

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2004-1

211.281 Transfer of powers and duties of department of natural resources relating to collection of delinquent taxes and forfeiture, foreclosure, and disposition of tax-delinquent or tax-reverted property to department of treasury by type II transfer.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need in the State of Michigan to strengthen and revitalize the economy of this state and its municipalities by encouraging the efficient and expeditious return to productive use of property returned for unpaid delinquent real property taxes;

WHEREAS, encouraging and promoting the productive use of tax-reverted property is an essential element in revitalizing Michigan's urban areas;

WHEREAS, Public Act 123 of 1999 ("PA 123") reformed out-dated and inefficient procedures for the collection of unpaid delinquent taxes to facilitate the productive use of tax-reverted property;

WHEREAS, implementation of PA 123 has demonstrated a need for enhanced state coordination of responsibilities for the collection of unpaid delinquent taxes and disposition of tax-reverted property and a need for expanded cooperation with local units of government and non-profit organizations;

WHEREAS, certain responsibilities and functions of the Department of Natural Resources related to the collection of delinquent taxes and the sale of tax-reverted property can be more efficiently performed if consolidated with responsibilities and functions of the Department of Treasury;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of state government;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the authority vested in me by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

A. As used in this Order:

1. "Department of Information Technology" means the principal department of state government created under Executive Order 2001-3, MCL 18.41.

2. "Department of Natural Resources" means the principal department of state government created under Section 501 of the Natural Resources and Environmental Protection Act, 1965 PA 380, as modified by Executive Order 1995-18, MCL 324.99903.

3. "Department of Treasury" means the principal department of state government created under Section 75 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.175.

4. "Type II Transfer" means that type of transfer as defined in Section 3(b) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(b).

II. TRANSFER OF RESPONSIBILITIES AND FUNCTIONS RELATED TO COLLECTION OF DELINQUENT TAXES AND DISPOSITION OF TAX-REVERTED PROPERTY

A. Except as provided in Section II.B, all authority, powers, duties, functions, responsibilities, and rule-making authority of the Department of Natural Resources related to the collection of delinquent taxes and the forfeiture, foreclosure, and disposition of tax-delinquent or tax-reverted property under Sections 78 to 79a of The General Property Tax Act, 1893 PA 206, MCL 211.78 to 211.79a, are transferred by Type II Transfer to the Department of Treasury, or its authorized representative or authorized agent, including but not limited to any authority, powers, duties, functions, responsibilities, or rule-making authority under any of the following:

1. Section 78i of The General Property Tax Act, 1893 PA 206, MCL 211.78i.

2. Section 78m of The General Property Tax Act, 1893 PA 206, MCL 211.78m.

B. The Department of Natural Resources may continue to exercise on behalf of this state the right of first refusal of this state to purchase tax-reverted property at the greater of the minimum bid or its fair market value under Subsection (1) of Section 78m of The General Property Tax Act, 1893 PA 206, MCL 211.78m.

III. IMPLEMENTATION

A. The State Treasurer and the Director of the Michigan Department of Natural Resources shall immediately initiate coordination to facilitate the implementation of the transfers under this Order.

B. The State Treasurer shall provide executive direction and supervision for the implementation of all transfers to the Department of Treasury under this Order. The functions transferred to the Department of Treasury under this Order shall be administered under the direction and supervision of the State Treasurer, including but not limited to, any prescribed functions of rule-making, licensing, registration, and the prescription of rules, regulations, standards, and adjudications.

C. All records, personnel, property, and funds used, held, employed, or to be made available to the Department of Natural Resources for the activities transferred to the Department of Treasury under this Order are transferred to the Department of Treasury.

D. The State Treasurer and the Director of the Department of Natural Resources shall develop a memorandum of record identifying any pending settlements, issues of compliance with any applicable state or federal laws or regulations, or other obligations to be resolved by the Department of Natural Resources.

E. The State Treasurer and the Director of the Department of Natural Resources shall identify the program positions, administrative function positions, and personnel that will be transferred to the Department of Treasury in accordance with this Order. The State Treasurer and the Director of the Department of Natural Resources shall enter into a memorandum of understanding identifying the positions and personnel transferred.

F. The State Treasurer may request and the Department of Natural Resources shall provide the assistance necessary to implement this Order with respect to personnel, information systems, real property information and information management systems, and other management-related functions.

G. The Departments of Information Technology and Natural Resources shall provide the Department of Treasury with data or access to state land records necessary to enable the Department of Treasury to perform the functions transferred under this Order. The State Treasurer shall certify to the Governor compliance by the Departments of Information Technology and Natural Resources with this requirement.

H. The Department of Information Technology shall provide the Department of Treasury with management and information processing services related to the authority, powers, duties, functions, and responsibilities transferred under this Order, including, but not limited to, application and database development and maintenance; desktop computer support and management; mainframe computer support and management; server support and management; local area network support and management; and telecommunications services, infrastructure, and security. The Department of Natural Resources shall provide any assistance to the Department of Information Technology necessary for the Department of Information Technology to perform the functions assigned under this paragraph.

I. Any authority, duties, powers, functions, and responsibilities transferred in this Order, and not mandated otherwise statutorily, may in the future be reorganized to promote efficient administration by the State Treasurer.

J. The State Treasurer may perform a duty or exercise a power conferred by law or executive order upon the State Treasurer at the time and to the extent the duty or power is delegated to the State Treasurer by law or order.

K. The State Treasurer may by written instrument delegate a duty or power conferred by law or this Order and the person to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent the duty or power is delegated by the State Treasurer.

L. The State Treasurer shall administer the assigned functions transferred under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

IV. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary to implement this Order.

B. All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

D. This Order shall not suspend, delay, or otherwise invalidate the forfeiture, foreclosure, or disposition of any tax-delinquent or tax-reverted property under Sections 78 to 79a of The General Property Tax Act, MCL 211.78 to 211.79a.

E. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2004, E.R.O. No. 2004-1, Eff. June 17, 2004

Compiler's Notes: E.R.O. 2004-2 provides: In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Executive Order are effective on the latter of the following dates: (1) 60 days after the issuance of this order; or

(2) the date on which the State Treasurer makes the certification required under Section III.G of this Order.