

HOUSE BILL No. 4714

May 3, 2001, Introduced by Rep. Drolet and referred to the Committee on Local Government and Urban Policy.

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,

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, the court may withhold that property
22 from foreclosure for 1 year or may enter an order extending the
23 redemption period as the court determines to be equitable. If
24 the court withholds property from foreclosure under this subsec-
25 tion, a taxing unit's lien for taxes due is not prejudiced and
26 that property shall be included in the immediately succeeding
27 year's tax foreclosure proceeding.

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

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

14 (b) That fee simple title to property foreclosed by the
15 judgment will vest absolutely in the foreclosing governmental
16 unit, without any further rights of redemption, if all forfeited
17 delinquent taxes, interest, penalties, and fees are not paid
18 within 21 days after entry of the judgment.

19 (c) That all liens against the property, except future
20 installments of special assessments and liens recorded by this
21 state or the foreclosing governmental unit pursuant to the natu-
22 ral resources and environmental protection act, 1994 PA 451,
23 MCL 324.101 to 324.90106, are extinguished, if all forfeited
24 delinquent taxes, interest, penalties, and fees are not paid
25 within 21 days after entry of the judgment.

26 (d) That the foreclosing governmental unit has good and
27 marketable fee simple title to the property, if all forfeited

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

3 (e) That all existing recorded and unrecorded interests in
4 that property are extinguished, except a visible or recorded
5 easement or right-of-way, private deed restrictions, restrictions
6 imposed pursuant to the natural resources and environmental pro-
7 tection act, 1994 PA 451, MCL 324.101 to 324.90106, or other gov-
8 ernmental interests, if all forfeited delinquent taxes, interest,
9 penalties, and fees are not paid within 21 days after entry of
10 the judgment.

11 (f) A finding that those entitled to notice and an opportu-
12 nity to be heard have been provided that notice and opportunity.

13 (6) Fee simple title to property set forth in a petition for
14 foreclosure filed under section 78h on which forfeited delinquent
15 taxes, interest, penalties, and fees are not paid within 21 days
16 after the entry of judgment shall vest absolutely in the fore-
17 closing governmental unit, and the foreclosing governmental unit
18 shall have absolute title to the property. The foreclosing gov-
19 ernmental unit's title is not subject to any recorded or unre-
20 corded lien and shall not be stayed or held invalid except as
21 provided in subsection (7).

22 (7) The foreclosing governmental unit or a person claiming
23 to have a property interest under section 78i in property fore-
24 closed under this section may appeal the circuit court's judgment
25 foreclosing property to the court of appeals. An appeal under
26 this subsection is limited to the record of the proceedings in
27 the circuit court under this section and shall not be de novo.

1 The circuit court's judgment foreclosing property shall be stayed
2 until the court of appeals has reversed, modified, or affirmed
3 that judgment. To appeal the circuit court's judgment foreclos-
4 ing property, a person appealing the judgment shall pay to the
5 county treasurer the amount determined to be due to the county
6 treasurer under the judgment within 21 days after the circuit
7 court's judgment is entered, together with a notice of appeal.
8 If the circuit court's judgment FORECLOSING THE PROPERTY is
9 affirmed on appeal, the amount ~~determined to be due shall be~~
10 ~~refunded to the person who appealed the judgment~~ PAID TO THE
11 COUNTY TREASURER PURSUANT TO THIS SUBSECTION SHALL BE APPLIED TO
12 THE OUTSTANDING DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES
13 DUE ON THE PROPERTY. If the circuit court's judgment FORECLOSING
14 THE PROPERTY is reversed or modified on appeal, the county trea-
15 surer shall refund the amount determined to be due to the person
16 who appealed the judgment, if any, and retain the balance in
17 accordance with the order of the court of appeals.

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