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SFA BILL ANALYSIS

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House Bill 4851 (Substitute S-1)
House Bill 4852 (Substitute S-1)
House Bill 4853 (Substitute S-1)
House Bill 5450 (Substitute S-1)
House Bill 5451 (Substitute S-1)
House Bill 6137 (Substitute H-1 as passed by the House)
Sponsor: Representative Kwame Kilpatrick (House Bill 4851)
Representative Gene DeRossett (House Bill 4852)
Representative Andrew Richner (House Bill 4853)
Representative Samuel Buzz Thomas (House Bill 5450)
Representative Belda Garza (House Bill 5451)
Representative Laura M. Toy (House Bill 6137)
House Committee: Land Use and Environment
Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 6-12-02

CONTENT

House Bill 5450 (S-1) would enact the "Michigan Land Bank and Community Development Authority Act" to do the following:

-- Create the Michigan Land Bank and Community Development Authority, and provide for the creation of a metropolitan land bank authority in Detroit.
-- Allow a land bank to acquire, buy, own, lease as lessor, convey, demolish, or rehabilitate real or personal property.
-- Establish procedures for an expedited quiet title and foreclosure action by a land bank.
-- Authorize land banks to issue notes and bonds.
-- Create the Michigan Land Bank and Community Development Authority Fund.
-- Require the State Administrative Board to convey specific parcels of surplus State land to the Michigan Land Bank and Community Development Authority.
-- Transfer certain tax reverted property and tax delinquent property to the Detroit land bank authority, and allow the Detroit mayor to rescind a transfer.
-- Permit the Detroit city council to authorize the transfer of any real property or interest in real property to the Detroit land bank authority.
-- Allow county foreclosing governmental units to create metropolitan land bank authorities by resolution.
-- Allow two or more local units in which at least 250 parcels of tax reverted land were located to enter into an intergovernmental agreement creating a metropolitan land bank authority.

House Bill 4851 (S-1) would amend the General Property Tax Act to exempt from the tax property owned by a land bank, and create a five-year tax exemption for property sold by a land bank.

House Bill 4852 (S-1) would create the "Tax Reverted Property Clean Title Act" to impose a specific tax (equal to the property tax) on property sold by a land bank; and dedicate 50% of the proceeds to the land bank that sold the property.

House Bill 4853 (S-1) would amend Public Act 105 of 1855 (which governs the disposition of surplus State funds) to allow the State Treasurer to invest surplus funds in loans to land banks for the purpose of clearing or quieting title to tax reverted property held or controlled by a land bank.
House Bill 5451 (S-1) would amend the

General Property Tax Act to permit a foreclosing governmental unit to request a title product other than a title search, in order to identify the owners of a property interest in forfeited property; and describe actions that would be considered reasonable steps to ascertain the address of a person entitled to notice of a show cause hearing and foreclosure hearing.

House Bill 6137 (H-1) would amend the Brownfield Redevelopment Financing Act to include assistance to a land bank among eligible activities authorized by the Act, include tax reverted property held by a land bank as eligible property, and permit the use of tax increment revenues for assistance attributable to land bank property.

All of the bills are tie-barred to each other.

House Bill 5450 (S-1)

General Authority; Property Acquisition

The bill would define "land bank" as either the Michigan Land Bank and Community Development Authority, or a metropolitan land bank authority. Except as otherwise provided, a land bank could do all things necessary or convenient to implement the proposed Act and the purposes and powers delegated to the land bank's board of directors by other laws or executive orders. Among other things, a land bank could borrow money and issue bonds and notes; enter into interlocal agreements under the Urban Cooperation Act; invest money of the land bank; and enter into contracts for the management of, the collection of rent from, or the sale of real property held by the land bank.

A land bank also could acquire (by gift, devise, foreclosure, purchase, or otherwise), own, lease as lessor, convey, demolish, relocate, or rehabilitate real or personal property, or rights or interests in real or personal property. The property of a land bank and its income and operations would be exempt from all State and local taxation.

A land bank could purchase real property for any purpose it considered necessary, including the following:

-- To use or develop property the land bank otherwise acquired.
-- To facilitate the assembly of property for sale or lease to any other public or private person, including a nonprofit corporation.
-- To protect or prevent the extinguishing of any lien, including a tax lien, held by the land bank or imposed on its property.

A land bank also could purchase property, or rights or interest in property, from the Department of Natural Resources (DNR) under Section 2101 or 2102 of the Natural Resources and Environmental Protection Act (NREPA), a foreclosing governmental unit, and the Michigan State Housing Development Authority. (Sections 2101 and 2102 of NREPA allow the DNR to sell or convey tax reverted State land under the Department's control to State agencies and other public entities.)

Without the approval of a local unit of government where property held by the land bank was located, a land bank could control, manage, maintain, repair, lease as lessor, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the property it held or owned. A land bank could do the following with respect to property it held or owned:

-- Grant or acquire a license, easement, or option.
-- Fix, charge, and collect rent, fees, and charges for use of the property or for services provided by the land bank.
-- Pay any tax or special assessment due.
-- Take any action or institute any proceeding required to clear or quiet title in order to establish ownership by and vest title in the land bank, including an expedited quiet title and foreclosure action (described below).
-- Remediate environmental contamination.

If a land bank held a tax deed to abandoned property, it also could quiet title to the property under the General Property Tax Act.

A land bank could accept a deed conveying a person's interest in tax delinquent property or tax reverted property in lieu of foreclosure or sale of the property for delinquent taxes, penalties, and interest levied under the General Property Tax Act or delinquent specific taxes levied under another law of the State against the property by a local unit of government or other taxing jurisdiction. A land bank could not accept a deed in lieu of foreclosure or sale of the tax lien attributable

to taxes levied by a local unit or other taxing jurisdiction, however, without the written approval of all taxing jurisdictions or the foreclosing governmental unit that would be affected. Upon their approval, all of the unpaid property taxes and specific taxes would be extinguished.

A land bank could convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of property or rights or interests in property in which the land bank held a legal interest, to any public or private person for value determined by the land bank, on terms and conditions, and in a manner and for an amount of consideration the land bank considered proper, including no monetary consideration. Except as otherwise required or agreed to, a land bank could retain any proceeds it received for the purposes of the proposed Act.

Money received as payment of taxes, penalties, or interest, or from the redemption or sale of property subject to a tax lien of any taxing unit, would have to be returned to the local tax collecting unit where the property was located for distribution on a pro rata basis to the appropriate taxing units, in an amount equal to delinquent taxes, penalties, and interest owed on the property, if any. The land bank would retain any money in excess of delinquent taxes, interest, and penalties and could use it for purposes authorized by the proposed Act.

For purposes of Part 201 (Environmental Response) of NREPA, a land bank would be considered a local unit of government. The acquisition or control of property through bankruptcy, tax delinquent forfeiture, foreclosure, sale, abandonment, transfer from a lender, court order, circumstances in which the land bank had acquired title or control by virtue of performing any permitted function, or transfer by the State or a local unit, would not subject a land bank to liability under NREPA unless the land bank were responsible for an activity causing a release on the property.

A land bank could not do any of the following:

-- Condemn property or exercise the power of eminent domain.
-- Levy any tax or special assessment.
-- Spend any funds for, or related to, the development of a casino or a casino-related development.

"Tax reverted property" would mean property that met one or more of the following criteria:

-- The property was conveyed to the State under Section 67a of the General Property Tax Act and subsequently was not sold at a public auction under Section 131 of that Act.
-- The property was conveyed to the State under Section 67a and subsequently was either redeemed by a local unit of government or transferred to a local unit under Section 2101 or 2102 of NREPA.
-- The property was subject to forfeiture, foreclosure, and sale for the collection of delinquent taxes as provided in Sections 78 to 79a of the General Property Tax Act and 1) title to the property vested in a foreclosing governmental unit, and 2) the property was offered for sale at an auction but not sold.
-- The State obtained the property under Section 78m(1) of the General Property Tax Act.
-- The property was obtained by or transferred to a local unit of government under Section 78m.
-- Pursuant to the requirements of a city charter, the property was deeded to the city for unpaid delinquent real property taxes.

(Section 67a of the General Property Tax Act provides for the conveyance of tax reverted property to the State under the "old" tax reversion process. Section 67a will be repealed on December 31, 2003. Sections 78 to 79a include the "new" tax reversion process enacted by Public Act 123 of 1999. Section 78m grants the State the right of first refusal to purchase tax delinquent property from a foreclosing governmental unit in which title has vested after the entry of a judgment. If the State does not purchase the property, the city, village, township, or county may do so. If the property is not sold after being offered twice, it will be transferred to the city, village, or township. Under Section 131, the DNR Director may withhold from sale land that is suitable for State forests, parks, game refuges, public hunting, or recreational grounds, and may sell land that is not withheld.)

Expedited Quiet Title & Foreclosure

A land bank could initiate an expedited quiet title and foreclosure action to quiet title to real property or interests in tax reverted property held by the land bank, by recording a notice of pending expedited title and foreclosure action with the register of deeds in the county where the property was located. Property would not be subject to an expedited action if it were forfeited under Section 78g of the General Property Tax Act and remained subject to foreclosure under Section 78k of that Act. (Section 78g provides that, on March 1 in each tax year, certified abandoned property and property that has been tax delinquent for the preceding 12 months or more, is forfeited to the county treasurer. Section 78k provides for a circuit court to enter judgment on a foreclosure petition.)

After notice of the pending action was recorded, the land bank would have to initiate a search of records to identify the owners of a property interest in the property who would be entitled to notice of the foreclosure hearing. The owner of a property interest would be entitled to notice if the owner's interest were identifiable by reference to any of the following sources before the date that the land bank recorded the required notice: land title records in the office of the county register of deeds, or tax records in the office of the county or local treasurer or in the office of the local assessor.

The land bank could file with the clerk of the circuit court a single petition listing all property subject to expedited foreclosure and for which the land bank sought to quiet title. The petition would have to seek a judgment in its favor against each listed property, and include a date, within 90 days, on which the land bank requested a hearing on the petition. The court clerk immediately would have to schedule the hearing, which could not be more than 10 days after the date requested by the land bank. The clerk could not, in any event, schedule the hearing later than 90 days after the petition was filed.

After completing the records search, the land bank would have to determine the address reasonably calculated to inform the owners of a property interest about the pending foreclosure hearing. At least 30 days before the hearing, the land bank would have to send by certified mail, return receipt requested, notice of the hearing to the persons with an interest in property subject to expedited foreclosure. If the land bank could not determine an address reasonably calculated to

inform the owners, or if the notice of the hearing were returned as undeliverable, the following would be deemed reasonable steps by the land bank to ascertain the addresses:

-- For an individual, a search of the county probate court records.
-- For an individual, a search of the qualified voter file.
-- A search of partnership records filed with the county clerk, for a partnership.
-- A search of business entity records filed with the Department of Consumer and Industry Services (DCIS), for a business entity other than a partnership.
-- A search of the current telephone directory for the area in which the property was located.
-- A letter of inquiry to the last seller of the property or the seller's attorney, if ascertainable.

At least 30 days before the hearing, the land bank or its authorized representative would have to visit each parcel of property subject to expedited foreclosure and conspicuously post notice of the hearing on the property. ("Authorized representative" would mean a title insurance company or agent licensed to conduct business in Michigan; an attorney licensed to practice in this State; a person accredited in land title search procedures by a nationally recognized organization in that field; or a person with demonstrated experience in the field of searching land title records, as determined by the land bank.)

If the land bank could not ascertain the address reasonably calculated to inform the owners of a property interest entitled to notice, or could not provide notice by certified mail or posting, the land bank would have to provide notice by publication.

Before the hearing, the land bank would have to file with the court clerk proof of service of notice by certified mail, proof of notice by posting, and proof of notice by publication, if applicable. A person claiming an interest in a parcel set forth in the foreclosure petition who desired to contest the petition, would have to file written objections with the clerk and serve them on the land bank before the hearing. The court could appoint and use a special master for the resolution of any objections to the foreclosure or questions regarding the title to property subject to foreclosure. If the court withheld property from foreclosure, the land bank's ability to include the property in a subsequent petition for expedited quiet title and foreclosure would not be prejudiced. No injunction could be issued to stay an expedited action. The circuit court would have to enter judgment on the petition within 10 days after the hearing concluded. The judgment would have to specify all of the following:

-- The legal description and, if know, the street address of the property foreclosed.
-- That fee simple title to property foreclosed by the judgment was vested absolutely in the land bank (except as provided below), without any further rights of redemption.
-- That all liens against the property, including any lien for unpaid taxes or special assessments, other than future installments of special assessments and liens recorded by the State or the land bank under NREPA, were extinguished.
-- That, except as otherwise provided, the land bank had good and marketable fee simple title to the property.
-- That all existing recorded and unrecorded interests in the property were extinguished, except a visible or recorded easement or right-of-way, private deed restrictions, plat restrictions, or restrictions or other governmental interests imposed under NREPA.
-- A finding that all persons entitled to notice and an opportunity to be heard had been provided that notice and opportunity.

Within 21 days of the entry of judgment, a land bank or a person claiming to have an interest in foreclosed property could appeal the circuit court's order or the court's foreclosure judgment to the Michigan Court of Appeals. A foreclosure judgment would be stayed (as to the property that was the subject of the appeal) until the Court of Appeals had reversed, modified, or affirmed it.

The land bank would have to record a notice of judgment for each parcel of foreclosed property in the office of the register of deeds for the county in which the property was located.

If a foreclosure judgment were entered, the owner of any extinguished interest who claimed that he or she did not receive notice of the expedited action could not bring an

action for possession of the property against any subsequent owner, but could bring only an action in the Court of Claims to recover monetary damages. The action would have to be brought within two years after the judgment was entered. Any monetary damages could not exceed the fair market value of the property on the date of judgment.

The owner of a property interest with notice of the foreclosure hearing could not assert either that notice to the owner was inadequate, or that any right to redeem tax reverted property was extended in any way, because some other owner of a property interest was not notified.

Michigan Land Bank Authority

The Michigan Land Bank and Community Development Authority would be created within the Department of Management and Budget (DMB). The Authority would exercise its powers and duties independently of the DMB Director, although the Authority's budgeting, procurement, and related administrative functions would have to be performed under the Director's supervision. The Authority also could contract with the DMB for the purpose of maintaining its rights and interests. If requested, the DMB would have to provide staff and other support to the Authority.

The State Administrative Board would have to convey to the Authority the surplus State real property described in the bill, including all options, easements, rights-of-way, and improvements. (The bill contains legal descriptions of seven parcels, or groupings of parcels, that would be conveyed.)

The Authority's board would consist of five residents of the State appointed by the Governor, including one person approved by the chief executive officer of a qualified city (i.e., the mayor of Detroit). The Governor also would have to appoint a person (other than a board member) to serve as the chief executive of the Authority. The chief executive would be responsible for the performance of the Authority's functions.

The Michigan Land Bank and Community Development Fund would be created under the jurisdiction and control of the Authority and could be administered to secure any notes and bonds of the Authority. The Authority would have to deposit into the Fund all money it received from the sale or transfer of property, as well as the proceeds of the sale of notes or bonds to the extent provided in its authorizing resolution.

The Authority could spend money from the Fund only for one or more of the following:

-- Costs to clear or quiet title to property held by the land bank.
-- To repay a loan made to the land bank by the State (under House Bill 4853 (S-1)).
-- Any other purposes provided in the proposed Act.

The Authority could borrow money and issue notes for the purposes identified in the bill. The bonds and notes could be sold at public or private sale, and would have to mature within 50 years from the date of issuance. Except as expressly provided by the Authority, every issue of its notes or bonds would be general obligations of the Authority payable out of revenues, properties, or money of the Authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security.

Bonds or notes issued by the Authority would not be subject to the Revised Municipal Finance Act but would be subject to the Agency Financing Reporting Act (proposed by Senate Bill 1201).

The Authority could enter into an intergovernmental agreement with a metropolitan land bank authority for the joint exercise of powers and duties.

If the Authority had completed the purposes for which it was organized, the board, by a vote of at least four directors, could provide for the dissolution of the Authority, and for the transfer of any property held by the Authority to a metropolitan authority.

The Authority would have to report biennially to the Legislature on its activities.

Metropolitan Land Bank Authorities

Detroit. A metropolitan land bank authority would be created in a qualified city upon the appointment by the city's chief executive officer of five Michigan residents to a land

bank authority board. ("Qualified city" would mean a city with a population of at least 750,000 according to the most recent Federal census, i.e., Detroit.) One of the five appointees would have to be approved by the Governor.

The metropolitan authority could enter into an intergovernmental agreement with the Michigan Land Bank and Community Development Authority, with the foreclosing governmental unit of Wayne County, and with any city, village, or township in Wayne County.

Upon the appointment of the board members, all of the following property or interests in property held by Detroit would be transferred to the metropolitan authority:

-- All tax reverted property held by Detroit that was transferred to the city by the State under Section 2101 or 2102 of NREPA or Section 131 of the General Property Tax Act.
-- Tax delinquent real property for which a lien had been deemed sold to a city department director under the city charter or ordinances, except for property that was deeded to a department director less than two years before the authority board was appointed.
-- Tax delinquent real property held by the city that had been foreclosed by the city and for which title had vested in the city under its charter or ordinances.

If the mayor objected to the transfer of property or interests in property under these provisions, he or she could issue an executive order rescinding the transfer of any parcel within 60 days of the transfer.

Within 60 days of the transfer, the city would have to compile and provide the authority with an inventory of all property transferred to it. The city and its officials and employees would have to cooperate actively with and facilitate the compilation of the inventory, and take any actions and execute any documents necessary to facilitate the transfer of property to the authority. Revenue generated from the authority's sale of tax reverted property and paid to the city would be deemed compensation to the city for any services or activity required by these provisions.

With the authority's consent, the Detroit city council could by resolution authorize the transfer of any real property or interest in real property to the metropolitan authority, including tax reverted property or interests in tax reverted property held or acquired by the city after the authority's creation.

Other Authorities. A county foreclosing governmental unit could by resolution of the county board of commissioners, and with the concurrence of the elected county executive, if the county had one, create a metropolitan authority with all of the powers and duties of a land bank. Also, two or more cities, villages, townships, or counties in which at least 250 parcels of tax reverted property were located could enter into an intergovernmental agreement providing for the creation of a metropolitan authority.

The intergovernmental agreement or county board resolution would have to provide for the incorporation of a metropolitan land bank authority as a public body corporate; the size, qualifications, and method of selection of the initial board of directors, which would have to have an odd number of members; and a method for the board's adoption of articles of incorporation. The articles of incorporation would have to contain information specified in the bill, including the purposes for which the authority was established, a method for dissolution of the authority, and a method for withdrawal from the authority of any governmental entities involved.

A metropolitan authority created by intergovernmental agreement, upon the filing of the articles of incorporation, would have to file with the Secretary of State proof of the required number of tax reverted parcels.

Construction of Act

The bill provides that, in the exercise of its powers and duties under the proposed Act and its powers relating to property held by the land bank, a land bank would have complete control as fully and completely as if it represented a private property owner, and would not be subject to restrictions imposed on the land bank by the charter, ordinances, or resolutions of a local unit of government. The provisions of the proposed Act would apply notwithstanding any resolution, ordinance, or charter to the contrary.

The bill also states that this language "is not intended to exempt a land bank from local zoning or land use controls, including those controls authorized under the city and village zoning act".

House Bill 4851 (S-1)

The bill would exempt from the collection of taxes under the General Property Tax Act, property whose title was held by a land bank. Also, real property sold by a land bank would be exempt beginning on the December 31 in the year in which the property was sold by the land bank until December 31 in the year five years after the first year in which the exemption initially was granted.

The exemption for property sold by a land bank would not apply to property included in a brownfield plan under the Brownfield Redevelopment Financing Act, if the brownfield plan for the property included assistance to a land bank.

Property that was sold by a land bank would be subject to the specific tax levied under the proposed Tax Reverted Property Clean Title Act.

House Bill 4852 (S-1)

The bill would create the Tax Reverted Property Clean Title Act to levy a specific tax upon every owner of eligible tax reverted property (property sold by a land bank and exempt from property taxes). The amount of the specific tax in each year would be the amount of tax that would have been collected on the parcel under the General Property Tax Act if the parcel were not exempt.

An owner of eligible tax reverted property that was a homestead could claim an exemption for that portion of the specific tax attributable to the tax levied by a local school district for school operating purposes, as provided for a homestead exemption under the Revised School Code, if an owner of that property claimed a homestead exemption from local school operating taxes under the General Property Tax Act.

The specific tax would be an annual tax, payable at the same times, in the same installments, and to the same officers as taxes imposed under the General Property Tax Act. The officers would have to send to the State Tax Commission a copy of the amount of disbursement made to each unit. The officers would have to disburse 50% of the specific tax payments each year to the land bank that sold the property, and 50% to and among the

State, cities, school districts, counties, other taxing units, and authorities, at the same times and in the same proportions as required by law for the disbursement of property taxes.

For an intermediate school district (ISD) receiving State aid under the State School Aid Act, all or a portion of the specific tax that otherwise would be disbursed to the ISD would have to be paid to the State Treasury to the credit of the School Aid Fund. The State Treasurer would have to determine the amount to be credited to the Fund on the basis of the tax rates being used to compute the amount of State aid. In addition, the amount of specific tax that otherwise would be disbursed to a local school district for school operating purposes would have to be paid instead to the State Treasury and credited to the School Aid Fund.

A land bank could use specific tax revenue only to repay a loan made to the land bank under Public Act 105 of 1855 (pursuant to House Bill 4853 (S-1)), or for the purposes authorized by the proposed Michigan Land Bank and Community Development Authority Act, including costs to clear or quiet title to property held by the land bank.

Eligible tax reverted property located in a renaissance zone would be exempt from the specific tax to the extent and for the duration provided by the Michigan Renaissance Zone Act, except for that portion of the specific tax attributable to a tax described in Section 7ff(2) of the General Property Tax Act. The specific tax calculated under this provision would have to be disbursed proportionately to the taxing units that levied the tax described in Section 7ff(2). (Under that section, property in a renaissance zone is not exempt from collection of 1) a special assessment levied by the local tax collecting unit; 2) property taxes specifically levied to pay obligations approved by the electors or pledging the unlimited taxing power of the local unit; or 3) a tax levied under provisions of the Revised School Code that permit school districts to levy a regional enhancement property tax for district operations; up to three additional mills for enhanced operating revenue; and up to five mills to create a sinking fund for school sites or building repair or construction.)

Unpaid specific tax would not be subject to return as a delinquent tax under the General Property Tax Act. The amount of specific tax applicable to real property, until paid, would be a lien upon that property. Proceedings upon the lien (as provided by law for the foreclosure in circuit court of mortgage liens) could commence when the tax would have been returned as delinquent under the General Property Tax Act, if the property had not been exempt, and when the appropriate collecting officer filed with the register of deeds a certificate of nonpayment of the specific tax applicable to the property, together with an affidavit of proof of service of the certificate upon the property owner by certified mail.

By December 31 each year, a land bank would have to provide a list of all property sold by it in that calendar year to the assessor of each local tax collecting unit in which property sold by the land bank was located. The assessor of each local tax collecting unit containing eligible tax reverted property would have to determine annually as of December 31 the taxable value of each parcel of eligible tax reverted property, and give that information to the legislative body of the local tax collecting unit.

House Bill 4853 (S-1)

The bill would amend Public Act 105 of 1855 to allow the State Treasurer to invest surplus funds in loans to land banks at the market rate of interest, as determined by the Treasurer, for the purpose of clearing or quieting title to tax reverted property held by or under the control of a land bank. A loan to a land bank could not be for a period of more than 10 years. The State Treasurer would have to prescribe all other terms of the loan, including required security, if any.

The bill also specifies that loans made under the Act would not be subject to the Revised Municipal Finance Act, but would be subject to the proposed Agency Financing Reporting Act.

House Bill 5451 (S-1)

The General Property Tax Act provides that, by May 1 immediately following the forfeiture of property to a county treasurer under Section 78g of the Act, the foreclosing governmental unit must initiate a title search

to identify the owners of a property interest in the property who are entitled to notice of a show cause hearing and a foreclosure hearing. The bill would delete reference to a title search and require the foreclosing governmental unit to initiate a search of records identified under the Act. These include records in the office of the county register of deeds; tax records in the office of the county treasurer; and records in the office of the local assessor or the local treasurer. The bill would refer to land title records in the office of the county register of deeds, and tax records in the office of the local assessor or local treasurer, as well as tax records in the office of the county treasurer. (Section 78g provides that, on March 1 each tax year, certified abandoned property and property that is delinquent for taxes, interest, penalties, and fees for the immediately preceding 12 months or more are forfeited to the county treasurer.)

Currently, the foreclosing governmental unit may enter into a contract with one or more authorized representatives to perform the title search. Under the bill, the foreclosing governmental unit also could request from one or more authorized representatives another title product to identify the owners of a property interest.

The Act requires the foreclosing governmental unit or its authorized representative to determine the address reasonably calculated to apprise those owners of a property interest of the show cause hearing and the foreclosure hearing, and to send notice of the hearings to them, to a person entitled to notice of the return of delinquent taxes, and to a person to whom a tax deed for property returned for delinquent taxes was issued. The notice must be sent by certified mail, return receipt requested, at least 30 days before the show cause hearing. The bill provides that if the foreclosing governmental unit, after conducting the required search of records, were unable to determine an address reasonably calculated to inform a person with an interest in forfeited property, or if the hearing notice were returned as undeliverable, the following would have to be considered reasonable steps to ascertain the address of a person entitled to notice of a show cause hearing and foreclosure hearing:

-- For an individual, a search of county probate court records.
-- For an individual, a search of the qualified voter file.
-- For a partnership, a search of partnership records filed with the county clerk.
-- For a business entity other than a partnership, a search of business entity records filed with the DCIS.
-- A search of a current telephone directory for the area where the property was located.
-- A letter of inquiry to the last seller of the property or an attorney for the seller, if ascertainable.

House Bill 6137 (H-1)

The Brownfield Redevelopment Financing Act permits a brownfield authority (established by a municipality) to capture property tax revenue based on increases in the assessed value of eligible property, and to use the revenue for the costs of eligible activities on eligible property. Under the bill, for property owned by or under the control of a land bank, tax increment revenues related to a brownfield plan could be used for eligible activities attributable to any eligible property owned by or under the control of the land bank.

Under the Act, for eligible activities on eligible property that was or is used for commercial, industrial, or residential purposes, is in a qualified local governmental unit, and is a facility, functionally obsolete, or blighted, the term "eligible activities" includes infrastructure improvements, demolition of structures, lead or asbestos abatement, site preparation, and relocation of public buildings or operations. The bill also would include assistance to a land bank in clearing or quieting title to and disposing of tax reverted property and related activities of the land bank.

In addition, the bill would include property owned by or under the control of a land bank in the definitions of "eligible property" and "blighted". The bill specifies that the sale, lease, or transfer of the property by a land bank after the property's inclusion in a brownfield plan would not result in the loss to the property of the status as blighted for purposes of the Act.

Under the Act, a brownfield authority must determine the captured taxable value of each parcel of eligible property that is included in a

brownfield zone. The calculation of captured taxable value is based on the amount by which the current taxable value of eligible property, including property for which specific taxes are paid in lieu of property taxes, exceeds the property's initial taxable value. The initial taxable value of tax-exempt property is zero, but property for which a specific tax is paid in lieu of property tax is not considered tax exempt. Under the bill, the definition of "specific taxes" would include tax levied under the proposed Tax Reverted Property Clean Title Act.

Proposed MCL 711.7gg (H.B. 4851)
MCL 21.144 et al. (H.B. 4853)
MCL 211.78i (H.B. 5451)
MCL 125.2652 & 125.2663 (H.B. 6137)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an unknown, but minimally positive, impact on both State and local revenues. The magnitude of the fiscal impact depends upon the success that the proposed land banks would have in both clearing title and making affected properties more marketable, as well as the degree to which affected properties actually would be sold. Many of these properties are difficult to sell due to their physical location and/or characteristics. As such, neither a State nor a local land bank likely would be able to sell a significant number of these properties and the captured revenue likely would be minimal.

While the bills would authorize the land banks to engage in a variety of activities related to real and personal property, the main focus is on tax-reverted properties. Neither the State nor local units generally receive any revenue from the tax-reverted properties that would be affected by the bills. To the extent that these properties could be sold by a land bank and the land would not otherwise be sold, or sold for as much, under the current processes for handling tax-reverted property, the bills would increase State and local tax revenue.

Tax-reverted properties generally are not sold or, equivalently, are not purchased, for one of two reasons: 1) their location or other physical characteristics make them undesirable, even for speculators, and/or 2) the title history and other legal circumstances, such as those related to the tax-reversion process, make the properties undesirable and/or uninsurable. The expenses involved in addressing the second issue can be significant and potentially difficult to recover through the current process for handling tax-reverted properties. The assumption behind the bills is that the property tax provisions would improve the ability both to pay for and to recover these expenses. Consequently, under this assumption, the bills would likely result in the sale of more tax-reverted properties, perhaps for higher prices, and would increase State and local property tax revenues. However, if the land bank incurred expenses making the property more marketable and either an insufficient number of properties were sold or the properties were sold for too little, the land bank could lose money. Some individuals who work with these properties indicated concerns that, under the new procedures adopted to handle tax-reverted properties, given the low desirability of these properties, there is a significant chance that the land bank would not be able to cover its administrative expenses.

The bills would not address the first reason deterring purchases of tax-reverted property nor would the bills affect properties that are not sold because the State or local unit does not wish to sell them. The State or a local unit might not sell tax reverted properties for a variety of reasons, most often because the governmental unit believes the property can be used for a public purpose at some point or for economic development reasons. Even when the properties are sold, the low desirability affects the purchase price. On average the State has sold 3,000 properties per year for an average of approximately $6.0 million, or about $2,000 per property. While many of these properties also suffer problems under the second issue, such as title difficulties, there is a significant chance that the sale prices would remain very low under the bills.

The bills would transfer to the State land bank, and permit it to sell, transfer, or otherwise dispose of certain State-owned properties in and around Detroit, including a portion of the property near the State Fairgrounds in Wayne County. The other State-owned properties in the bill vary significantly, many parcels are not contiguous, and the types of property include vacant land

as well as industrial, commercial, and residential properties. The value of all of these properties is unknown. An appraisal of the property near the State Fairgrounds in Wayne County placed the value of that property at approximately $6.1 million. If the property were to be sold and the specific tax subsequently levied at that price, the captured revenue would be slightly more than $200,000 per year.

The bills also would allow the State land bank to dissolve itself once its purposes, which are not defined in the bills, were completed. The State land bank could transfer any land it held to a local land bank and any funds held by the State land bank when it dissolved would revert to the State General Fund.

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