



**House  
Legislative  
Analysis  
Section**

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### ***THE APPARENT PROBLEM:***

Property taxes not paid by March 1 of the year after they are assessed are declared delinquent, and most are turned over to county treasurers for collection. (County revolving funds can be established to disburse money to cover revenue lost by local governments due to tax delinquencies.) If taxes remain delinquent after three years, they are put up for "sale" in May, at which time tax lien investors can pay the taxes, along with fees and interest, and gain the right to collect a premium from property owners who want to reclaim or "redeem" their property. The sale is conducted by the county treasurer, and the property available is advertised in a newspaper circulating in the county. According to tax specialists, the sale is competitive and tax liens are sold to those who will pay the accumulated taxes and take the least undivided interest in the premises. Taxes not bought by investors are "bid off" to the state, and the property can be redeemed during the following year for all outstanding taxes and 15 percent interest. Before the state can acquire or sell the property, according to tax officials, property owners must be given an additional six months to pay all delinquent taxes and special assessments and then, the treasury department must give all those with an interest in the property notice and an opportunity for a hearing (called a "Dow" hearing, after the court case that led to the procedure). After the hearing, redemption of the property is permitted for another 30 days. At that point, the Department of Natural Resources can attempt to sell the property.

If investors do buy taxes, they must allow owners to redeem the property during the next year for the price of the taxes and 15 percent annual interest from the date of the sale to the date of redemption. If the property is not redeemed during that period, the tax lien investor is issued a "tax deed" and can send a demand for payment of taxes plus a 50 percent penalty from all those with a recorded interest in the property. (Notice must be served within five years after issuance of the tax deed.) A copy of the notice must also be sent to the county social services department if residential property is involved, and the local department may (but is not required to) investigate the situation. If the taxes and penalty are not paid within the six months after notice is served, tax experts say, the tax lien buyer can become the owner of the property and can evict anyone occupying the property. (Tax buyers have testified that they are not as a rule interested in acquiring property but buy taxes as an investment and thus are interested in having property owners redeem the property. Their value to the process, they say, is in paying much-needed property taxes to governments earlier than would otherwise be the case.)

The property tax foreclosure process has been criticized as too time consuming, too complicated and cumbersome, and too easily abused. Among the problems are the following. 1) It takes too long — more than four years from delinquency — to get tax-delinquent property, including abandoned property and substandard, neglected rental housing that contributes to

## **PROPERTY TAX FORECLOSURE CHANGES**

**House Bill 4670 (Substitute H-3)  
First Analysis (11-13-90)**

**Sponsor: Rep. Mary C. Brown Committee:  
Taxation**

neighborhood deterioration, back on the tax rolls and in the hands of new owners or, when necessary, demolished. (2) Homes can be lost unnecessarily due to confusion or carelessness by people, particularly senior citizens, despite their having more equity in their property than they owe in taxes. There are not enough efforts made to provide help to people who might be able to save their property. (3) The private tax lien buyer system is subject to abuses that lead to people losing their homes for back taxes to private investors or being forced to buy them back (sometimes as a result of being misled as to the nature of a "tax deed," which does not itself convey absolute title to property, although it can be misrepresented as doing so). (4) The state is too slow in selling properties it acquires and in distributing proceeds to county treasurers.

A proposal that would streamline the tax foreclosure process while adding protections for vulnerable property owners and eliminating private buyers from the system has been developed by a working group that includes the staff of the House Taxation Committee, the Departments of Natural Resources, Social Services, and Treasury, senior citizen advocates, legal services representatives, county treasurers, local government officials, and others.

### ***THE CONTENT OF THE BILL:***

The bill would amend the General Property Tax Act to make changes in the property tax foreclosure process (MCL 211.40 et al.). The new provisions would apply to taxes returned as delinquent after December 31, 1989, and the bill would take effect January 1, 1990. Among other things, the bill would:

- Eliminate private tax lien (or tax title) buyers from the foreclosure process. Instead, all liens on tax delinquent properties would simply be transferred to the state.
- Shorten the process by which the state can obtain title to tax-delinquent property by 19 months. Liens would be transferred to the state on the third Tuesday in the November immediately following the March in which taxes become delinquent (which is about 18 months earlier than the May tax sale that currently begins the process.) There would be roughly a one-year redemption period, during which property owners could get the lien cancelled by paying interest on taxes of 1.25 percent per month (as now). After that date any redemption would include a 50 percent penalty. A hearing before the Department of Treasury (the "Dow" hearing) would be scheduled after the initial redemption period. There would be an additional 180-day redemption period following the hearing, after which, if all delinquent taxes and special assessments had not been paid, the state would acquire title to the property.
- Provide an even shorter process for certain residential rental properties and abandoned houses located in a community that has adopted a resolution declaring that nonpayment of taxes is contributing to neighborhood deterioration and a decline in the supply of decent, affordable housing. For such properties,

as identified by local units, the process for the state to obtain title would be shortened by 29 months over the current system. The redemption period following transfer of title to the state would be 60 days for such properties rather than one year.

- Require the Department of Natural Resources, during the 180-day redemption period following the state hearing, to make a personal visit to each parcel of land in which the state holds a lien interest to see if it is occupied. If a parcel is occupied, the DNR must attempt to personally serve a copy of a notice stating that title to the land will vest in the state at the end of the redemption period. The department would have to notify the Department of Treasury of each parcel visited and if land contains an occupied dwelling. The DNR would also have to notify the county social services department of parcels containing residences of four units or less and provide addresses when possible.
- Require, in turn, the DSS to make an attempt to contact the owner and occupant of the residence to see if protective services were required or if a person qualified for a deferral of taxes. The department would have to file a written report of its findings with the Department of Treasury within the 180-day redemption period after the state hearing or within 60 days after notification by the DNR, whichever was later. The redemption period would not expire until the filing of the report.
- Offer special protection against foreclosure to certain vulnerable homeowners (senior citizens, the disabled, low-income persons and people in need of protective services). The protection would include efforts by state agencies to identify and secure the resources necessary to pay the delinquent taxes. (Such resources could include unclaimed tax refunds, emergency housing funds, public assistance, and family resources.) If no resources were available, taxes could be deferred up to the amount of equity in the property, with the treasury department taking a lien against the property. Further, property could be withheld from sale even when the equity was exceeded if the sale would likely result in the institutionalization of the owner (as testified to by the DSS, either alone or with the assistance of the Office of Services to the Aging or a community mental health agency). In such cases, the state would send local units the amount of taxes exceeding equity in the home. When taxes were deferred, homestead property tax credits would be assigned to the county treasurer and any property or casualty insurance proceeds to the state. Various notices during the process would inform people of the possibility that taxes could be deferred.
- Mandate that the DNR offer property for sale within 18 months after the deeding of the land to the state or within 24 months after any state hearing. (The deadlines would not apply to property where serious physical or chemical hazards had been identified.) The department could set a minimum price for the land and could withhold any land determined to be suitable for state forests, state parks, state game refuges, public hunting, or recreational grounds. Sale proceeds would be distributed to the appropriate local taxing units in the month following the month in which they are received. Purchasers would pay to the state a fee of \$10 plus five percent of the purchase price, to be credited to the Delinquent Property Tax Administration Fund. If no bids were ultimately received on a parcel, it would be offered to local governmental units, including school districts.

- Require that local units include street addresses of parcels when identifying property in newspaper foreclosure advertisements and that the treasury department provide the DSS with street addresses for each occupied residential parcel for which title has vested in the state.
- Alter and clarify notice requirements and descriptions of the nature of interests that are being conveyed. For example, the bill would require the notice for the state hearing to be sent to each person identified as having an interest in the property according to the records of the local treasurer, each person with a recorded interest in the property, and to the occupant of the property. Proof of notice to those persons would have to be filed with the county register of deeds.

The following is a chart prepared by the staff of the House Taxation Committee illustrating the difference in time frames between the current and proposed tax foreclosure systems.

|                    | <u>Current</u>                               | <u>Proposed</u>   |
|--------------------|--|---|
| July/December 1990 | Levy date for taxes                          | Levy date for taxes   |
| March 1, 1991      | Taxes become delinquent                      | Taxes become delinquent   |
| November 1991      |  | Tax lien transfer   |
| January 1992       |  | 50% penalty for certified special property, hearing may be held |
| July 1992          |  | Hearing for certified special property                          |
| November 1992      |  | 50% penalty for all other property                              |
| January 1993       |  | State acquires title to special property                        |
| May 1993           | Tax sale                                     | Approximate time of state hearing                               |
| November 1993      |  | State acquires title to other property                          |
| May 1994           | "Absolute title to state"                    |   |
| November 1994      | Additional 6-month redemption period expires |   |
| May 1995           | Approximate time of state hearing            |   |
| June 1995          | State acquires title                         |   |

## ***FISCAL IMPLICATIONS:***

There is no specific information at present, but the bill does put additional burdens on several departments, notably the Department of Social Services and the Department of Natural Resources. The DSS has pointed out that the bill would likely increase the amount of property tax assistance payments made, because more people will become aware such assistance is available. Current payments for property taxes exceed \$1.5 million annually, the department says. (Payments are a one-time service limited to \$1,500.) The DSS also points out there will be a reduction in ADC/GA payments, because the use of street addresses will allow shelter allowances to be removed faster from the grants of people living on property that has been deeded to the state.

## ***BACKGROUND INFORMATION:***

The following is information provided to the House Taxation Committee by the Department of Treasury on the number of parcels involved in the property tax foreclosure process in two recent years.

|  | 1987 tax sale   | 1988 tax sale   |
|--|-----------------|-----------------|
| 1 Number of parcels advertised               | 168,505         | 166,557         |
| 2 Number of parcels offered for sale         | 54,226          | 56,673          |
| 3 Percentage of parcels offered              | 32%             | 34%             |
| 4 Tax liens sold by county treasurers        | 9,275           | 14,771          |
| 5 Percentage sold by treasurers              | 17%             | 26%             |
| 6 Money collected by treasurers              | \$10 6 million  | \$18 65 million |
| 7 Number of tax liens bid to state           | 44,917          | 41,929          |
| 8 Percentage of liens bid to state           | 83%             | 74%             |
| 9 Dollar amount of liens bid to state        | \$26 63 million | \$34 12 million |
| 10 Number of tax liens sold by state         | 6,330           | 6,900           |
| 11 Money collected by state treasurer        | \$8,988,311     | not available   |
| 12 Returned to county and local units        | \$8,667,595     | not available   |
| 13 Number of parcels deeded to state         | 11,770          | 12,144          |
| 14 Number of Dow hearing notices sent        | 6,917           | 12,409          |
| 15 Parcels redeemed within one year          | 38,634          | 37,485          |
| 16 Number of tax deeds issued to lien buyers | 3,822           | 3,923           |

## ARGUMENTS:

### For:

The bill would make major improvements in the property tax foreclosure process. It would streamline the process so that tax-delinquent property gets back on the tax rolls faster. At the same time, it would protect the interests of vulnerable homeowners or residents, including senior citizens, who often face tax delinquency problems, by involving state agencies in the effort to find resources to pay delinquent taxes or otherwise keep people in their homes. (Such resources could include property tax credits which people are eligible for but fail to claim.) Some people now, incredibly, lose their homes because of unpaid property taxes despite the fact that they have more equity in their homes than they owe in taxes. This is particularly a problem in areas where property values and tax assessments are increasing rapidly and particularly for people who do not pay their taxes periodically along with mortgage payments because their homes are paid off. Under the bill, taxes could be deferred in some cases up to the amount of equity. The bill would also provide an expedited process aimed at abandoned or delapidated residential housing. Tax-delinquent property contributes to neighborhood deterioration and decline, and the process by which it can be acquired for sale and refurbishment or for demolition takes too long. The bill would transfer all liens on tax-delinquent property to the state and eliminate private tax lien buyers from the process. This will eliminate abuses of the system and put an end to people losing their property to unregulated private investors because they owe back taxes. Because the tax foreclosure process would be shortened, there would be no need to use private investors to get money into the hands of local government faster. (Private buyers will still be able to buy property from the state that has been acquired due to the nonpayment of taxes, and in about the same time frame as they now buy tax liens, but they would not be able to acquire property by paying off back taxes.)

### Against:

The bill would unfairly deprive private citizens of investment opportunities and, in some cases, of their livelihoods, by eliminating the private buyer from the tax foreclosure process. These investors currently serve a useful function by getting much-needed tax dollars to local units of government faster than would otherwise be the case. To transfer the work these individuals and companies do to a few state agencies would be a monumental task. Tax lien buyers are not preying on the public as has been represented. In most cases property owners pay off the tax liens and keep their property. Getting people to pay off the liens is usually the main interest of tax lien buyers (rather than acquiring property) and thus they make efforts to contact

all the relevant parties so that the property is redeemed. (This otherwise might not get done and people would lose their property.) If there are abuses of the process, they should be dealt with. Tax lien buyers could be licensed. The documents involved, if they are confusing or susceptible to misrepresentation, could be renamed. But to throw out the entire statute is unnecessary.

### Against:

Shortening the process by which the state can acquire tax-delinquent property could work against those who need time to come up with the money to pay taxes but who may not qualify for special treatment as a vulnerable person under the bill.

## POSITIONS:

The Department of Treasury supports the bill. (11-9-90)

The Department of Social Services supports the bill. (9-19-90)

The Michigan Association of County Treasurers supports the bill. (9-19-90)

The Office of Services to the Aging has indicated its support for the bill. (9-19-90)

The Michigan Municipal League has indicated its support of the bill. (9-19-90)

A representative of Legal Services of Southeastern Michigan testified in favor of the elimination of private buyers and the additional protections for homeowners. (9-19-90)

A representative of the Highland Park City Council testified in favor of the bill. (9-19-90)

A representative from Alpha and Company, a private tax lien buyer, testified in opposition to the bill. (9-19-90)