

**SUBSTITUTE FOR
SENATE BILL NO. 726**

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 78h and 78k (MCL 211.78h and 211.78k), section
78h as amended by 2014 PA 499 and section 78k as amended by 2016 PA
433.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78h. (1) Not later than June 15 in each tax year, the
2 foreclosing governmental unit shall file a single petition with the
3 clerk of the circuit court of that county listing all property
4 forfeited and not redeemed to the county treasurer under section
5 78g to be foreclosed under section 78k for the total of the
6 forfeited unpaid delinquent taxes, interest, penalties, and fees.
7 If available to the foreclosing governmental unit, the petition



1 ~~shall~~**must** include the street address of each parcel of property
2 set forth in the petition. The petition ~~shall~~**must** seek a judgment
3 in favor of the foreclosing governmental unit for the forfeited
4 unpaid delinquent taxes, interest, penalties, and fees listed
5 against each parcel of property. The petition ~~shall~~**must** request
6 that a judgment be entered vesting absolute title to each parcel of
7 property in the foreclosing governmental unit, without right of
8 redemption.

9 (2) If property is redeemed after the petition for foreclosure
10 is filed under this section, the foreclosing governmental unit
11 shall request that the circuit court remove that property from the
12 petition for foreclosure before entry of judgment foreclosing the
13 property under section 78k.

14 (3) The foreclosing governmental unit may withhold the
15 following property from the petition for foreclosure filed under
16 this section:

17 (a) Property the title to which is held by minor heirs or
18 persons who are incompetent, persons without means of support, or
19 persons unable to manage their affairs due to age or infirmity,
20 until a guardian is appointed to protect that person's rights and
21 interests.

22 (b) Property the title to which is held by a person undergoing
23 substantial financial hardship, as determined under a written
24 policy developed and adopted by the foreclosing governmental unit.
25 The foreclosing governmental unit shall make available to the
26 public the written policy adopted under this subdivision. The
27 written policy adopted under this subdivision ~~shall~~**must** include,
28 but is not limited to, all of the following:

29 (i) The person requesting that the property be withheld from



1 the petition for foreclosure holds the title to the property.

2 (ii) The total household resources of the person requesting
3 that the property be withheld from the petition for foreclosure
4 meets the federal poverty income standards as defined and
5 determined annually by the United States ~~office~~**Office** of
6 ~~management~~**Management** and ~~budget~~**Budget** or alternative guidelines
7 adopted by the foreclosing governmental unit, provided that the
8 alternative guidelines include all persons who would otherwise meet
9 the federal poverty income standards under this subparagraph. As
10 used in this subparagraph, "total household resources" means that
11 term as defined in section 508 of the income tax act of 1967, 1967
12 PA 281, MCL 206.508.

13 (c) Property the title to which is held by a person subject to
14 a delinquent property tax installment payment plan or tax
15 foreclosure avoidance agreement under section 78q.

16 (d) **Property on which a payment was made for taxes levied**
17 **after the levy of taxes for which the property is subject to**
18 **foreclosure, if the amount paid was equal to or greater than the**
19 **amount necessary at the time of the payment to redeem the property.**
20 **A person with an interest in that property may notify the**
21 **foreclosing governmental unit of the payment using a form**
22 **prescribed by the department of treasury, which the foreclosing**
23 **governmental unit shall make available to the public.**

24 (4) If a foreclosing governmental unit withholds property from
25 the petition for foreclosure under subsection (3), a taxing unit's
26 lien for taxes due or the foreclosing governmental unit's right to
27 include the property in a subsequent petition for foreclosure is
28 not prejudiced.

29 (5) The clerk of the circuit court in which the petition is



1 filed shall immediately set the date, time, and place for a hearing
 2 on the petition for foreclosure, which hearing ~~shall~~**must** be held
 3 not more than 30 days before the March 1 immediately succeeding the
 4 date the petition for foreclosure is filed.

5 Sec. 78k. (1) If a petition for foreclosure is filed under
 6 section 78h, not later than the date of the hearing, the
 7 foreclosing governmental unit shall file with the clerk of the
 8 circuit court proof of service of the notice of the show cause
 9 hearing under section 78j, proof of service of the notice of the
 10 foreclosure hearing under this section, and proof of the personal
 11 visit to the property and publication under section 78i.

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

16 (a) No law authorizes the tax.

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

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

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

24 (e) The tax was assessed fraudulently.

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

27 (3) A person claiming an interest in a parcel of property set
 28 forth in the petition for foreclosure who desires to contest that
 29 petition shall file written objections with the clerk of the



1 circuit court and serve those objections on the foreclosing
 2 governmental unit before the date of the hearing required under
 3 this section.

4 (4) If the court determines that the owner of property subject
 5 to foreclosure is a minor heir, is incompetent, is without means of
 6 support, or is undergoing a substantial financial hardship, the
 7 court may withhold that property from foreclosure for 1 year or may
 8 enter an order extending the redemption period as the court
 9 determines to be equitable. If the court withholds property from
 10 foreclosure under this subsection, a taxing unit's lien for taxes
 11 due is not prejudiced and that property ~~shall be included in~~ **is**
 12 **subject to** the immediately succeeding year's tax foreclosure
 13 proceeding.

14 (5) The circuit court shall enter final judgment on a petition
 15 for foreclosure filed under section 78h at any time after the
 16 hearing under this section but not later than the March 30
 17 immediately succeeding the hearing with the judgment effective on
 18 the March 31 immediately succeeding the hearing for uncontested
 19 cases or 10 days after the conclusion of the hearing for contested
 20 cases. All redemption rights to the property expire on the March 31
 21 immediately succeeding the entry of a judgment foreclosing the
 22 property under this section, or in a contested case 21 days after
 23 the entry of a judgment foreclosing the property under this
 24 section. The circuit court's judgment ~~shall~~ **must** specify all of the
 25 following:

26 (a) The legal description and, if known, the street address of
 27 the property foreclosed and the forfeited unpaid delinquent taxes,
 28 interest, penalties, and fees due on each parcel of property.

29 (b) That fee simple title to property foreclosed by the



1 judgment will vest absolutely in the foreclosing governmental unit,
 2 except as otherwise provided in subdivisions (c) and (e), without
 3 any further rights of redemption, if all forfeited delinquent
 4 taxes, interest, penalties, and fees are not paid on or before the
 5 March 31 immediately succeeding the entry of a judgment foreclosing
 6 the property under this section, or in a contested case within 21
 7 days of the entry of a judgment foreclosing the property under this
 8 section.

9 (c) That all liens against the property, including any lien
 10 for unpaid taxes or special assessments, except future installments
 11 of special assessments and liens recorded by this state or the
 12 foreclosing governmental unit ~~pursuant to~~**under** the natural
 13 resources and environmental protection act, 1994 PA 451, MCL
 14 324.101 to 324.90106, are extinguished, if all forfeited delinquent
 15 taxes, interest, penalties, and fees are not paid on or before the
 16 March 31 immediately succeeding the entry of a judgment foreclosing
 17 the property under this section, or in a contested case within 21
 18 days of the entry of a judgment foreclosing the property under this
 19 section.

20 (d) That, except as otherwise provided in subdivisions (c) and
 21 (e), the foreclosing governmental unit has good and marketable fee
 22 simple title to the property, if all forfeited delinquent taxes,
 23 interest, penalties, and fees are not paid on or before the March
 24 31 immediately succeeding the entry of a judgment foreclosing the
 25 property under this section, or in a contested case within 21 days
 26 of the entry of a judgment foreclosing the property under this
 27 section.

28 (e) That all existing recorded and unrecorded interests in
 29 that property are extinguished, except a visible or recorded



1 easement or right-of-way, private deed restrictions, interests of a
2 lessee or an assignee of an interest of a lessee under a recorded
3 oil or gas lease, interests in oil or gas in that property that are
4 owned by a person other than the owner of the surface that have
5 been preserved as provided in section 1(3) of 1963 PA 42, MCL
6 554.291, interests in property assessable as personal property
7 under section 8(g), or restrictions or other governmental interests
8 imposed ~~pursuant to~~**under** the natural resources and environmental
9 protection act, 1994 PA 451, MCL 324.101 to 324.90106, if all
10 forfeited delinquent taxes, interest, penalties, and fees are not
11 paid on or before the March 31 immediately succeeding the entry of
12 a judgment foreclosing the property under this section, or in a
13 contested case within 21 days of the entry of a judgment
14 foreclosing the property under this section.

15 (f) A finding that all persons entitled to notice and an
16 opportunity to be heard have been provided that notice and
17 opportunity. A person ~~shall be deemed~~**is considered** to have been
18 provided notice and an opportunity to be heard if the foreclosing
19 governmental unit followed the procedures for provision of notice
20 by mail, for visits to forfeited property, and for publication
21 under section 78i, or if 1 or more of the following apply:

22 (i) The person had constructive notice of the hearing under
23 this section by acquiring an interest in the property after the
24 date the notice of forfeiture is recorded under section 78g.

25 (ii) The person appeared at the hearing under this section or
26 filed written objections with the clerk of the circuit court under
27 subsection (3) before the hearing.

28 (iii) Before the hearing under this section, the person had
29 actual notice of the hearing.



1 (g) A judgment entered under this section is a final order
2 with respect to the property affected by the judgment and except as
3 provided in subsection (7) ~~shall-is~~ not **to** be modified, stayed, or
4 held invalid after the March 31 immediately succeeding the entry of
5 a judgment foreclosing the property under this section, or for
6 contested cases 21 days after the entry of a judgment foreclosing
7 the property under this section.

8 (6) Except as otherwise provided in subsection (5)(c) and (e),
9 fee simple title to property set forth in a petition for
10 foreclosure filed under section 78h on which forfeited delinquent
11 taxes, interest, penalties, and fees are not paid on or before the
12 March 31 immediately succeeding the entry of a judgment foreclosing
13 the property under this section, or in a contested case within 21
14 days of the entry of a judgment foreclosing the property under this
15 section, ~~shall-will~~ vest absolutely in the foreclosing governmental
16 unit, and the foreclosing governmental unit ~~shall-will~~ have
17 absolute title to the property, including all interests in oil or
18 gas in that property except the interests of a lessee or an
19 assignee of an interest of a lessee under an oil or gas lease in
20 effect as to that property or any part of that property if the
21 lease was recorded in the office of the register of deeds in the
22 county in which the property is located before the date of filing
23 the petition for foreclosure under section 78h, and interests
24 preserved as provided in section 1(3) of 1963 PA 42, MCL 554.291.
25 The foreclosing governmental unit's title is not subject to any
26 recorded or unrecorded lien and ~~shall-is~~ not **to** be stayed or held
27 invalid except as provided in subsection (7) or (9).

28 (7) The foreclosing governmental unit or a person claiming to
29 have a property interest under section 78i in property foreclosed



1 under this section may appeal the circuit court's order or the
 2 circuit court's judgment foreclosing property to the court of
 3 appeals. An appeal under this subsection is limited to the record
 4 of the proceedings in the circuit court under this section and
 5 ~~shall-is~~ not ~~be~~-de novo. The circuit court's judgment foreclosing
 6 property ~~shall-must~~ be stayed until the court of appeals has
 7 reversed, modified, or affirmed that judgment. If an appeal under
 8 this subsection stays the circuit court's judgment foreclosing
 9 property, the circuit court's judgment is stayed only as to the
 10 property that is the subject of that appeal and the circuit court's
 11 judgment foreclosing other property that is not the subject of that
 12 appeal is not stayed. To appeal the circuit court's judgment
 13 foreclosing property, a person appealing the judgment shall pay to
 14 the county treasurer the amount determined to be due to the county
 15 treasurer under the judgment on or before the March 31 immediately
 16 succeeding the entry of a judgment foreclosing the property under
 17 this section, or in a contested case within 21 days of the entry of
 18 a judgment foreclosing the property under this section, together
 19 with a notice of appeal. If the circuit court's judgment
 20 foreclosing the property is affirmed on appeal, the amount
 21 determined to be due ~~shall-must~~ be refunded to the person who
 22 appealed the judgment. If the circuit court's judgment foreclosing
 23 the property is reversed or modified on appeal, the county
 24 treasurer shall refund the amount determined to be due to the
 25 person who appealed the judgment, if any, and retain the balance in
 26 accordance with the order of the court of appeals.

27 (8) The foreclosing governmental unit shall record a notice of
 28 judgment for each parcel of foreclosed property in the office of
 29 the register of deeds for the county in which the foreclosed



1 property is located in a form prescribed by the department of
2 treasury.

3 (9) After the entry of a judgment foreclosing the property
4 under this section, if the property has not been transferred under
5 section 78m to a person other than the foreclosing governmental
6 unit, a foreclosing governmental unit may cancel the foreclosure by
7 recording with the register of deeds for the county in which the
8 property is located a certificate of error in a form prescribed by
9 the department of treasury, if the foreclosing governmental unit
10 discovers any of the following:

11 (a) The foreclosed property was not subject to taxation on the
12 date of the assessment of the unpaid taxes for which the property
13 was foreclosed.

14 (b) The description of the property used in the assessment of
15 the unpaid taxes for which the property was foreclosed was so
16 indefinite or erroneous that the forfeiture of the property was
17 void.

18 (c) The taxes for which the property was foreclosed had been
19 paid to the proper officer within the time provided under this act
20 for the payment of the taxes or the redemption of the property.

21 (d) A certificate, including a certificate issued under
22 section 135, or other written verification authorized by law was
23 issued by the proper officer within the time provided under this
24 act for the payment of the taxes for which the property was
25 foreclosed or for the redemption of the property.

26 (e) An owner of an interest in the property entitled to notice
27 under section 78i was not provided notice sufficient to satisfy the
28 minimum requirements of due process required under the state
29 constitution of 1963 and the ~~constitution~~ **Constitution** of the



1 United States.

2 (f) A judgment of foreclosure was entered under this section
3 in violation of an order issued by a United States Bankruptcy
4 Court.

5 (g) A payment was made for taxes levied on the property after
6 the levy of taxes for which the property was foreclosed and the
7 amount paid was equal to or greater than the amount necessary at
8 the time of the payment to redeem the property. If a foreclosure is
9 canceled under this subdivision, a taxing unit's lien for taxes due
10 or the foreclosing governmental unit's right to include the
11 property in a subsequent petition for foreclosure under section 78h
12 is not prejudiced.

13 (10) A certificate of error submitted to the county register
14 of deeds for recording under subsection (9) need not be notarized
15 and may be authenticated by a digital signature of the foreclosing
16 governmental unit or by other electronic means.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 725 of the 100th Legislature is enacted into
19 law.

