

SUBSTITUTE FOR  
HOUSE BILL NO. 4714

A bill to amend 1893 PA 206, entitled  
"The general property tax act,"  
by amending section 78k (MCL 211.78k), as added by 1999 PA 123.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 78k. (1) If a petition for foreclosure is filed under  
2 section 78h, before the date of the hearing, the foreclosing gov-  
3 ernmental unit shall file with the clerk of the circuit court  
4 proof of ~~any notice, service, or publication required under this~~  
5 ~~act~~ SERVICE OF THE NOTICE OF THE SHOW CAUSE HEARING UNDER SEC-  
6 TION 78J, PROOF OF SERVICE OF THE NOTICE OF THE FORECLOSURE HEAR-  
7 ING UNDER THIS SECTION, AND PROOF OF THE PERSONAL VISIT TO THE  
8 PROPERTY AND PUBLICATION UNDER SECTION 78I.  
9       (2) A person claiming an interest in a parcel of property  
10 set forth in the petition for foreclosure may contest the  
11 validity or correctness of the forfeited unpaid delinquent taxes,

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1 interest, penalties, and fees for 1 or more of the following  
2 reasons:

3 (a) No law authorizes the tax.

4 (b) The person appointed to decide whether a tax shall be  
5 levied under a law of this state acted without jurisdiction, or  
6 did not impose the tax in question.

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

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

11 (e) The tax was assessed fraudulently.

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

14 (3) A person claiming an interest in a parcel of property  
15 set forth in the petition for foreclosure who desires to contest  
16 that petition shall file written objections with the clerk of the  
17 circuit court and serve those objections on the foreclosing gov-  
18 ernmental unit.

19 (4) If the court determines that the owner of property  
20 subject to foreclosure is a minor heir, is incompetent, ~~or~~ is  
21 without means of support, OR IS UNDERGOING A SUBSTANTIAL FINAN-  
22 CIAL HARDSHIP, INCLUDING, BUT NOT LIMITED TO, AN OWNER SATISFYING  
23 THE STANDARDS SET FORTH IN SECTION 7U, the court may withhold  
24 that property from foreclosure for 1 year or ~~may~~ SHALL enter an  
25 order extending the redemption period as the court determines to  
26 be equitable. If the court withholds property from foreclosure  
27 under this subsection, a taxing unit's lien for taxes due is not

1 prejudiced and that property shall be included in the immediately  
2 succeeding year's tax foreclosure proceeding.

3       (5) The circuit court shall enter judgment on a petition for  
4 foreclosure filed under section 78h not more than 10 days after  
5 the March 1 immediately succeeding the date the petition for  
6 foreclosure is filed for uncontested cases or 10 days after the  
7 conclusion of the hearing for contested cases. All redemption  
8 rights to the property expire 21 days after the circuit court  
9 enters a judgment foreclosing the property as requested in the  
10 petition for foreclosure. The circuit court's judgment shall  
11 specify all of the following:

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

16       (b) That fee simple title to property foreclosed by the  
17 judgment will vest absolutely in the foreclosing governmental  
18 unit, EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C) AND (E),  
19 without any further rights of redemption, if all forfeited delin-  
20 quent taxes, interest, penalties, and fees are not paid within 21  
21 days after entry of the judgment.

22       (c) That all liens against the property, INCLUDING ANY LIEN  
23 FOR UNPAID TAXES OR SPECIAL ASSESSMENTS, except future install-  
24 ments of special assessments and liens recorded by this state or  
25 the foreclosing governmental unit pursuant to the natural  
26 resources and environmental protection act, 1994 PA 451,  
27 MCL 324.101 to 324.90106, are extinguished, if all forfeited

1 delinquent taxes, interest, penalties, and fees are not paid  
2 within 21 days after entry of the judgment.

3 (d) That, EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C)  
4 AND (E), the foreclosing governmental unit has good and market-  
5 able fee simple title to the property, if all forfeited delin-  
6 quent taxes, interest, penalties, and fees are not paid within 21  
7 days after entry of the judgment.

8 (e) That all existing recorded and unrecorded interests in  
9 that property are extinguished, except a visible or recorded  
10 easement or right-of-way, private deed restrictions,  
11 ~~restrictions~~ OR RESTRICTIONS OR OTHER GOVERNMENTAL INTERESTS  
12 imposed pursuant to the natural resources and environmental pro-  
13 tection act, 1994 PA 451, MCL 324.101 to 324.90106, ~~or other~~  
14 ~~governmental interests,~~ if all forfeited delinquent taxes,  
15 interest, penalties, and fees are not paid within 21 days after  
16 entry of the judgment.

17 (f) A finding that ~~those~~ ALL PERSONS entitled to notice  
18 and an opportunity to be heard have been provided that notice and  
19 opportunity.

20 (6) ~~Fee~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(C)  
21 AND (E), FEE simple title to property set forth in a petition for  
22 foreclosure filed under section 78h on which forfeited delinquent  
23 taxes, interest, penalties, and fees are not paid within 21 days  
24 after the entry of judgment shall vest absolutely in the fore-  
25 closing governmental unit, and the foreclosing governmental unit  
26 shall have absolute title to the property. The foreclosing  
27 governmental unit's title is not subject to any recorded or

1 unrecorded lien and shall not be stayed or held invalid except as  
2 provided in subsection (7).

3       (7) The foreclosing governmental unit or a person claiming  
4 to have a property interest under section 78i in property fore-  
5 closed under this section may appeal the circuit court's judgment  
6 foreclosing property to the court of appeals. An appeal under  
7 this subsection is limited to the record of the proceedings in  
8 the circuit court under this section and shall not be de novo.  
9 The circuit court's judgment foreclosing property shall be stayed  
10 until the court of appeals has reversed, modified, or affirmed  
11 that judgment. To appeal the circuit court's judgment foreclos-  
12 ing property, a person appealing the judgment shall pay to the  
13 county treasurer the amount determined to be due to the county  
14 treasurer under the judgment within 21 days after the circuit  
15 court's judgment is entered, together with a notice of appeal.  
16 If the circuit court's judgment FORECLOSING THE PROPERTY is  
17 affirmed on appeal, the PROPERTY SHALL NOT BE FORECLOSED AND THE  
18 amount ~~determined to be due shall be refunded to the person who~~  
19 ~~appealed the judgment~~ PAID TO THE COUNTY TREASURER PURSUANT TO  
20 THIS SUBSECTION SHALL BE APPLIED TO THE OUTSTANDING DELINQUENT  
21 TAXES, INTEREST, PENALTIES, AND FEES DUE ON THE PROPERTY AND  
22 SHALL BE CONSIDERED A REDEMPTION OF THE PROPERTY UNDER  
23 SECTION 78G. If the circuit court's judgment FORECLOSING THE  
24 PROPERTY is reversed or modified on appeal, the county treasurer  
25 shall refund the amount determined to be due to the person who  
26 appealed the judgment, if any, and retain the balance in  
27 accordance with the order of the court of appeals.

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1       (8) The foreclosing governmental unit shall record ~~either~~  
2 ~~the judgment or~~ a notice of judgment FOR EACH PARCEL OF FORE-  
3 CLOSED PROPERTY in the office of the register of deeds for the  
4 county in which the foreclosed property is located IN A FORM PRE-  
5 SCRIBED BY THE DEPARTMENT OF TREASURY.