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SFA**BILL ANALYSIS**

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Senate Bills 353 and 354 (as introduced 2-23-99)
Sponsor: Senator Bill Schuette (S.B. 353)
Senator Thaddeus G. McCotter (S.B. 354)
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 3-2-99

CONTENT

Senate Bill 353 would create the “Tax Delinquent Homestead Property Identification and Accelerated Forfeiture Act” to provide for accelerated forfeiture of tax delinquent homestead property. The bill also would establish criteria for accelerated forfeiture; require notice to the property owner; provide for a forfeiture action and a quiet title action; and allow the redemption of tax delinquent homestead property. If a judgment quieting title to the tax delinquent homestead property were entered, the bill would allow the local unit in which the property was located to take certain actions with respect to the property, including transferring it to a homestead program.

Senate Bill 354 would amend the General Property Tax Act to provide that beginning December 31, 1998, if authorized under the proposed Act, a collecting county would have to use that Act to collect taxes returned as delinquent that were levied on homestead property in the immediately preceding year. In addition, beginning December 31, 1998, a collecting county that used the Act would have to levy a \$25 special tax administration and collection fee, a \$25 certified mailing and notice requirement fee, and a \$150 title search fee on each parcel of tax delinquent property in the local tax collecting unit in which the tax delinquent homestead property was located. Proceeds from the fees would have to be used for inspections, notice requirements, and title work required under the proposed Act.

(“Tax delinquent homestead property” would mean a homestead on which taxes had been returned as delinquent under the General Property Tax Act.)

The following is a detailed description of Senate Bill 353.

Collection

Between January 1 and March 1 in any tax year, a local tax collecting unit could, by resolution approved at an open meeting, elect to have the county in which it was located, use the proposed Act to collect delinquent taxes on, and to accelerate the forfeiture of, tax delinquent homestead property in that year and all succeeding tax years. If a local tax collecting unit made this election, the county in which the local unit was located would have to use the proposed Act to collect delinquent taxes on, and to accelerate the forfeiture of, the tax delinquent homestead property in that local unit.

If a local tax collecting unit did not elect to use the proposed Act, the county in which the local collecting unit was located could elect to do so. If a collecting unit and county did not elect to use the proposed Act, the delinquent taxes on the property would have to be collected pursuant to the General Property Tax Act.

Accelerated Forfeiture Criteria

Delinquent taxes on tax delinquent homestead property could be collected and the property would be subject to accelerated forfeiture if a representative of the collecting county made a personal inspection of the property under the Tax Delinquent Abandoned Property Identification and Accelerated Forfeiture Act (proposed by Senate Bill 351), and determined that the occupant was the owner and the property was the owner's

homestead.

If delinquent taxes on the property were not eligible for collection under the bill, the delinquent taxes would have to be collected under the General Property Tax Act.

Notice by Mail

The collecting county would have to provide written notice by certified mail to the owner stating the following: delinquent taxes on the homestead property were subject to collection and failure to pay within one year from the March 1 when the taxes became delinquent could result in the forfeiture of and an accelerated quiet title action against the property; instructions for redemption, including a statement of all delinquent taxes due; and the time, date, and location of the forfeiture proceedings at which the owner or a person with a legal interest in the property could object to the forfeiture for any reason set forth in the General Property Tax Act.

If the delinquent taxes were not paid within six months of the notice, the collecting county would have to send a second notice to the owner, providing the same information. If the delinquent taxes levied on the homestead property were not paid, 30 days before the March 1 following the March 1 when the taxes became delinquent, the collecting county would have to send a third notice providing the same information and advising the owner that the property was subject to forfeiture on that March 1. If an owner refused the notice sent by certified mail, the notice could be provided by publication.

Property Forfeiture Action

If delinquent taxes levied on the tax delinquent homestead property were not paid by the March 1 immediately succeeding the March 1 when the taxes became delinquent, the collecting county could petition the circuit court to enter a judgment forfeiting the property to the local unit in which the property was located. A judgment forfeiting the title to property would forfeit title to all parcels of tax delinquent homestead property set forth on a separate attachment to the complaint and incorporated into the complaint by reference.

In a forfeiture action, the delinquent property taxes and the notice would be prima facie evidence in support of a judgment forfeiting the title to the local unit in which the property was located. If the court entered a judgment forfeiting the title to the local unit, the court would have to issue a tax deed for the property to the local unit.

If the circuit court for the collecting county entered a judgment forfeiting the tax delinquent homestead property to the local unit and issued a tax deed for the property to the local unit, the collecting county would have to send notice of that forfeiture by certified mail to the owner specifying that the property was subject to an accelerated quiet title action if not redeemed. If notice by certified mail were refused, service of the notice would have to be made by publication.

Title Search

Unless redeemed, one year after the forfeiture notice, the collecting county would be required to perform a title search on the tax delinquent homestead property, and would be required to pay the costs from the title search fee as provided in Senate Bill 354.

After the title search was performed, the collecting county would have to send notice by certified mail to the owner and to all persons with a legal interest in each parcel of tax delinquent homestead property subject to the collection of delinquent taxes. If the collecting county were unable to ascertain the whereabouts or address of the owner or any person with a legal interest in the property, or if notice by certified mail were refused, service would have to be made by publication.

Notice by Publication

The notice would have to be published for four successive weeks, once each week, in a newspaper published and circulated in the collecting county, or, if no paper were published in that county, in an adjoining county. Proof of publication would have to be filed with the register of deeds in the collecting county. The publication would be instead of personal service on the person or any person with a legal interest whose whereabouts

could not be ascertained or who refused service by certified mail.

The notice would have to include all of the following:

- A statement that a tax deed to the homestead property was issued to the local unit.
- Instructions for redemption, including a statement of all delinquent taxes due.
- A statement that the collecting county could bring a quiet title action for the tax delinquent homestead property.

The collecting county could use the qualified voter file under the Michigan Election Law to confirm the address of the owner and any person with a legal interest in each parcel of tax delinquent homestead property subject to the collection of delinquent taxes and accelerated forfeiture.

Quiet Title Action

At least 90 days after the notice following the title search, a collecting county could bring a quiet title action in the circuit court for the collecting county. A quiet title action would have to determine title for all parcels of tax delinquent homestead property set forth on a separate attachment to the complaint and incorporated into the complaint by reference. If the property were occupied by the owner, at least 60 days before the circuit court entered an order quieting title, the collecting county would have to notify the Family Independence Agency (FIA) and the Department of Community Health (DCH) that an action to quiet title was pending. The FIA and DCH could not take any action to diminish a local unit's interest in the tax delinquent homestead property, but could assist the owner in redeeming the property.

If a collecting county brought a quiet title action and the court entered a judgment vesting absolute title to the property in the local unit, all prior interests in the property would be canceled.

Redemption

Tax delinquent homestead property could be redeemed at any time before a judgment vesting absolute title to the property was entered, by payment to the collecting county of all the following: all delinquent taxes due including interest; costs incurred for notice, publication, and title work required under the proposed Act; and court costs. (The interest would be 1% per month or fraction of a month calculated from the March 1 in the tax year in which the collecting unit adopted a resolution, if the delinquent taxes were paid before forfeiture; 1.25% per month or a fraction of a month calculated from the same March 1 if the taxes were paid after forfeiture but before a quiet title action was commenced; or 150% of the delinquent taxes due if the taxes were paid after a quiet title action was commenced.)

Local Unit

If a court entered a judgment quieting title to the tax delinquent homestead property in the local unit, the local unit could demolish any unsafe structure located on the property; remediate any environmental contamination found on the property or notify the Department of Environmental Quality or other appropriate organization regarding the existence of environmental contamination on the property; sell the property to a private purchaser by auction or direct marketing; transfer the property to a homestead program if one existed and the property met its specifications; transfer the property to a nonprofit organization for rehabilitation and reuse; and/or retain the property for a specific public use including a park, zoo, or university, or as part of an existing project with an anticipated completion date of up to two years after the date title to the property vested in the local unit of government.

MCL 211.60 (S.B. 354)

Legislative Analyst: N. Nagata

FISCAL IMPACT

Senate Bill 353

Data are not available to determine the fiscal impact.

Senate Bill 354

This bill would allow authorized counties to collect delinquent taxes levied on homestead property on an accelerated time line. In addition, counties that used the Tax Delinquent Homestead Property Identification and Accelerated Forfeiture Act would have to levy additional fees, which would be used for inspections, notice requirements, and title-related expenses.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.