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SFA**BILL ANALYSIS**

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Senate Bills 355 and 356 (as introduced 2-23-99)

Sponsor: Senator Glenn D. Steil (S.B. 355)

Senator Joel D. Gougeon (S.B. 356)

Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 3-2-99

CONTENT

Senate Bill 355 would create the “Tax Delinquent Residential Rental Property Identification and Accelerated Forfeiture Act” to provide for accelerated forfeiture on tax delinquent residential rental property. The bill also would establish criteria for accelerated forfeiture; require notice and to the property owner, the occupant, and anyone with a legal interest in the property; provide procedures in a forfeiture action; require vendor payments made to the owner of tax delinquent residential rental property to be deposited into an escrow account; and allow the redemption of tax delinquent residential rental properties. If a judgment vesting absolute 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.

Senate Bill 356 would amend the General Property Tax Act to provide that beginning December 31, 1998, if authorized under the proposed Act, a collecting county would have to use that Act to collect taxes returned as delinquent that were levied on tax delinquent residential rental property in the immediately preceding year. In addition, beginning December 31, 1998, a collecting county that used the Act would have to levy a \$25 special tax administration and collection fee, a \$25 certified mailing and notice requirement fee, and a \$150 title search fee on each parcel of tax delinquent property in the local tax collecting unit in which the tax delinquent residential rental property was located. Proceeds from the fee would have to be used for inspections, notice requirements, and title work required under the proposed Act.

(“Tax delinquent residential rental property” would mean property that was occupied by a person or persons other than the owner pursuant to a lease, land contract, or other rental agreement, on which taxes had been returned as delinquent under the General Property Tax Act and that was eligible for

accelerated forfeiture under the proposed Act. It would include a multiunit residential structure of four units or less.)

The following is a detailed description of Senate Bill 355.

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 have the county in which it was located, use the proposed Act to collect delinquent taxes on, and to accelerate the forfeiture of, tax delinquent residential rental property in that year and all succeeding tax years. If a local tax collecting unit made this election, the county in which the local unit was located would have to use the proposed Act to collect taxes on, and to accelerate the forfeiture of, the tax delinquent residential rental property in that unit.

If a local tax collecting unit did not elect to use the proposed Act, the county in which the collecting unit was located could 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.

Accelerated Forfeiture Criteria

Delinquent taxes on tax delinquent residential rental property could be collected and the property would be subject to accelerated forfeiture if a representative of the collecting county made a personal inspection of the property under the Tax Delinquent Abandoned Property Identification and Accelerated Forfeiture Act (proposed by Senate Bill 351), and determined that the property was occupied by a person with a legal interest in the property who was not the owner of the property. The collecting county also would have to determine whether the occupant was the owner.

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.

Title Search

Not later than June 1 in the tax year in which a resolution was adopted, the collecting county would have to provide written notice by certified mail to the occupant and to the owner of the tax delinquent residential rental property that delinquent taxes levied on that property were subject to collection under the bill, which, if not paid could result in accelerated forfeiture and eviction. If delinquent taxes levied on the property were not paid by October 1 in the tax year in which a resolution was adopted, the collecting county would have to send a second notice to the occupant and to the owner of the property. If the delinquent taxes were not paid by March 1 in the tax year immediately succeeding the tax year in which the resolution was adopted, the collecting county would be required to conduct, or contract with a private vendor to conduct a title search for each parcel of property subject to the collection of delinquent taxes and accelerated forfeiture. The collecting county would have to pay the costs of the title search from the fee authorized under the General Property Tax Act (pursuant to Senate Bill 356).

The collecting county or private vendor under contract with the collecting county 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 residential rental property subject to the collection of delinquent taxes and accelerated forfeiture.

Notice

After conducting the title search, the collecting county, or a private vendor under contract with the collecting county, would have to send notice by certified mail to the occupant, the owner, and all persons with a legal interest in each parcel of tax delinquent residential rental property subject to the collection of delinquent taxes and accelerated forfeiture.

If the collecting county or private vendor were unable to ascertain the whereabouts or the address of the owner or any person with a legal interest in the tax delinquent residential rental property, or if notice by 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 collecting county, 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 collecting county. The publication would be instead of personal service on the person or persons with a legal interest whose whereabouts could not be ascertained or who refused service by

certified mail.

The notice would have to include all of the following:

- A statement that taxes levied on the tax delinquent residential rental property were delinquent and subject to accelerated foreclosure
- Instructions for redemption, including a statement of all delinquent taxes due
- The time, date, and location of the forfeiture proceedings at which the occupant, the owner, or a person with a legal interest in the property could object to the forfeiture for any reason set forth in the General Property Tax Act.

The notice also would have to state the following: If the occupant of the property were making payments to a lessor or land contract vendor pursuant to a lease, land contract, or other rental agreement, the occupant could immediately begin to make future payments to an escrow account established by the collecting county; the proceeds of an escrow account could be remitted to the collecting county to pay all delinquent taxes and any unpaid tax levied on the property in the current tax year; and if the occupant made the payments due under the lease, land contract, or other rental agreement into an escrow account established under the bill, the lessor or land contract vendor could not commence an action against the occupant in any court or before any administrative agency as a result of the nonpayment of the lease or land contract payments.

Escrow Account

A collecting county would have to establish an escrow account into which an occupant of property could deposit lease, land contract, or other rental agreement payments. Interest on lease, land contract, or other rental agreement payments deposited into the escrow account would have to accrue to the collecting county that established the escrow account.

Vendor Payments

The collecting county would have to send a list to the Family Independence Agency (FIA) and the Department of Community Health (DCH) of all tax delinquent residential rental property for which it had conducted a title search. The FIA or the DCH would have to determine and inform the collecting county, if it were making vendor payments to the owner of any parcel of property included in the list. If the FIA or DCH determined that vendor payments were being made to the owner of property included in the list, the FIA or DCH would have to make all future vendor payments for that property to an escrow account until the account contained a sufficient amount to satisfy all delinquent taxes and any unpaid tax levied on the property in the current tax year. The FIA and DCH

would have to advise the vendor that the proceeds of the escrow account could be turned over to the collecting county for payment of all delinquent taxes. A vendor could not commence an action against the FIA or DCH in any court or before any administrative agency as a result of the deposit of vendor payments into an escrow account.

Title Forfeiture

If delinquent taxes levied on the tax delinquent residential rental property were not paid within six months of the notice, the collecting county could petition the circuit court to enter a judgment forfeiting the property to the local unit in which the property was located. A judgment forfeiting the title to property would forfeit title to all parcels of property set forth on a separate attachment to the complaint and incorporated into the complaint by reference.

In a forfeiture action, the delinquent property taxes and the notice would be prima facie evidence in support of a judgment forfeiting the title to the local unit in which the property was located. If the court entered a judgment forfeiting the title to the local unit, the court would have to issue a tax deed for the property to the local unit.

Property Forfeiture

If the circuit court for the collecting county entered a judgment forfeiting the property to the local unit and issued a tax deed for the property to the local unit, the collecting county or private vendor would have to send notice of that forfeiture by certified mail to the occupant, the owner, and anyone with a legal interest in each parcel of tax delinquent residential rental property forfeited. If the collecting county or private vendor were unable to ascertain the whereabouts or the address of the owner or anyone with a legal interest, or if notice by mail were refused, service of the notice would have to be made by publication as described in the bill.

The forfeiture notice would have to include a statement that the court entered a judgment forfeiting the property and issued a tax deed to that property to the local unit in which the property was located; a statement that the collecting county could commence a quiet title action for that property if it were not redeemed within 90 days of notice; instructions for redemption, including a statement of all delinquent taxes due; and the time, date, and location of the hearing on a quiet title action at which the owner or a person with a legal interest in the rental property could object to the accelerated forfeiture of the property.

Quiet Title Action

At least 90 days after the forfeiture notice, a collecting county could bring a quiet title action in the

circuit court for the collecting county. A quiet title action would have to determine title for all parcels of previously forfeited property set forth on a separate attachment to the complaint and incorporated into the complaint by reference. If a collecting county 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 residential rental 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 if paid before March 1 in the tax year following the March 1 in which the local unit or county adopted a resolution; 1.25% per month or a fraction of a month calculated from the same March 1 if the taxes were paid by March 1 in the following tax year 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.)

Local Unit

If absolute title to property were vested in the local unit, any funds in an escrow account established by a collecting county would have to be applied to satisfy the delinquent taxes and any unpaid tax levied on that property in the current tax year. Any remaining balance would have to be disbursed to the person who acquired title to the property from the local unit if the funds were from payments made by the person occupying the property pursuant to a lease, land contract, or other rental agreement; or to the FIA or DCH to offset costs incurred if the funds were from payments made by the department. In addition, the local unit would be required to attempt disposal of the tax delinquent residential rental property in a manner that did not displace an occupant who made payments in good faith to a lessor, a land contract vendor, or an escrow account. The local unit could not adversely alter the terms of the occupant's lease, land contract, or other rental agreement; and would have to offer the occupant the right of first refusal to purchase the property from the local unit or give the occupant priority to homestead the property if it were referred to a homestead program under the Urban Homestead Act (proposed by Senate Bill 343). The local unit also would have to offer the occupants the opportunity to form a consumer housing cooperative pursuant to the State Housing Development Authority Act if the property

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were occupied by more than one family.

If absolute title were vested 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/or retain the property for a specific public use 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 abandoned property vested in the local unit of government.

MCL 211.60 (S.B. 356)

Legislative Analyst: N. Nagata

FISCAL IMPACT

Senate Bill 355

Data are not available to determine the fiscal impact.

Senate Bill 356

The bill would allow counties to collect delinquent taxes levied on residential rental property on an accelerated time line. In addition, counties would levy fees to be used for inspections, notice requirements, and title- related requirements.

Fiscal Analyst: R. Ross