

Act No. 133
Public Acts of 1999
Approved by the Governor
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STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999

Introduced by Senators Peters, Schuette, Bennett, Johnson, Shugars and Steil

ENROLLED SENATE BILL No. 489

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," (MCL 211.1 to 211.157) by adding sections 79 and 79a.

The People of the State of Michigan enact:

Sec. 79. (1) For taxes levied after December 31, 1998, certified abandoned property is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in this section and sections 78, 78a, and 78g to 78p.

(2) As used in this act, "certified abandoned property" means property that has been returned as delinquent to the county treasurer on March 1 of each tax year and is certified as certified abandoned property under the certification of abandoned property for accelerated forfeiture act.

Sec. 79a. (1) A person who holds a tax deed issued on abandoned property may quiet title to that abandoned property in the circuit court of the county in which the abandoned property is located by doing all of the following:

(a) The tax deed holder or his or her authorized agent conducts a title search on the abandoned property.

(b) After conducting the title search as provided in subdivision (a), the tax deed holder or his or her authorized agent sends notice by certified mail, return receipt requested, to the owner and to all persons with a legal interest in each parcel of abandoned property subject to accelerated foreclosure under this section, as determined by the records in the office of the register of deeds and in records maintained by the county treasurer and the state treasurer. If, for any reason, the notice cannot be delivered to the last recorded address of the owner or persons with a legal interest in the abandoned property, notice shall be made by publication. The notice shall be published for 4 successive weeks, once each week, in a newspaper published and circulated in the county in which the parcel is located, if there is one. If no newspaper is published in the county where the parcel is located, publication shall be made in a newspaper published and circulated in an adjoining county. Publication under this subdivision is subject to the requirements set forth in section 65.

(c) At the request of the tax deed holder, the building inspector of the municipality in which the property is located inspects the property and executes an affidavit attesting that the abandoned property is vacant, dilapidated, or open to entrance or trespass. The cost of the inspection shall be paid by the tax deed holder and shall be included in the amount necessary to redeem the property.

(d) The tax deed holder or his or her authorized agent posts a notice on the abandoned property not less than 90 days before a foreclosure action is brought under this subsection.

(e) The notice required under this subsection shall include, but is not limited to, all of the following:

(i) The legal description, parcel number, and, if known, the street address of the abandoned property.

(ii) A statement of the total amount that must be paid to the county treasurer to redeem the abandoned property within 90 days of receipt of the notice, including fees to cover the cost of a title search, publication, and inspection by the municipal building inspector.

(iii) A statement of the person's rights of redemption and notice that the rights of redemption will expire 90 days after the person has received notice by mail or publication.

(iv) A statement that unless the taxes, interest, penalties, and fees are paid before the 90-day redemption period expires and a judgment of foreclosure is entered, title to the abandoned property shall vest absolutely in the petitioning tax deed holder.

(f) If the abandoned property is not redeemed by the owner or a person with a legal interest in the abandoned property by payment to the county treasurer within 90 days of service of the notice, the tax deed holder may bring an action in the circuit court of the county in which the abandoned property is located and petition the court to issue a judgment to quiet title in favor of the tax deed holder. The tax deed holder shall provide all of the following to the circuit court:

(i) An affidavit from the building inspector of the municipality as provided in subdivision (c).

(ii) A title search on the abandoned property that identifies all owners and persons with a legal interest in the abandoned property as determined by the records maintained in the office of the register of deeds, the county treasurer, and the state treasurer.

(iii) Proofs of service required under this section. If a tax deed holder fails to serve notice on 1 or more persons with a legal interest in the abandoned property as required under this section, service on any other person is not invalidated and the redemption period for any other person is not stayed or extended.

(iv) An affidavit from the county treasurer certifying to the lack of payment within the 90-day redemption period.

(2) If the circuit court enters a judgment in favor of the petitioning tax deed holder, the circuit court shall foreclose the abandoned property as requested in the petition for foreclosure. The circuit court's judgment shall specify all of the following:

(a) The legal description and, if known, the street address and parcel number of the abandoned property foreclosed.

(b) That fee simple title to the abandoned property foreclosed by the judgment is vested absolutely in the petitioning tax deed holder without any further rights of redemption.

(c) That, as of the date of the judgment, all delinquent property taxes, demolition liens, and all other municipal liens of any kind, except future installments of special assessments, are extinguished.

(d) That all existing recorded and unrecorded interests in that property are extinguished, except a visible or recorded easement or right-of-way.

(e) That the petitioning tax deed holder has good and marketable fee simple title to the property.

(3) If a judgment for foreclosure is entered under subsection (2) and all existing recorded and unrecorded interests in a parcel of property are extinguished as provided in the judgment, the owners of any extinguished recorded or unrecorded interest in that property shall not bring an action for possession of the property against any subsequent owner, but may only bring an action to recover monetary damages. An action to recover monetary damages under this subsection shall not be brought more than 2 years after a judgment for foreclosure is entered under subsection (2). Monetary damages shall be determined as of the date a judgment for foreclosure is entered under subsection (2).

(4) For purposes of this section, property shall be considered abandoned if all of the following requirements are satisfied:

(a) Within 30 days before the commencement of foreclosure proceedings under this section, the tax deed holder mails by certified mail, return receipt requested, to the last known address of the owner and all persons with a legal interest in the abandoned property a notice that the property is abandoned and that the tax deed holder intends to foreclose it.

(b) Before commencement of foreclosure proceedings under this section, the tax deed holder executes and records an affidavit in the office of the register of deeds in the county in which the abandoned property is located that states all of the following:

(i) That the tax deed holder has mailed to the last known address of the owner and all persons with a legal interest in the abandoned property a notice of abandonment and intention to foreclose pursuant to subdivision (a) and that the owner or any person with a legal interest in the abandoned property has not responded to the notice.

(ii) That the tax deed holder or his or her authorized agent has made a personal inspection of the abandoned property and that the inspection did not reveal that the owner or any person with a legal interest in the abandoned property is presently occupying or intends to occupy the abandoned property.

(c) The tax deed holder mails by certified mail, return receipt requested, a copy of the affidavit recorded under subdivision (b) to the owner or any person with a legal interest in the abandoned property at his or her last known address before commencing foreclosure proceedings under this section.

(d) The owner or any person with a legal interest in the abandoned property, before the judgment of foreclosure is entered, does not give a written affidavit to the tax deed holder and record a duplicate original in the office of the register of deeds of the county in which the abandoned property is located stating that the owner or person with a legal interest in the abandoned property is occupying or intends to occupy the abandoned property.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

- (a) Senate Bill No. 343.
- (b) Senate Bill No. 488.
- (c) House Bill No. 4489.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Gay E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.