

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 1330 (Substitute S-1)

Sponsor: Senator Joanne G. Emmons

Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 12-2-98

## **CONTENT**

The bill would create the “Tax Delinquent Homestead Property Identification and Accelerated Quiet Title Act” to provide for accelerated quiet title actions on tax delinquent homestead property. The bill would establish criteria for an accelerated quiet title action; require notice to the property owner and anyone with a legal interest in the property; provide for the sale of liens on tax delinquent homestead property; provide procedures for a lienholder or local tax collecting unit to bring a quiet title action; and allow the redemption of tax delinquent homestead property. If a judgment quieting title were entered, the bill would allow the local unit in which the property was located to take certain actions with respect to the property, including transferring it to a homestead program.

(“Tax delinquent homestead property” would mean a homestead on which taxes had been returned as delinquent under the General Property Tax Act.)

The following is a detailed description of the bill.

### **Collection**

Between January 1 and March 1 in any tax year, a local tax collecting unit could, by resolution approved at an open meeting, elect to use the proposed Act to collect delinquent taxes and to bring an accelerated quiet title action on tax delinquent homestead property in that tax year and all succeeding tax years. If a local tax collecting unit did not elect to use the proposed Act, the county in which the collecting unit was located could, by resolution, elect to do so. If a collecting unit and county did not elect to use the proposed Act, the delinquent taxes on the property would have to be collected pursuant to the General Property Tax Act. (“Collecting unit” would mean a city, township, or county that used the proposed Act to collect delinquent taxes and bring an accelerated quiet title action. An action to quiet title, though not defined in the bill, is a proceeding to establish the plaintiff’s title to real property.)

### **Accelerated Quiet Title Action Criteria**

Delinquent taxes on tax delinquent homestead property could be collected and the property would be subject to an accelerated quiet title action if a representative of the collecting unit made a personal inspection of the property under the Tax Delinquent Abandoned Property Identification and Accelerated Forfeiture Act (proposed by Senate Bill 1329), and determined that the occupant was the owner and the property was the owner’s homestead. The collecting unit also would have to make that determination.

If delinquent taxes on the property were not eligible for collection under the bill, the delinquent taxes would have to be collected under the General Property Tax Act.

#### Notice by Mail

The collecting unit would have to provide written notice by certified mail to the owner that delinquent taxes levied on the property were subject to collection, and that failure to pay within one year from the March 1 when the taxes became delinquent could result in the sale of the property and an accelerated quiet title action against the property. If the delinquent taxes were not paid within six months of the notice, the collecting unit would have to send a second notice. If the delinquent taxes levied on the property were not paid 30 days before the March 1 following the March 1 when the taxes became delinquent, the collecting unit would have to send a third notice advising the owner that the property was subject to sale on March 1. If an owner refused notice sent by certified mail, notice could be provided by publication.

#### Sale

On March 1 in each tax year, the collecting unit or a private vendor under contract with the collecting unit would have to submit for sale to the highest bidder liens on tax delinquent homestead property for taxes assessed in the immediately preceding tax year and for which notice had been sent to the owner of the property as required under the bill.

The minimum acceptable bid for a lien on property would be the amount of delinquent taxes due on that property. A person bidding for a lien could bid more than the amount of delinquent taxes due on that property. If a lien on property were sold for more than the amount of delinquent taxes due, the difference would have to be applied to cover the administrative costs of the sale, and any remaining balance would have to be applied to other administrative costs of tax collection.

The highest bidder for a lien on property would have to receive a lien that conveyed a 100% interest in that property if not redeemed as provided in the bill. If a lien on property were sold for more than the amount of delinquent taxes due, the difference could not be included in the amount required to redeem the property. If no minimum acceptable bid were offered for a lien on property, the lien would have to be considered bid off to the collecting unit for the amount of delinquent taxes due on that property.

After the sale, the collecting unit would have to send a fourth notice by certified mail, informing the owner that a lien on the property either was sold to a lienholder or was bid off to the collecting unit, and that the property was subject to an accelerated quiet title action if not redeemed. If an owner refused a notice sent by mail, notice could be provided by publication.

#### Title Search

Unless redeemed, the collecting unit would have to issue a tax deed to the lienholder or to the collecting unit one year after the fourth notice, if the lien on property were bid off to the collecting unit. A tax deed issued to a lienholder would be valid for one year after issuance. If the lien on the property were not redeemed as provided, the lienholder would have to perfect title to the property or surrender the tax deed to the collecting unit without refund of the purchase amount. After the collecting unit issued a tax deed one year after the fourth notice, the lienholder or the collecting unit (if the lien on the property were bid off to the collecting unit) would have to perform a title search on the property. If the title search were performed by the lienholder, the lienholder would have to provide results of the title search to the collecting unit.

After the title search, the collecting unit would have to send a fifth notice by certified mail to the

owner and to all persons with a legal interest in each parcel of property subject to the collection of delinquent taxes.

#### Notice by Publication

If the collecting unit were unable to ascertain the whereabouts or the address of the owner or any person with a legal interest in the tax delinquent homestead, or if any notice by certified mail were refused, service of the notice would have to be made by publication. The notice would have to be published for four successive weeks, once each week, in a newspaper published and circulated in the county in which the property was located, or if no paper were published in that county in an adjoining county. Proof of publication would have to be filed with the register of deeds in the county where the property was located. The publication would be instead of personal service on the owner or any person with a legal interest whose whereabouts could not be ascertained or who refused service by certified mail.

The notice would have to include a statement that a tax deed to the property was issued to either the lienholder or the collecting unit; a statement that the lienholder or the collecting unit could bring an action in the circuit court in the county in which the property was located to quiet title to that property; and instructions for redemption, including a statement of all delinquent taxes due. The collecting unit could use the qualified voter file under the Michigan Election Law to confirm the address of the owner and any person with a legal interest in each parcel of tax delinquent homestead property subject to the collection of delinquent taxes.

#### Quiet Title Action

Lienholder. If a tax deed were issued to a lienholder, six months after the fifth notice was sent, the lienholder could bring an action in the circuit court in the county in which the property was located to quiet title to that property in the lienholder. If the property were occupied by the owner, at least 60 days before the circuit court entered an order quieting title to property, the lienholder would have to notify the Family Independence Agency (FIA) and the Department of Community Health (DCH) that an action to quiet title was pending. The FIA and DCH could not take any action to diminish the lienholder's interest in the property, but could assist the owner in redeeming the property. If a lienholder brought a quiet title action and the circuit court entered a judgment vesting absolute title to the property in the lienholder, all prior interests in the property would be terminated.

Collecting Unit. If a tax deed were issued to a collecting unit, at least 90 days after the fifth notice was sent, a collecting unit could bring a quiet title action in the circuit court to determine title for all parcels of tax delinquent homestead property set forth on a separate attachment to the complaint and incorporated into complaint by reference. If the property were occupied by the owner, at least 60 days before the circuit court entered an order quieting title to property, the collecting unit would have to notify the FIA and DCH that an action to quiet title was pending. The FIA and DCH could not take any action to diminish the collecting unit's interest in the property, but could assist the owner in redeeming the property. If a collecting unit brought a quiet title action and the circuit court entered a judgment vesting absolute title to the property in the local unit, all prior interests in the property would be canceled.

#### Redemption

Tax delinquent homestead property could be redeemed at any time before a judgment vesting absolute title to the property was entered, by payment of all the following: all delinquent taxes due including interest; costs incurred for notice, publication, and title work required under the proposed Act; and court costs. (The interest would be 1% per month or fraction of a month calculated from the March 1 in the tax year in which the collecting unit adopted a resolution, if the taxes were paid

before the tax lien sale; 1.25% per month or a fraction of a month calculated from the same March 1 if the taxes were paid after the tax lien sale and before a tax deed was issued; or 150% of the delinquent taxes due if the taxes were paid after a tax deed was issued.)

Payment would have to be made to the collecting unit if payment were made before the sale or if payment were made after the sale and the lien were bid off to the collecting unit; or to the lienholder if payment were made after the sale and the lienholder purchased the lien to that property at the sale.

If property were redeemed, the lienholder or the collecting unit (if the lien were bid off to the collecting unit) would have to record a release of the lien in the office of the register of deeds in the county in which the property was located.

Local Unit. If a circuit court entered a judgment quieting title to the property in the local unit, the local unit could demolish any unsafe structure located on the property; remediate any environmental contamination found on the property or notify the Department of Environmental Quality or other appropriate organization regarding the existence of environmental contamination on the property; sell the property to a private purchaser by auction or direct marketing; transfer the property to a homestead program if one existed and the property met its specifications; transfer the property to a nonprofit organization for rehabilitation and reuse; and retain the property for a specific public purpose including a park, zoo, or university, or as part of an existing project with an anticipated completion date of up to two years after the date title to the property vested in the local unit of government.

Legislative Analyst: N. Nagata

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government. It appears that the Family Independence Agency no longer has enabling language in the appropriations bill to effect placing liens on property.

Fiscal Analyst: C. Cole