

Act No. 94
Public Acts of 2001
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senator Johnson

ENROLLED SENATE BILL No. 547

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 on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture 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 with property delinquent for taxes; 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 acts and parts of acts," by amending sections 78g, 78k, 78o, and 124 (MCL 211.78g, 211.78k, 211.78o, and 211.124), sections 78g, 78k, and 78o as added by 1999 PA 123; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 78g. (1) Except as otherwise provided in this subsection, on March 1 in each tax year, certified abandoned property and property that is delinquent for taxes, interest, penalties, and fees for the immediately preceding 12 months or more is forfeited to the county treasurer for the total amount of those unpaid delinquent taxes, interest, penalties, and fees. If property is forfeited to a county treasurer under this subsection, the foreclosing governmental unit does not have a right to possession of the property until 21 days after a judgment of foreclosure is entered under section 78k. If property is forfeited to a county treasurer under this subsection, the county treasurer shall add a \$175.00 fee, as adjusted under section 78p, to each parcel of property for which those delinquent taxes, interest, penalties, and fees remain unpaid. A county treasurer shall withhold a parcel of property from forfeiture for any reason determined by the state tax commission. The procedure for withholding a parcel of property from forfeiture under this subsection shall be determined by the state tax commission.

(2) Not more than 45 days after property is forfeited under subsection (1), the county treasurer shall record with the county register of deeds a certificate in a form determined by the state treasurer for each parcel of property forfeited to the county treasurer, specifying that the property has been forfeited to the county treasurer and not redeemed and that absolute title to the property shall vest in the county treasurer 21 days after entry of a judgment of foreclosure under section 78k. If a certificate of forfeiture is recorded in error, the county treasurer shall record with the county register of deeds a certificate of error in a form prescribed by the department of treasury. A certificate submitted to the county register of deeds for recording under this subsection need not be notarized and may be authenticated by a digital signature of the county treasurer or by other electronic means. If the county has elected under section 78 to have this state foreclose property under this act forfeited to the county treasurer under this section, the county treasurer shall immediately transmit to the state treasurer a copy of each certificate recorded under this subsection. The county

treasurer shall upon collection transmit to the state treasurer within 30 days the fee added to each parcel under section 78g(1), which may be paid from the county's delinquent tax revolving fund and shall be deposited in the land reutilization fund created under section 78n.

(3) Property forfeited to the county treasurer under subsection (1) may be redeemed at any time before 21 days after the entry of judgment foreclosing the property under section 78k upon payment to the county treasurer of all of the following:

(a) The total amount of unpaid delinquent taxes, interest, penalties, and fees for which the property was forfeited.

(b) In addition to the interest calculated under sections 60a(1) or (2) and 78a(3), additional interest computed at a noncompounded rate of 1/2% per month or fraction of a month on the taxes that were originally returned as delinquent, computed from the March 1 preceding the forfeiture.

(c) All recording fees and all fees for service of process or notice.

(4) If property is redeemed by a person with a legal interest as provided under subsection (3), any unpaid taxes not returned as delinquent to the county treasurer under section 78a are not extinguished.

(5) If property is redeemed by a person with a legal interest as provided under subsection (3), the person redeeming does not acquire a title or interest in the property greater than that person would have had if the property had not been forfeited to the county treasurer, but the person redeeming, other than the owner, is entitled to a lien for the amount paid to redeem the property in addition to any other lien or interest the person may have, which shall be recorded within 30 days with the register of deeds by the person entitled to the lien. The lien acquired shall have the same priority as the existing lien, title, or interest.

(6) If property is redeemed as provided under subsection (3), the county treasurer shall issue a redemption certificate in quadruplicate in a form prescribed by the department of treasury. One of the quadruplicate certificates shall be delivered to the person making the redemption payment, 1 shall be filed in the office of the county treasurer, 1 shall be recorded in the office of the county register of deeds, and 1 shall be immediately transmitted to the department of treasury if this state is the foreclosing governmental unit. The county treasurer shall also make a note of the redemption certificate in the tax record kept in his or her office, with the name of the person making the final redemption payment, the date of the payment, and the amount paid. If the county treasurer accepts partial redemption payments, the county treasurer shall include in the tax record kept in his or her office the name of the person or persons making each partial redemption payment, the date of each partial redemption payment, the amount of each partial redemption payment, and the total amount of all redemption payments. A certificate and the entry of the certificate in the tax record by the county treasurer is prima facie evidence of a redemption payment in the courts of this state. A certificate submitted to the county register of deeds for recording under this subsection need not be notarized and may be authenticated by a digital signature of the county treasurer or by other electronic means. If a redemption certificate is recorded in error, the county treasurer shall record with the county register of deeds a certificate of error in a form prescribed by the department of treasury. A copy of a certificate of error recorded under this section shall be immediately transferred to the department of treasury if this state is the foreclosing governmental unit.

Sec. 78k. (1) If a petition for foreclosure is filed under section 78h, before the date of the hearing, the foreclosing governmental unit shall file with the clerk of the circuit court proof of service of the notice of the show cause hearing under section 78j, proof of service of the notice of the foreclosure hearing under this section, and proof of the personal visit to the property and publication under section 78i.

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

(a) No law authorizes the tax.

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

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

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

(e) The tax was assessed fraudulently.

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

(3) A person claiming an interest in a parcel of property set forth in the petition for foreclosure who desires to contest that petition shall file written objections with the clerk of the circuit court and serve those objections on the foreclosing governmental unit.

(4) If the court determines that the owner of property subject to foreclosure is a minor heir, is incompetent, is without means of support, or is undergoing a substantial financial hardship, the court may withhold that property from foreclosure for 1 year or may enter an order extending the redemption period as the court determines to be equitable.

If the court withholds property from foreclosure under this subsection, a taxing unit's lien for taxes due is not prejudiced and that property shall be included in the immediately succeeding year's tax foreclosure proceeding.

(5) The circuit court shall enter judgment on a petition for foreclosure filed under section 78h not more than 10 days after the March 1 immediately succeeding the date the petition for foreclosure is filed for uncontested cases or 10 days after the conclusion of the hearing for contested cases. All redemption rights to the property expire 21 days after the circuit court enters a judgment foreclosing the 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 of the property foreclosed and the forfeited unpaid delinquent taxes, interest, penalties, and fees due on each parcel of property.

(b) That fee simple title to property foreclosed by the judgment will vest absolutely in the foreclosing governmental unit, except as otherwise provided in subdivisions (c) and (e), without any further rights of redemption, if all forfeited delinquent taxes, interest, penalties, and fees are not paid within 21 days after entry of the judgment.

(c) That all liens against the property, including any lien for unpaid taxes or special assessments, except future installments of special assessments and liens recorded by this state or the foreclosing governmental unit pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished, if all forfeited delinquent taxes, interest, penalties, and fees are not paid within 21 days after entry of the judgment.

(d) That, except as otherwise provided in subdivisions (c) and (e), the foreclosing governmental unit has good and marketable fee simple title to the property, if all forfeited delinquent taxes, interest, penalties, and fees are not paid within 21 days after entry of the judgment.

(e) That all existing recorded and unrecorded interests in that property are extinguished, except a visible or recorded easement or right-of-way, private deed restrictions, or restrictions or other governmental interests imposed pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, if all forfeited delinquent taxes, interest, penalties, and fees are not paid within 21 days after entry of the judgment.

(f) A finding that all persons entitled to notice and an opportunity to be heard have been provided that notice and opportunity.

(6) Except as otherwise provided in subsection (5)(c) and (e), fee simple title to property set forth in a petition for foreclosure filed under section 78h on which forfeited delinquent taxes, interest, penalties, and fees are not paid within 21 days after the entry of judgment shall vest absolutely in the foreclosing governmental unit, and the foreclosing governmental unit shall have absolute title to the property. The foreclosing governmental unit's title is not subject to any recorded or unrecorded lien and shall not be stayed or held invalid except as provided in subsection (7).

(7) The foreclosing governmental unit or a person claiming to have a property interest under section 78i in property foreclosed under this section may appeal the circuit court's order or the circuit court's judgment foreclosing property to the court of appeals. An appeal under this subsection is limited to the record of the proceedings in the circuit court under this section and shall not be de novo. The circuit court's judgment foreclosing property shall be stayed until the court of appeals has reversed, modified, or affirmed that judgment. If an appeal under this subsection stays the circuit court's judgment foreclosing property, the circuit court's judgment is stayed only as to the property that is the subject of that appeal and the circuit court's judgment foreclosing other property that is not the subject of that appeal is not stayed. To appeal the circuit court's judgment foreclosing property, a person appealing the judgment shall pay to the county treasurer the amount determined to be due to the county treasurer under the judgment within 21 days after the circuit court's judgment is entered, together with a notice of appeal. If the circuit court's judgment foreclosing the property is affirmed on appeal, the amount determined to be due shall be refunded to the person who appealed the judgment. If the circuit court's judgment foreclosing the property is reversed or modified on appeal, the county treasurer shall refund the amount determined to be due to the person who appealed the judgment, if any, and retain the balance in accordance with the order of the court of appeals.

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

Sec. 78o. (1) Not later than October 1, 2000, the state treasurer shall prescribe the form of all of the following to be used in the administration of the collection of taxes under sections 78 to 78n:

(a) The notice and the proof of service required under section 78i.

(b) The judgment of foreclosure required under section 78k.

(2) In prescribing the forms required under subsection (1), the state treasurer shall actively solicit recommendations from the county treasurers and other interested parties.

Sec. 124. (1) Subject to subsection (5), the department of treasury shall perform all the duties in relation to taxes levied, assessed, collected, returned as delinquent, and sold or to be sold as required under section 60.

(2) It is not necessary for the department of treasury to sell or order resold, advertise or re-advertise, or revise or renew any act done by any officer or court under this act. All such proceedings and acts shall be recognized and held to be legal and valid under this act, subject to section 98.

(3) In all cases in which deeds have been issued by county treasurers, any deeds issued shall be valid, with the same force and effect as if issued by the department of treasury. The department of treasury may cancel any deed issued by any county treasurer on the request of the holder of the deed and issue a new deed signed by the department of treasury as provided in this act.

(4) For all property advertised and sold by any county treasurer under section 60, the advertisement and sale shall be held legal and valid. All subsequent proceedings shall be subject to this act.

(5) This section only applies to taxes levied prior to January 1, 1999 and property offered for sale pursuant to section 60.

Enacting section 1. Sections 61a, 62, 63, 64, 65, 66, 88, 95, 104, 106, 115, 124, 130, and 140 of the general property tax act, 1893 PA 206, MCL 211.61a, 211.62, 211.63, 211.64, 211.65, 211.66, 211.88, 211.95, 211.104, 211.106, 211.115, 211.124, 211.130, and 211.140, are repealed effective December 31, 2003.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved

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Governor.