

HOUSE BILL No. 6170

May 22, 2008, Introduced by Reps. Ball, Byrnes, Tobocman, Hopgood, Scott, Accavitti, Melton, Meisner, Johnson, Miller, Polidori, Leland, Robert Jones, Sak, Jackson, Kathleen Law, Alma Smith, Condino, Bauer, Bennett, Gonzales, Bieda, Farrah, Dean, Meadows and Clemente and referred to the Committee on Intergovernmental, Urban and Regional Affairs.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78i (MCL 211.78i), as amended by 2006 PA 611.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78i. (1) Not later than May 1 immediately succeeding the
2 forfeiture of property to the county treasurer under section 78g,
3 the foreclosing governmental unit shall initiate a search of
4 records identified in subsection (6) to identify the owners of a
5 property interest in the property who are entitled to notice under
6 this section of the show cause hearing under section 78j and the
7 foreclosure hearing under section 78k. The foreclosing governmental
8 unit may enter into a contract with 1 or more authorized
9 representatives to perform a title search or may request from 1 or
10 more authorized representatives another title search product to

1 identify the owners of a property interest in the property as
2 required under this subsection or to perform other functions
3 required for the collection of delinquent taxes under this act.

4 (2) After conducting the search of records under subsection
5 (1), the foreclosing governmental unit or its authorized
6 representative shall determine the address reasonably calculated to
7 apprise those owners of a property interest of the show cause
8 hearing under section 78j and the foreclosure hearing under section
9 78k and shall send notice of the show cause hearing under section
10 78j and the foreclosure hearing under section 78k to those owners,
11 and to a person entitled to notice of the return of delinquent
12 taxes under section 78a(4), by certified mail, return receipt
13 requested, not less than 30 days before the show cause hearing. **THE**
14 **FORECLOSING GOVERNMENTAL UNIT OR ITS AUTHORIZED REPRESENTATIVE**
15 **SHALL ALSO SEND NOTICE OF THE SHOW CAUSE HEARING UNDER SECTION 78J**
16 **AND THE FORECLOSURE HEARING UNDER SECTION 78K BY FIRST-CLASS MAIL**
17 **TO THE PROPERTY, TO THOSE OWNERS OF THE PROPERTY IDENTIFIED UNDER**
18 **SUBSECTION (1), AND TO A PERSON ENTITLED TO NOTICE OF THE RETURN OF**
19 **DELINQUENT TAXES UNDER SECTION 78A(4).** If after conducting the
20 search of records under subsection (1) the foreclosing governmental
21 unit is unable to determine an address reasonably calculated to
22 inform a person with an interest in a forfeited property, or if the
23 foreclosing governmental unit discovers a deficiency in notice
24 under subsection (4), the following shall be considered reasonable
25 steps by the foreclosing governmental unit or its authorized
26 representative to ascertain the address of a person entitled to
27 notice under this section or to ascertain an address necessary to

1 correct the deficiency in notice under subsection (4):

2 (a) For an individual, a search of the records of the probate
3 court for the county in which the property is located.

4 (b) For an individual, a search of the qualified voter file
5 established under section 509o of the Michigan election law, 1954
6 PA 116, MCL 168.509o, which is authorized by this subdivision.

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

9 (d) For a business entity other than a partnership, a search
10 of business entity records filed with the department of labor and
11 economic growth.

12 (3) The foreclosing governmental unit or its authorized
13 representative or authorized agent shall make a personal visit to
14 each parcel of property forfeited to the county treasurer under
15 section 78g to ascertain whether or not the property is occupied.
16 If the property appears to be occupied, the foreclosing
17 governmental unit or its authorized representative shall do all of
18 the following:

19 (a) Attempt to personally serve upon a person occupying the
20 property notice of the show cause hearing under section 78j and the
21 foreclosure hearing under section 78k.

22 (b) If a person occupying the property is personally served,
23 orally inform the occupant that the property will be foreclosed and
24 the occupants will be required to vacate unless all forfeited
25 unpaid delinquent taxes, interest, penalties, and fees are paid, of
26 the time within which all forfeited unpaid delinquent taxes,
27 interest, penalties, and fees must be paid, and of agencies or

1 other resources that may be available to assist the owner to avoid
2 loss of the property.

3 (c) If the occupant appears to lack the ability to understand
4 the advice given, notify the department of human services or
5 provide the occupant with the names and telephone numbers of the
6 agencies that may be able to assist the occupant.

7 (d) If the foreclosing governmental unit or its authorized
8 representative is not able to personally meet with the occupant,
9 the foreclosing governmental unit or its authorized representative
10 shall place the notice in a conspicuous manner on the property and
11 shall also place in a conspicuous manner on the property a notice
12 that explains, in plain English, that the property will be
13 foreclosed unless forfeited unpaid delinquent taxes, interest,
14 penalties, and fees are paid, the time within which forfeited
15 unpaid delinquent taxes, interest, penalties, and fees must be
16 paid, and the names, addresses, and telephone numbers of agencies
17 or other resources that may be available to assist the occupant to
18 avoid loss of the property. If this state is the foreclosing
19 governmental unit within a county, the department of treasury shall
20 perform the personal visit to each parcel of property under this
21 subsection on behalf of this state.

22 (4) If the foreclosing governmental unit or its authorized
23 representative discovers any deficiency in the provision of notice,
24 the foreclosing governmental unit shall take reasonable steps in
25 good faith to correct that deficiency not later than 30 days before
26 the show cause hearing under section 78j, if possible.

27 (5) If the foreclosing governmental unit or its authorized

1 representative is unable to ascertain the address reasonably
2 calculated to apprise the owners of a property interest entitled to
3 notice under this section, or is unable to notify the owner of a
4 property interest under subsection (2), the notice shall be made by
5 publication. A notice shall be published for 3 successive weeks,
6 once each week, in a newspaper published and circulated in the
7 county in which the property is located, if there is one. If no
8 paper is published in that county, publication shall be made in a
9 newspaper published and circulated in an adjoining county. This
10 publication shall be instead of notice under subsection (2).

11 (6) The owner of a property interest is entitled to notice
12 under this section of the show cause hearing under section 78j and
13 the foreclosure hearing under section 78k if that owner's interest
14 was identifiable by reference to any of the following sources
15 before the date that the county treasurer records the certificate
16 required under section 78g(2):

17 (a) Land title records in the office of the county register of
18 deeds.

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

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

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

22 (7) The notice required under subsections (2) and (3) shall
23 include all of the following:

24 (a) The date on which the property was forfeited to the county
25 treasurer.

26 (b) A statement that the person notified may lose his or her
27 interest in the property as a result of the foreclosure proceeding

1 under section 78k.

2 (c) A legal description or parcel number of the property and
3 the street address of the property, if available.

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

5 (e) The total taxes, interest, penalties, and fees due on the
6 property.

7 (f) The date and time of the show cause hearing under section
8 78j.

9 (g) The date and time of the hearing on the petition for
10 foreclosure under section 78k, and a statement that unless the
11 forfeited unpaid delinquent taxes, interest, penalties, and fees
12 are paid on or before the March 31 immediately succeeding the entry
13 of a judgment foreclosing the property under section 78k, or in a
14 contested case within 21 days of the entry of a judgment
15 foreclosing the property under section 78k, the title to the
16 property shall vest absolutely in the foreclosing governmental unit
17 and that all existing interests in oil or gas in that property
18 shall be extinguished except the following:

19 (i) The interests of a lessee or an assignee of an interest of
20 a lessee under an oil or gas lease in effect as to that property or
21 any part of that property if the lease was recorded in the office
22 of the register of deeds in the county in which the property is
23 located before the date of filing the petition for foreclosure
24 under section 78h.

25 (ii) Interests preserved as provided in section 1(3) of 1963 PA
26 42, MCL 554.291.

27 (h) An explanation of the person's rights of redemption and

1 notice that the rights of redemption will expire on the March 31
2 immediately succeeding the entry of a judgment foreclosing the
3 property under section 78k, or in a contested case 21 days after
4 the entry of a judgment foreclosing the property under section 78k.

5 (8) The published notice required under subsection (5) shall
6 include all of the following:

7 (a) A legal description or parcel number of each property.

8 (b) The street address of each property, if available.

9 (c) The name of any person or entity entitled to notice under
10 this section who has not been notified under subsection (2) or (3).

11 (d) The date and time of the show cause hearing under section
12 78j.

13 (e) The date and time of the hearing on the petition for
14 foreclosure under section 78k.

15 (f) A statement that unless all forfeited unpaid delinquent
16 taxes, interest, penalties, and fees are paid on or before the
17 March 31 immediately succeeding the entry of a judgment foreclosing
18 the property under section 78k, or in a contested case within 21
19 days of the entry of a judgment foreclosing the property under
20 section 78k, the title to the property shall vest absolutely in the
21 foreclosing governmental unit and that all existing interests in
22 oil or gas in that property shall be extinguished except the
23 following:

24 (i) The interests of a lessee or an assignee of an interest of
25 a lessee under an oil or gas lease in effect as to that property or
26 any part of that property if the lease was recorded in the office
27 of the register of deeds in the county in which the property is

1 located before the date of filing the petition for foreclosure
2 under section 78h.

3 (ii) Interests preserved as provided in section 1(3) of 1963 PA
4 42, MCL 554.291.

5 (g) A statement that a person with an interest in the property
6 may lose his or her interest in the property as a result of the
7 foreclosure proceeding under section 78k and that all existing
8 interests in oil or gas in that property shall be extinguished
9 except the following:

10 (i) The interests of a lessee or an assignee of an interest of
11 a lessee under an oil or gas lease in effect as to that property or
12 any part of that property if the lease was recorded in the office
13 of the register of deeds in the county in which the property is
14 located before the date of filing the petition for foreclosure
15 under section 78h.

16 (ii) Interests preserved as provided in section 1(3) of 1963 PA
17 42, MCL 554.291.

18 (9) The owner of a property interest who has been properly
19 served with a notice of the show cause hearing under section 78j
20 and the foreclosure hearing under section 78k and who failed to
21 redeem the property as provided under this act shall not assert any
22 of the following:

23 (a) That notice was insufficient or inadequate on the grounds
24 that some other owner of a property interest was not also served.

25 (b) That the redemption period provided under this act was
26 extended in any way on the grounds that some other owner of a
27 property interest was not also served.

1 (10) The failure of the foreclosing governmental unit to
2 comply with any provision of this section shall not invalidate any
3 proceeding under this act if the owner of a property interest or a
4 person to whom a tax deed was issued is accorded the minimum due
5 process required under the state constitution of 1963 and the
6 constitution of the United States.

7 (11) As used in this section, "authorized representative"
8 includes all of the following:

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

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

12 (c) A person accredited in land title search procedures by a
13 nationally recognized organization in the field of land title
14 searching.

15 (d) A person with demonstrated experience searching land title
16 records, as determined by the foreclosing governmental unit.

17 (12) The provisions of this section relating to notice of the
18 show cause hearing under section 78j and the foreclosure hearing
19 under section 78k are exclusive and exhaustive. Other requirements
20 relating to notice or proof of service under other law, rule, or
21 legal requirement are not applicable to notice and proof of service
22 under this section.