lien for taxes due or the foreclosing governmental unit's right to

1 include the property in a subsequent petition for foreclosure is
2 not prejudiced.

3 (5) The clerk of the circuit court in which the petition is
4 filed shall immediately set the date, time, and place for a hearing
5 on the petition for foreclosure, which hearing ~~shall~~**must** be held
6 not more than 30 days before the March 1 immediately succeeding the
7 date the petition for foreclosure is filed.

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

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

19 (a) No law authorizes the tax.

20 (b) The person appointed to decide whether a tax will be
21 levied under a law of this state acted without jurisdiction, or did
22 not impose the tax in question.

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

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

27 (e) The tax was assessed fraudulently.

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

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

7 (4) If the court determines that the owner of property subject
8 to foreclosure is a minor heir, is incompetent, is without means of
9 support, or is undergoing a substantial financial hardship, the
10 court may withhold that property from foreclosure for 1 year or may
11 enter an order extending the redemption period as the court
12 determines to be equitable. If the court withholds property from
13 foreclosure under this subsection, a taxing unit's lien for taxes
14 due is not prejudiced and that property ~~must be included in~~ **is**
15 **subject to** the immediately succeeding year's tax foreclosure
16 proceeding.

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

29 (a) The legal description and, if known, the street address of

1 the property foreclosed and the forfeited unpaid delinquent taxes,
2 interest, penalties, and fees due on each parcel of property.

3 (b) That fee simple title to property foreclosed by the
4 judgment will vest absolutely in the foreclosing governmental unit,
5 except as otherwise provided in subdivisions (c) and (e), without
6 any further rights of redemption, if all forfeited delinquent
7 taxes, interest, penalties, and fees, which delinquent taxes,
8 interest, penalties, and fees may be reduced by the foreclosing
9 governmental unit in accordance with section 78g(8), are not paid
10 on or before the March 31 immediately succeeding the entry of a
11 judgment foreclosing the property under this section, or in a
12 contested case within 21 days of the entry of a judgment
13 foreclosing the property under this section.

14 (c) That all liens against the property, including any lien
15 for unpaid taxes or special assessments, except future installments
16 of special assessments and liens recorded by this state or the
17 foreclosing governmental unit under the natural resources and
18 environmental protection act, 1994 PA 451, MCL 324.101 to
19 324.90106, are extinguished, if all forfeited delinquent taxes,
20 interest, penalties, and fees are not paid on or before the March
21 31 immediately succeeding the entry of a judgment foreclosing the
22 property under this section, or in a contested case within 21 days
23 of the entry of a judgment foreclosing the property under this
24 section.

25 (d) That, except as otherwise provided in subdivisions (c) and
26 (e), the foreclosing governmental unit has good and marketable fee
27 simple title to the property, if all forfeited delinquent taxes,
28 interest, penalties, and fees are not paid on or before the March
29 31 immediately succeeding the entry of a judgment foreclosing the

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

4 (e) That all existing recorded and unrecorded interests in
5 that property are extinguished, except a visible or recorded
6 easement or right-of-way, private deed restrictions, interests of a
7 lessee or an assignee of an interest of a lessee under a recorded
8 oil or gas lease, interests in oil or gas in that property that are
9 owned by a person other than the owner of the surface that have
10 been preserved as provided in section 1(3) of 1963 PA 42, MCL
11 554.291, interests in property assessable as personal property
12 under section 8(g), or restrictions or other governmental interests
13 imposed under the natural resources and environmental protection
14 act, 1994 PA 451, MCL 324.101 to 324.90106, if all forfeited
15 delinquent taxes, interest, penalties, and fees are not paid on or
16 before the March 31 immediately succeeding the entry of a judgment
17 foreclosing the property under this section, or in a contested case
18 within 21 days of the entry of a judgment foreclosing the property
19 under this section.

20 (f) A finding that all persons entitled to notice and an
21 opportunity to be heard have been provided that notice and
22 opportunity. A person is considered to have been provided notice
23 and an opportunity to be heard if the foreclosing governmental unit
24 followed the procedures for provision of notice by mail, for visits
25 to forfeited property, and for publication under section 78i, or if
26 1 or more of the following apply:

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

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

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

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

13 (6) Except as otherwise provided in subsection (5)(c) and (e),
14 fee simple title to property set forth in a petition for
15 foreclosure filed under section 78h on which forfeited delinquent
16 taxes, interest, penalties, and fees are not paid on or before the
17 March 31 immediately succeeding the entry of a judgment foreclosing
18 the property under this section, or in a contested case within 21
19 days of the entry of a judgment foreclosing the property under this
20 section, will vest absolutely in the foreclosing governmental unit,
21 and the foreclosing governmental unit will have absolute title to
22 the property, including all interests in oil or gas in that
23 property except the interests of a lessee or an assignee of an
24 interest of a lessee under an oil or gas lease in effect as to that
25 property or any part of that property if the lease was recorded in
26 the office of the register of deeds in the county in which the
27 property is located before the date of filing the petition for
28 foreclosure under section 78h, and interests preserved as provided
29 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 must not be stayed or held invalid except as
3 provided in subsection (7) or (9).

4 (7) The foreclosing governmental unit or a person claiming to
5 have a property interest under section 78i in property foreclosed
6 under this section may appeal the circuit court's order or the
7 circuit court's judgment foreclosing property to the court of
8 appeals. An appeal under this subsection is limited to the record
9 of the proceedings in the circuit court under this section **and** is
10 not de novo. The circuit court's judgment foreclosing property must
11 be stayed until the court of appeals has reversed, modified, or
12 affirmed that judgment. If an appeal under this subsection stays
13 the circuit court's judgment foreclosing property, the circuit
14 court's judgment is stayed only as to the property that is the
15 subject of that appeal and the circuit court's judgment foreclosing
16 other property that is not the subject of that appeal is not
17 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 must be refunded to the person who appealed the judgment. If the
27 circuit court's judgment foreclosing the property is reversed or
28 modified on appeal, the county treasurer shall refund the amount
29 determined to be due to the person who appealed the judgment, if

1 any, and retain the balance in accordance with the order of the
2 court of appeals.

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

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

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

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

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

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

1 foreclosed or for the redemption of the property.

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

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

9 (g) **A payment was made for taxes levied on the property after**
10 **the levy of taxes for which the property was foreclosed and the**
11 **amount paid was equal to or greater than the amount necessary at**
12 **the time of the payment to redeem the property. If a foreclosure is**
13 **canceled under this subdivision, a taxing unit's lien for taxes due**
14 **or the foreclosing governmental unit's right to include the**
15 **property in a subsequent petition for foreclosure under section 78h**
16 **is not prejudiced.**

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

21 Enacting section 1. This amendatory act does not take effect
22 unless Senate Bill No. 808 of the 101st Legislature is enacted into
23 law.