

HOUSE BILL NO. 6358

November 12, 2020, Introduced by Reps. Coleman and Steven Johnson and referred to the Committee on Government Operations.

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

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

27 (2) After recording the notice under subsection (1), an
28 authority shall initiate a search of records identified in this
29 subsection to identify the owners of a property interest in the

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

12 (a) Land title records in the office of the county register of
13 deeds.

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

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

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

17 (3) An authority may file a single petition with the clerk of
18 the circuit court in which property subject to expedited
19 foreclosure under this section is located listing all property
20 subject to expedited foreclosure by the authority and for which the
21 authority seeks to quiet title. If available to the authority, the
22 list of properties shall include a legal description of, a tax
23 parcel identification number for, and the street address of each
24 parcel of property. The petition shall seek a judgment in favor of
25 the authority against each property listed and shall include a
26 date, within 90 days, on which the authority requests a hearing on
27 the petition. The petition shall request that a judgment be entered
28 vesting absolute title in the authority, without right of
29 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.

28 (b) For an individual, a search of the qualified voter file
29 established under section 509o of the Michigan election law, 1954

1 PA 116, MCL 168.509o, which is authorized by this subdivision.

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

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

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

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

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

29 (a) The date on which the authority recorded under subsection

1 (1) notice of the pending expedited quiet title and foreclosure
2 action.

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

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

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

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

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

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

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

20 (9) If the authority is unable to ascertain the address
21 reasonably calculated to inform the owners of a property interest
22 entitled to notice under this section, or is unable to provide
23 notice under subsection (6) or (7), the authority shall provide
24 notice by publication. ~~Prior~~**Through December 31, 2021, prior** to
25 the hearing, a notice shall be published for 3 successive weeks,
26 once each week, in a newspaper published and circulated in the
27 county in which the property is located. **Beginning January 1, 2022,**
28 **at least 20 days prior to the hearing, notice must be posted by the**
29 **authority as provided in the local government public notice act.** If

1 no paper is published in that county, publication shall be made in
2 a newspaper published and circulated in an adjoining county. This
3 publication shall substitute for notice under subsection (6) or
4 (7). The published notice shall include all of the following:

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

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

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

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

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

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

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

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

25 (10) If prior to the quiet title and foreclosure hearing under
26 subsection (11) the authority discovers any deficiency in the
27 provision of notice under this section, the authority shall take
28 reasonable steps in good faith to correct the deficiency before the
29 hearing. The provisions of this section relating to notice of the

1 quiet title and foreclosure hearing are exclusive and exhaustive.
2 Other requirements relating to notice and proof of service under
3 other law, rule, or other legal requirement are not applicable to
4 notice or proof of service under this section.

5 (11) If a petition for expedited quiet title and foreclosure
6 is filed under subsection (3), before the hearing, the authority
7 shall file with the clerk of the circuit court proof of notice by
8 certified mail under subsection (6), proof of notice by posting on
9 the property under subsection (7), and proof of notice by
10 publication, if applicable. A person claiming an interest in a
11 parcel of property set forth in the petition for foreclosure who
12 desires to contest that petition shall file written objections with
13 the clerk of the circuit court and serve those objections on the
14 authority before the date of the hearing. The circuit court may
15 appoint and utilize as the court considers necessary a special
16 master for assistance with the resolution of any objections to the
17 foreclosure or questions regarding the title to property subject to
18 foreclosure. If the court withholds property from foreclosure, an
19 authority's ability to include the property in a subsequent
20 petition for expedited quiet title and foreclosure is not
21 prejudiced. No injunction shall issue to stay an expedited quiet
22 title and foreclosure action under this section. The circuit court
23 shall enter judgment on a petition to quiet title and foreclosure
24 filed under subsection (3) not more than 10 days after the
25 conclusion of the hearing or contested case, and the judgment shall
26 be effective 10 days after the conclusion of the hearing or
27 contested case. The circuit court's judgment shall specify all of
28 the following:

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

1 the property foreclosed.

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

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

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

14 (e) That all existing recorded and unrecorded interests in
15 that property are extinguished, except a visible or recorded
16 easement or right-of-way, private deed restrictions, plat
17 restrictions, or restrictions or other governmental interests
18 imposed under the natural resources and environmental protection
19 act, 1994 PA 451, MCL 324.101 to 324.90106.

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 shall be deemed to have been provided notice
23 and an opportunity to be heard if the authority followed the
24 procedures for provision of notice by mail, for visits to property
25 subject to expedited quiet title and foreclosure, and for
26 publication under this section, or if 1 or more of the following
27 apply:

28 (i) The person had constructive notice of the hearing by
29 acquiring an interest in the property after the date of the

1 recording under subsection (1) of the notice of pending expedited
2 quiet title and foreclosure action.

3 (ii) The person appeared at the hearing under this subsection
4 or submitted written objections to the clerk of the circuit court
5 under this subsection prior to the hearing.

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

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

20 (13) An authority or a person claiming to have a property
21 interest under subsection (2) in property foreclosed under this
22 section may within 21 days of the effective date of the judgment
23 under subsection (12) appeal the circuit court's order or the
24 circuit court's judgment foreclosing property to the court of
25 appeals. An appeal under this subsection is limited to the record
26 of the proceedings in the circuit court under this section. The
27 circuit court's judgment foreclosing property shall be stayed until
28 the court of appeals has reversed, modified, or affirmed that
29 judgment. If an appeal under this subsection stays the circuit

1 court's judgment foreclosing property, the circuit court's judgment
2 is stayed only as to the property that is the subject of that
3 appeal and the circuit court's judgment foreclosing other property
4 that is not the subject of that appeal is not stayed. To appeal the
5 circuit court's judgment foreclosing property, a person appealing
6 the judgment shall pay to the authority any taxes, interest,
7 penalties, and fees due on the property and provide notice of the
8 appeal to the authority within 21 days after the circuit court's
9 judgment is effective. If the circuit court's judgment foreclosing
10 the property is affirmed on appeal, the amount determined to be due
11 shall be refunded to the person who appealed the judgment. If the
12 circuit court's judgment foreclosing the property is reversed or
13 modified on appeal, the authority shall refund the amount
14 determined to be due to the person who appealed the judgment, if
15 any, and forward the balance to the appropriate taxing
16 jurisdictions in accordance with the order of the court of appeals.

17 (14) The authority shall record a notice of judgment for each
18 parcel of foreclosed property in the office of the register of
19 deeds for the county in which the foreclosed property is located in
20 a form prescribed by the department of treasury. If an authority
21 records a notice of judgment in error, the authority may
22 subsequently record a certificate of correction. A notice or
23 certificate under this subsection need not be notarized and may be
24 authenticated by a digital signature or other electronic means.
25 After the entry of a judgment foreclosing the property under this
26 section, if the property has not been transferred by the authority,
27 the authority may cancel the foreclosure by recording with the
28 register of deeds of the county in which the property is located a
29 certificate of error in a form prescribed by the department of

1 treasury, if the authority discovers any of the following:

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

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

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

13 (15) If a judgment of foreclosure is entered under subsection
14 (12), and all existing recorded and unrecorded interests in a
15 parcel of property are extinguished as provided in subsection (12),
16 the owner of any extinguished recorded or unrecorded interest in
17 that property who claims that he or she did not receive notice of
18 the expedited quiet title and foreclosure action shall not bring an
19 action for possession of the property against any subsequent owner,
20 but may only bring an action to recover monetary damages as
21 provided in this subsection. The court of claims has original and
22 exclusive jurisdiction in any action to recover monetary damages
23 under this subsection. An action to recover monetary damages under
24 this subsection shall not be brought more than 2 years after a
25 judgment for foreclosure is entered under subsection (12). Any
26 monetary damages recoverable under this subsection shall be
27 determined as of the date a judgment for foreclosure is entered
28 under subsection (12) and shall not exceed the fair market value of
29 the interest in the property held by the person bringing the action

1 under this section on that date, less any taxes, interest,
 2 penalties, and fees owed on the property as of that date. The right
 3 to sue for monetary damages under this subsection shall not be
 4 transferable except by testate or intestate succession.

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

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

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

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

17 (a) Prior to the transfer of the property to the authority,
 18 the property was deeded to this state under **former** section 67a of
 19 the general property tax act, 1893 PA 206, ~~MCL 211.67a,~~ and the
 20 person or the person's predecessor in title was notified of a
 21 hearing regarding the deeding of the property as required by **former**
 22 section 131e of the general property tax act, 1893 PA 206. ~~MCL~~
 23 ~~211.131e.~~

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

1 211.78i.

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

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

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

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

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

29 (c) A person accredited in land title search procedures by a

1 nationally recognized organization in the field of land title
2 searching.

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

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No. ____ or House Bill No. 6440 (request no.
7 02449'19) of the 100th Legislature is enacted into law.