

SENATE BILL NO. 1056

August 15, 2020, Introduced by Senator RUNESTAD and referred to the Committee on Finance.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78k. (1) If a petition for foreclosure is filed under
2 section 78h, not later than the date of the hearing, the
3 foreclosing governmental unit shall file with the clerk of the
4 circuit court proof of service of the notice of the show cause
5 hearing under section 78j, proof of service of the notice of the
6 foreclosure hearing under this section, and proof of the personal

1 visit to the property and publication under section 78i.

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

6 (a) No law authorizes the tax.

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

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

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

14 (e) The tax was assessed fraudulently.

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

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

23 (4) If the court determines that the owner of property subject
24 to foreclosure is a minor heir, is incompetent, is without means of
25 support, or is undergoing a substantial financial hardship, the
26 court may withhold that property from foreclosure for 1 year or may
27 enter an order extending the redemption period as the court
28 determines to be equitable. If the court withholds property from
29 foreclosure under this subsection, a taxing unit's lien for taxes

1 due is not prejudiced and that property must be included in the
2 immediately succeeding year's tax foreclosure proceeding.

3 (5) The circuit court shall enter final judgment on a petition
4 for foreclosure filed under section 78h at any time after the
5 hearing under this section but not later than the March 30
6 immediately succeeding the hearing with the judgment effective on
7 the March 31 immediately succeeding the hearing for uncontested
8 cases or 10 days after the conclusion of the hearing for contested
9 cases. ~~All~~ **Except as otherwise provided in subsection (11), all**
10 redemption rights to the property expire on the March 31
11 immediately succeeding the entry of a judgment foreclosing the
12 property under this section, or in a contested case 21 days after
13 the entry of a judgment foreclosing the property under this
14 section. The circuit court's judgment must specify all of the
15 following:

16 (a) The legal description and, if known, the street address of
17 the property foreclosed and the forfeited unpaid delinquent taxes,
18 interest, penalties, and fees due on each parcel of property.

19 (b) That fee simple title to property foreclosed by the
20 judgment will vest absolutely in the foreclosing governmental unit,
21 except as otherwise provided in subdivisions (c) and (e), without
22 any further rights of redemption, if all forfeited delinquent
23 taxes, interest, penalties, and fees, which delinquent taxes,
24 interest, penalties, and fees may be reduced by the foreclosing
25 governmental unit in accordance with section 78g(8), are not paid
26 on or before the March 31 immediately succeeding the entry of a
27 judgment foreclosing the property under this section, or in a
28 contested case within 21 days of the entry of a judgment
29 foreclosing the property under this section.

1 (c) That all liens against the property, including any lien
2 for unpaid taxes or special assessments, except future installments
3 of special assessments and liens recorded by this state or the
4 foreclosing governmental unit under the natural resources and
5 environmental protection act, 1994 PA 451, MCL 324.101 to
6 324.90106, are extinguished, if all forfeited delinquent taxes,
7 interest, penalties, and fees are not paid on or before the March
8 31 immediately succeeding the entry of a judgment foreclosing the
9 property under this section, or in a contested case within 21 days
10 of the entry of a judgment foreclosing the property under this
11 section.

12 (d) That, except as otherwise provided in subdivisions (c) and
13 (e), the foreclosing governmental unit has good and marketable fee
14 simple title to the property, if all forfeited delinquent taxes,
15 interest, penalties, and fees are not paid on or before the March
16 31 immediately succeeding the entry of a judgment foreclosing the
17 property under this section, or in a contested case within 21 days
18 of the entry of a judgment foreclosing the property under this
19 section.

20 (e) That all existing recorded and unrecorded interests in
21 that property are extinguished, except a visible or recorded
22 easement or right-of-way, private deed restrictions, interests of a
23 lessee or an assignee of an interest of a lessee under a recorded
24 oil or gas lease, interests in oil or gas in that property that are
25 owned by a person other than the owner of the surface that have
26 been preserved as provided in section 1(3) of 1963 PA 42, MCL
27 554.291, interests in property assessable as personal property
28 under section 8(g), or restrictions or other governmental interests
29 imposed under the natural resources and environmental protection

1 act, 1994 PA 451, MCL 324.101 to 324.90106, if all forfeited
 2 delinquent taxes, interest, penalties, and fees are not paid on or
 3 before the March 31 immediately succeeding the entry of a judgment
 4 foreclosing the property under this section, or in a contested case
 5 within 21 days of the entry of a judgment foreclosing the property
 6 under this section.

7 **(f) That each recorded and unrecorded interest extinguished**
 8 **under subdivision (e) is replaced with a right of the holder of**
 9 **that interest to make an equivalent claim to the proceeds from the**
 10 **sale of the property under section 78m.**

11 **(g) ~~(f)~~**—A finding that all persons entitled to notice and an
 12 opportunity to be heard have been provided that notice and
 13 opportunity. A person is considered to have been provided notice
 14 and an opportunity to be heard if the foreclosing governmental unit
 15 followed the procedures for provision of notice by mail, for visits
 16 to forfeited property, and for publication under section 78i, or if
 17 1 or more of the following apply:

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

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

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

26 **(h) ~~(g)~~**—A judgment entered under this section is a final order
 27 with respect to the property affected by the judgment and except as
 28 provided in subsection (7) must not be modified, stayed, or held
 29 invalid after the March 31 immediately succeeding the entry of a

1 judgment foreclosing the property under this section, or for
 2 contested cases 21 days after the entry of a judgment foreclosing
 3 the property under this section.

4 (6) Except as otherwise provided in subsection (5)(c) and (e),
 5 fee simple title to property set forth in a petition for
 6 foreclosure filed under section 78h on which forfeited delinquent
 7 taxes, interest, penalties, and fees are not paid on or before the
 8 March 31 immediately succeeding the entry of a judgment foreclosing
 9 the property under this section, or in a contested case within 21
 10 days of the entry of a judgment foreclosing the property under this
 11 section, will vest absolutely in the foreclosing governmental unit,
 12 and the foreclosing governmental unit will have absolute title to
 13 the property, including all interests in oil or gas in that
 14 property except the interests of a lessee or an assignee of an
 15 interest of a lessee under an oil or gas lease in effect as to that
 16 property or any part of that property if the lease was recorded in
 17 the office of the register of deeds in the county in which the
 18 property is located before the date of filing the petition for
 19 foreclosure under section 78h, and interests preserved as provided
 20 in section 1(3) of 1963 PA 42, MCL 554.291. The foreclosing
 21 governmental unit's title is not subject to any recorded or
 22 unrecorded lien and must not be stayed or held invalid except as
 23 provided in subsection (7), ~~or (9)~~, **or (11)**.

24 (7) The foreclosing governmental unit or a person claiming to
 25 have a property interest under section 78i in property foreclosed
 26 under this section may appeal the circuit court's order or the
 27 circuit court's judgment foreclosing property to the court of
 28 appeals. An appeal under this subsection is limited to the record
 29 of the proceedings in the circuit court under this section is not

1 de novo. The circuit court's judgment foreclosing property must be
2 stayed until the court of appeals has reversed, modified, or
3 affirmed that judgment. If an appeal under this subsection stays
4 the circuit court's judgment foreclosing property, the circuit
5 court's judgment is stayed only as to the property that is the
6 subject of that appeal and the circuit court's judgment foreclosing
7 other property that is not the subject of that appeal is not
8 stayed. To appeal the circuit court's judgment foreclosing
9 property, a person appealing the judgment shall pay to the county
10 treasurer the amount determined to be due to the county treasurer
11 under the judgment on or before the March 31 immediately succeeding
12 the entry of a judgment foreclosing the property under this
13 section, or in a contested case within 21 days of the entry of a
14 judgment foreclosing the property under this section, together with
15 a notice of appeal. If the circuit court's judgment foreclosing the
16 property is affirmed on appeal, the amount determined to be due
17 must be refunded to the person who appealed the judgment. If the
18 circuit court's judgment foreclosing the property is reversed or
19 modified on appeal, the county treasurer shall refund the amount
20 determined to be due to the person who appealed the judgment, if
21 any, and retain the balance in accordance with the order of the
22 court of appeals.

23 (8) The foreclosing governmental unit shall record a notice of
24 judgment for each parcel of foreclosed property in the office of
25 the register of deeds for the county in which the foreclosed
26 property is located in a form prescribed by the department of
27 treasury.

28 (9) After the entry of a judgment foreclosing the property
29 under this section, if the property has not been transferred under

1 section 78m to a person other than the foreclosing governmental
2 unit, a foreclosing governmental unit may cancel the foreclosure by
3 recording with the register of deeds for the county in which the
4 property is located a certificate of error in a form prescribed by
5 the department of treasury, if the foreclosing governmental unit
6 discovers any of the following:

7 (a) The foreclosed property was not subject to taxation on the
8 date of the assessment of the unpaid taxes for which the property
9 was foreclosed.

10 (b) The description of the property used in the assessment of
11 the unpaid taxes for which the property was foreclosed was so
12 indefinite or erroneous that the forfeiture of the property was
13 void.

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

17 (d) A certificate, including a certificate issued under
18 section 135, or other written verification authorized by law was
19 issued by the proper officer within the time provided under this
20 act for the payment of the taxes for which the property was
21 foreclosed or for the redemption of the property.

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

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

29 (10) A certificate of error submitted to the county register

1 of deeds for recording under subsection (9) need not be notarized
2 and may be authenticated by a digital signature of the foreclosing
3 governmental unit or by other electronic means.

4 (11) After the entry of a judgment foreclosing the property
5 under this section, a foreclosing governmental unit may cancel the
6 foreclosure by recording with the register of deeds for the county
7 in which the property is located a certificate of postjudgment
8 redemption in a form prescribed by the department of treasury, if
9 the foreclosing governmental unit determines that all of the
10 following conditions are met:

11 (a) The property has continuously qualified as a principal
12 residence exempt from the tax levied by a local school district for
13 school operating purposes under section 7cc since it was returned
14 for delinquent taxes under section 78a.

15 (b) When the property was returned for delinquent taxes under
16 section 78a, the amount of unpaid delinquent taxes, interest,
17 penalties, and fees due on the property did not exceed \$3,000.00.

18 (c) No liens against, or interests in, the property were
19 extinguished under subsection (5) (c) or (e) pursuant to the
20 judgment foreclosing the property under this section.

21 (d) The property has not been transferred under section 78m to
22 a person other than the foreclosing governmental unit.

23 (e) The total amount of delinquent taxes, interest, penalties,
24 and fees required to be paid to redeem the property by the March 31
25 immediately succeeding the entry of the judgment foreclosing the
26 property under this section, or in a contested case 21 days after
27 the entry of the judgment foreclosing the property under this
28 section, was paid to the proper officer by not later than the third
29 Tuesday in July immediately succeeding the entry of the judgment

1 foreclosing the property under this section.

2 Enacting section 1. This amendatory act does not take effect
3 unless Senate Bill No. 676 of the 100th Legislature is enacted into
4 law.