Legislative Analysis

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SURPLUS FUNDS FROM SALES OF TAX REVERTED PROPERTY

Senate Bill 868 (Substitute H-1)
Sponsor: Sen. Laura M. Toy
House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

Complete to 5-5-06

A SUMMARY OF SENATE BILL 868 (H-1) AS REPORTED BY HOUSE COMMITTEE

Under the General Property Tax Act, the proceeds from the sale of a tax delinquent property by a county are deposited into a special restricted account attributable to a specific year of sales. (The account is known as the Delinquent Tax Property Sales Proceeds Account for the Year __). The use of those proceeds is restricted, generally speaking, to payments of delinquent taxes to local units and the costs to the county of the foreclosure and sale process.

Proceeds can be used only for the following purposes and in the following order of priority: the reimbursement of the Delinquent Tax Revolving Fund; costs of the sale of property for the year; costs of the foreclosure proceedings for the year; costs for the sale of property or foreclosure for any prior year; costs to maintain property before it is sold; costs for the sale of property or foreclosure in a subsequent year; costs of the defense of title actions; and other costs of administering the foreclosure and disposition of property.

Senate Bill 868 would allow, beginning in 2007, any balance remaining in a Delinquent Tax Property Sales Proceeds Account to be transferred to the county's general fund, under certain circumstances.

Specifically, a county treasurer would be required, not later than the second calendar year after foreclosure, to submit a written report to the county board of commissioners identifying any remaining balance and any contingent costs (i.e., the permitted uses of the proceeds as listed above). Then, all or a portion of any remaining balance could be transferred into the general fund of the county.

MCL 211.78 and 78m

BACKGROUND INFORMATION:

According to testimony before the House Committee on Local Government and Urban Policy, some counties have collected more in proceeds from the sale of tax delinquent property than they can use for statutorily permitted purposes. When the new tax delinquent process was put in place—with a significant role for county treasurers— its architects restricted the use of the proceeds to cover the costs associated with the new system to ensure those costs were covered. Since the experience in some counties is that the sale of tax delinquent properties exceeds the system's costs, county officials have proposed that the law permit surplus funds to be transferred to county general funds. Senate Bill 868 would create a process that would permit that transfer.

As passed by the Senate, the bill also contained a provision that allowed counties additional opportunities to opt in or opt out of the delinquent tax foreclosure process. When the new delinquent property system was put in place, counties were given the choice of administering the program themselves or having the state administer the program for them. A county had to make this choice as of December 1, 1999. A subsequent opportunity to either opt in or opt out was provided during December 2004. The Senate-passed version of Senate Bill 868 would have provided additional opportunities for counties to opt in and opt out during December 2007 and every fourth year after 2007.

This new opt-in/opt-out was supported at the meeting on 4-26-06 of the House Committee on Local Government by the Association of County Treasurers and opposed the state Department of Treasury. The substitute reported by the committee removes the new county option opportunity. It is anticipated that the issue will be the subject of a work group.

FISCAL IMPACT:

The bill would not have a significant fiscal impact on state or local government. It allows a county to transfer revenue from a restricted account to its general fund.

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