

HOUSE BILL NO. 6261

September 24, 2020, Introduced by Reps. Sowerby, Guerra, Chirkun, Ellison, Brixie, Wittenberg, Hood, Sabo, Hertel, Sneller, Liberati, Hammoud, Brenda Carter and Clemente and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
(MCL 211.1 to 211.155) by adding section 78t.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78t. (1) A person claiming an interest in property
2 forfeited to a county treasurer under section 78g and foreclosed
3 under section 78k may file a notice of intention to claim an
4 interest in any applicable remaining proceeds under this
5 subsection. All of the following apply to a notice filed under this
6 subsection:



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1 (a) The notice must be filed with the circuit court that
2 entered the judgment of foreclosure on the property under section
3 78k.

4 (b) The filing must be completed within 1 of the following
5 time frames, as applicable:

6 (i) Within 90 days after title to the property vests in the
7 foreclosing governmental unit pursuant to a judgment entered under
8 section 78k, if that vesting occurred on or after the effective
9 date of the amendatory act that added this section. The circuit
10 court shall provide the foreclosing governmental unit with a copy
11 of a notice filed under this subparagraph by not later than the
12 first Monday of the following November.

13 (ii) Within 90 days after the effective date of the amendatory
14 act that added this section, if title to the property vested in the
15 foreclosing governmental unit pursuant to a judgment entered under
16 section 78k within 2 years immediately preceding the effective date
17 of the amendatory act that added this section. A claim of an
18 interest in remaining proceeds may not be made under this
19 subsection as to foreclosed property the title to which vested in
20 the foreclosing governmental unit before this 2-year time frame.
21 The circuit court shall provide the foreclosing governmental unit
22 with a copy of a notice filed under this subparagraph within 7 days
23 after the filing.

24 (c) The notice must include all of the following:

25 (i) The name, telephone number, and mailing address of the
26 person claiming an interest in remaining proceeds.

27 (ii) The property's parcel identification number and address if
28 an address is available.

29 (iii) A description of the interest in the property claimed.



1 (iv) A sworn statement or affirmation that the information
2 included in the notice is accurate.

3 (2) If 1 or more persons claiming an interest in a property
4 forfeited to a county treasurer under section 78g and foreclosed
5 under section 78k properly file a notice of intention under
6 subsection (1), the foreclosing governmental unit in which title to
7 the property vested pursuant to the judgment of foreclosure shall
8 respond to each claimant with a responsive notice. All of the
9 following apply to a responsive notice provided under this
10 subsection:

11 (a) The responsive notice must be sent by certified mail to
12 each claimant within 1 of the following time frames, as applicable:

13 (i) For a responsive notice applicable to a claimant's notice
14 of intention filed under subsection (1) (b) (i), within 60 days after
15 the first Tuesday of November.

16 (ii) For a responsive notice applicable to a claimant's notice
17 of intention filed under subsection (1) (b) (ii), within 60 days after
18 the notice of intention was filed.

19 (b) The responsive notice must include all of the following
20 information:

21 (i) The property's parcel identification number, legal
22 description, and address if an address is available.

23 (ii) The date on which the foreclosing governmental unit sold
24 or transferred the property or, if the property was not sold or
25 transferred, a statement indicating that the property was not sold
26 or transferred.

27 (iii) The minimum bid for the property as determined by the
28 foreclosing governmental unit.



1 (iv) The amount for which the property was sold or transferred.

2 (v) The amount of any remaining proceeds or the amount of any
3 shortfall, depending on whether the amount for which the property
4 was sold or transferred was greater or less than the sum of the
5 following, which must be itemized in the notice:

6 (A) The minimum bid.

7 (B) Fees incurred by the foreclosing governmental unit for all
8 of the following to the extent they were not included in the
9 minimum bid:

10 (I) The foreclosure proceedings, including fees for notices by
11 personal service, mail, and publication; legal fees; personnel
12 costs; and contractor costs.

13 (II) The sale or transfer of the property.

14 (III) Maintenance of the property, including costs of repair,
15 improvements, and environmental remediation.

16 (vi) The name and address provided by each person claiming an
17 interest in the property under subsection (1).

18 (vii) A statement that a claimant must file a motion as
19 described in subsection (3) with the circuit court in the same
20 proceeding in which a judgment of foreclosure was effective under
21 section 78k to claim any remaining proceeds payable to the
22 claimant.

23 (3) After receipt of a responsive notice described in
24 subsection (2), a claimant may file a motion with the circuit court
25 in the same proceeding in which a judgment of foreclosure was
26 effective under section 78k to claim any portion of the remaining
27 proceeds that the claimant is entitled to under this section. All
28 of the following apply to a motion filed under this subsection:

29 (a) The motion must be filed within 1 of the following time



1 frames, as applicable:

2 (i) For a motion based on a claim initiated under subsection
3 (1) (b) (i), not later than April 15 of the year immediately
4 succeeding the year in which the property was sold or transferred.

5 (ii) For a motion based on a claim initiated under subsection
6 (1) (b) (ii), within 90 days after receipt of the responsive notice
7 mailed under subsection (2) (a) (ii).

8 (b) The motion must provide the specific basis for the
9 claimant's asserted interest in some or all of the remaining
10 proceeds, including a description of the claimant's interest in the
11 property immediately preceding its foreclosure under section 78k
12 and documentation evidencing that interest. If the claimant had a
13 lien or other security interest in the property at the time the
14 judgment of foreclosure was effective under section 78k, the
15 claimant shall indicate the amount owed to the claimant pursuant to
16 the lien or security interest. The motion must be verified and
17 include a sworn statement or affirmation by the claimant of its
18 accuracy.

19 (c) Within 21 days after filing the motion, the claimant shall
20 serve a copy of the motion on the foreclosing governmental unit and
21 any other claimant that had properly filed a notice of intention as
22 to the property under subsection (1).

23 (4) For each property for which 1 or more claimants filed
24 notices of intention under subsection (1), the foreclosing
25 governmental unit shall file with the circuit court all of the
26 documentation and information described in subdivisions (a) and
27 (b), within the applicable time frame described in subdivision (c),
28 as follows:

29 (a) Proof of service of the responsive notice required under



1 subsection (2) as to all claimants.

2 (b) All of the following information:

3 (i) The property's parcel identification number, legal
4 description, and address if an address is available.

5 (ii) The date on which the foreclosing governmental unit sold
6 or transferred the property or, if the property was not sold or
7 transferred, a statement indicating that the property was not sold
8 or transferred.

9 (iii) The minimum bid for the property as determined by the
10 foreclosing governmental unit.

11 (iv) The amount for which the property was sold or transferred.

12 (v) The amount of any remaining proceeds or the amount of any
13 shortfall, depending on whether the amount for which the property
14 was sold or transferred was greater or less than the sum of the
15 following, which must be itemized in the filing:

16 (A) The minimum bid.

17 (B) Fees incurred by the foreclosing governmental unit for all
18 of the following to the extent they were not included in the
19 minimum bid:

20 (I) The foreclosure proceedings, including fees for notices by
21 personal service, mail, and publication; legal fees; personnel
22 costs; and contractor costs.

23 (II) The sale or transfer of the property.

24 (III) Maintenance of the property, including costs of repair,
25 improvements, and environmental remediation.

26 (vi) The name and address provided by each claimant that filed
27 a notice of intention under subsection (1).

28 (c) The filing required under this subsection must be
29 completed within 1 of the following time frames, as applicable:



1 (i) For a filing based on 1 or more claimant notices of
2 intention filed under subsection (1) (b) (i) , not later than April 15
3 of the year immediately succeeding the year in which the property
4 was sold or transferred.

5 (ii) For a filing based on 1 or more claimant notices of
6 intention filed under subsection (1) (b) (ii) , within 90 days after
7 the mailing of the responsive notice under subsection (2) (a) (ii) .

8 (5) The court shall hold a hearing for each property for which
9 1 or more claimants filed a motion under subsection (3) . All of the
10 following apply to a hearing held under this subsection:

11 (a) The court shall set the hearing date in 1 of the following
12 ways, as applicable:

13 (i) For a hearing based on filings under subsections (3) (a) (i)
14 and (4) (c) (i) , the court shall, by not later than May 15 of the year
15 immediately succeeding the year in which the property was sold or
16 transferred, set a hearing date and shall notify each claimant and
17 the foreclosing governmental unit of the hearing date at least 30
18 days before the hearing date.

19 (ii) For a hearing based on a filings under subsections
20 (3) (a) (ii) and (4) (c) (ii) , the court shall, within 30 days after the
21 filings, set a hearing date and shall notify each claimant and the
22 foreclosing governmental unit of the hearing date at least 30 days
23 before the hearing date.

24 (b) The court shall determine the relative priority and value
25 of the interest of each claimant in the foreclosed property
26 immediately before the foreclosure went into effect.

27 (c) The burden of proof of a claimant's interest in any
28 remaining proceeds is on the claimant.



1 (d) The court shall determine whether payment to 1 or more
2 claimants is required, allocate any remaining proceeds based on its
3 determination, and order the payment of applicable remaining
4 proceeds to 1 or more claimants consistent with its determination,
5 as provided in subsection (6). The amount payable to a claimant
6 must not exceed the amount attributable to the claimant's interest
7 in the property immediately before the entry of judgment of
8 foreclosure of the property under section 78k. The order also must
9 provide that any further claim by a claimant under this act
10 relating to the property is barred.

11 (6) A payment ordered under subsection (5) must be made by 1
12 of the following governmental entities within 30 days after the
13 order is entered:

14 (a) The foreclosing governmental unit, if title to the
15 property vested in the foreclosing governmental unit pursuant to
16 the judgment entered under section 78k on or after the effective
17 date of the amendatory act that added this section.

18 (b) The department of treasury, if title to the property
19 vested in the foreclosing governmental unit pursuant to the
20 judgment entered under section 78k before the effective date of the
21 amendatory act that added this section.

