

SENATE BILL No. 809

September 15, 2009, Introduced by Senators RICHARDVILLE and McMANUS and referred to the Committee on Appropriations.

A bill to amend 2003 PA 258, entitled
"Land bank fast track act,"
by amending sections 7, 9, and 10 (MCL 124.757, 124.759, and
124.760).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) Except as an authority otherwise agrees by
2 intergovernmental agreement or otherwise, on terms and conditions,
3 and in a manner and for an amount of consideration an authority
4 considers proper, fair, and valuable, including for no monetary
5 consideration, the authority may convey, sell, transfer, exchange,
6 lease as lessor, or otherwise dispose of property or rights or
7 interests in property in which the authority holds a legal interest
8 to any public or private person for value determined by the

1 authority. If the department of ~~environmental quality~~ **NATURAL**
2 **RESOURCES** determines that conditions on a property transferred to
3 an authority under section 78m(15) of the general property tax act,
4 1893 PA 206, MCL 211.78m, represent an acute threat to public
5 health, safety, and welfare, or to the environment, the authority
6 shall not convey, sell, transfer, exchange, lease, or otherwise
7 dispose of the property until after a determination by the
8 department of ~~environmental quality~~ **NATURAL RESOURCES** that the
9 acute threat has been eliminated and that conveyance, sale,
10 transfer, exchange, lease, or other disposal of the property by the
11 authority will not interfere with any response activities by the
12 department. The transfer and use of property under this section and
13 the exercise by the authority of powers and duties under this act
14 shall be considered a necessary public purpose and for the benefit
15 of the public.

16 (2) All property held by an authority shall be inventoried and
17 classified by the authority according to title status and
18 suitability for use.

19 (3) A document, including, but not limited to, a deed,
20 evidencing the transfer under this act of 1 or more parcels of
21 property to an authority by this state or a political subdivision
22 of this state may be recorded with the register of deeds office in
23 the county in which the property is located without the payment of
24 a fee.

25 Sec. 9. (1) An authority may initiate an expedited quiet title
26 and foreclosure action under this section to quiet title to real
27 property held by the authority or interests in tax reverted

1 property held by the authority by recording with the register of
2 deeds in the county in which the property subject to expedited
3 quiet title and foreclosure is located a notice of pending
4 expedited quiet title and foreclosure action in a form prescribed
5 by the department of treasury. The notice shall include a legal
6 description of the property, the street address of the property if
7 available, the name, address, and telephone number of the
8 authority, a statement that the property is subject to expedited
9 quiet title proceedings and foreclosure under this act, and a
10 statement that any legal interests in the property may be
11 extinguished by a circuit court order vesting title to the property
12 in the authority. If a notice is recorded in error, the authority
13 may correct the error by recording a certificate of correction with
14 the register of deeds. A notice or certificate under this
15 subsection need not be notarized and may be authenticated by a
16 digital signature or other electronic means. Property is not
17 subject to an expedited quiet title and foreclosure action under
18 this section if the property was forfeited under section 78g of the
19 general property tax act, 1893 PA 206, MCL 211.78g, and remains
20 subject to foreclosure under section 78k of the general property
21 tax act, 1893 PA 206, MCL 211.78k. If an authority has reason to
22 believe that a property subject to an expedited quiet title and
23 foreclosure action under this section may be the site of
24 environmental contamination, the authority shall provide the
25 department of ~~environmental quality~~ **NATURAL RESOURCES** with any
26 information in the possession of the authority that suggests the
27 property may be the site of environmental contamination.

1 (2) After recording the notice under subsection (1), an
2 authority shall initiate a search of records identified in this
3 subsection to identify the owners of a property interest in the
4 property who are entitled to notice of the quiet title and
5 foreclosure hearing under this section. The authority may enter
6 into a contract with or may request from 1 or more authorized
7 representatives a title search or other title product to identify
8 the owners of a property interest in the property as required under
9 this subsection or to perform the other functions set forth in this
10 section required for the quieting of title to property under this
11 act. The owner of a property interest is entitled to notice under
12 this section if that owner's interest was identifiable by reference
13 to any of the following sources before the date that the authority
14 records the notice under subsection (1):

15 (a) Land title records in the office of the county register of
16 deeds.

17 (b) Tax records in the office of the county treasurer.

18 (c) Tax records in the office of the local assessor.

19 (d) Tax records in the office of the local treasurer.

20 (3) An authority may file a single petition with the clerk of
21 the circuit court in which property subject to expedited
22 foreclosure under this section is located listing all property
23 subject to expedited foreclosure by the authority and for which the
24 authority seeks to quiet title. If available to the authority, the
25 list of properties shall include a legal description of, a tax
26 parcel identification number for, and the street address of each
27 parcel of property. The petition shall seek a judgment in favor of

1 the authority against each property listed and shall include a
2 date, within 90 days, on which the authority requests a hearing on
3 the petition. The petition shall request that a judgment be entered
4 vesting absolute title in the authority, without right of
5 redemption for each parcel of property listed, as provided in this
6 section. Prior to the entry of judgment under this section, the
7 authority may request the court to remove property erroneously
8 included in the petition, or any tax delinquent properties redeemed
9 prior to the hearing.

10 (4) The clerk of the circuit court in which a petition is
11 filed under subsection (3) shall immediately set the date, time,
12 and place for a hearing on the petition for foreclosure. The date
13 shall be set by the clerk and shall not be more than 10 days after
14 the date requested by the authority in the petition. In no event
15 may the clerk schedule the hearing later than 90 days after the
16 filing of a petition by the authority under subsection (3).

17 (5) After completing the records search under subsection (2),
18 an authority shall determine the address or addresses reasonably
19 calculated to inform those owners of a property interest in
20 property subject to expedited foreclosure under this section of the
21 pendency of the quiet title and foreclosure hearing under
22 subsection (11). If, after conducting the title search, the
23 authority is unable to determine an address reasonably calculated
24 to inform persons with a property interest in property subject to
25 expedited tax foreclosure, or if the authority discovers a
26 deficiency in notice under subsection (10), the following shall be
27 considered reasonable steps by the authority to ascertain the

1 addresses of persons with a property interest in the property
2 subject to expedited foreclosure or to ascertain an address
3 necessary to correct a deficiency in notice under subsection (10):

4 (a) For an individual, a search of records of the county
5 probate court for the county in which the property is located.

6 (b) For an individual, a search of the qualified voter file
7 established under section 509o of the Michigan election law, 1954
8 PA 116, MCL 168.509o, which is authorized by this subdivision.

9 (c) For a partnership, a search of partnership records filed
10 with the county clerk.

11 (d) For a business entity other than a partnership, a search
12 of business entity records filed with the corporation division of
13 the department.

14 (6) Not less than 30 days before the quiet title and
15 foreclosure hearing under subsection (11), the authority shall send
16 notice by certified mail, return receipt requested, of the hearing
17 to the persons identified under subsection (5) with a property
18 interest in property subject to expedited foreclosure. The
19 authority shall also send a notice via regular mail addressed to
20 the "Occupant" for each property subject to expedited foreclosure
21 if an address for the property is ascertainable.

22 (7) Not less than 30 days before the quiet title and
23 foreclosure hearing under subsection (11), the authority or its
24 authorized representative or authorized agent shall visit each
25 parcel of property subject to expedited foreclosure and post
26 conspicuously on the property notice of the hearing. In addition to
27 the requirements of subsection (8), the notice shall also include

1 the following statement: "THIS PROPERTY HAS BEEN TRANSFERRED TO THE
2 _____ LAND BANK FAST TRACK AUTHORITY AND IS SUBJECT
3 TO AN EXPEDITED QUIET TITLE AND FORECLOSURE ACTION. PERSONS WITH
4 INFORMATION REGARDING THE PRIOR OWNER OF THE PROPERTY ARE REQUESTED
5 TO CONTACT THE LAND BANK FAST TRACK AUTHORITY AT
6 _____."

7 (8) The notice required under subsections (6) and (7) shall
8 include:

9 (a) The date on which the authority recorded under subsection
10 (1) notice of the pending expedited quiet title and foreclosure
11 action.

12 (b) A statement that a person with a property interest in the
13 property may lose his or her interest, if any, as a result of the
14 quiet title and foreclosure hearing under subsection (11).

15 (c) A legal description, parcel number of the property, and
16 the street address of the property, if available.

17 (d) The person to whom the notice is addressed.

18 (e) The date and time of the hearing on the petition for
19 foreclosure under subsection (11) and a statement that the judgment
20 of the court may result in title to the property vesting in the
21 authority.

22 (f) An explanation of any rights of redemption and notice that
23 the judgment of the court may extinguish any ownership interest in
24 or right to redeem the property.

25 (g) The name, address, and telephone number of the authority.

26 (h) A statement that persons with information regarding the
27 owner or prior owner of any of the properties are requested to

1 contact the authority.

2 (9) If the authority is unable to ascertain the address
3 reasonably calculated to inform the owners of a property interest
4 entitled to notice under this section, or is unable to provide
5 notice under subsection (6) or (7), the authority shall provide
6 notice by publication. Prior to the hearing, a notice shall be
7 published for 3 successive weeks, once each week, in a newspaper
8 published and circulated in the county in which the property is
9 located. If no paper is published in that county, publication shall
10 be made in a newspaper published and circulated in an adjoining
11 county. This publication shall substitute for notice under
12 subsection (6) or (7). The published notice shall include all of
13 the following:

14 (a) A legal description, parcel number of the property, and
15 the street address of the property, if available.

16 (b) The name of any person not notified under subsection (6)
17 or (7) that the authority reasonably believes may be entitled to
18 notice under this section of the quiet title and foreclosure
19 hearing under subsection (11).

20 (c) A statement that a person with a property interest in the
21 property may lose his or her interest, if any, as a result of the
22 foreclosure proceeding under subsection (11).

23 (d) The date and time of the hearing on the petition for
24 foreclosure under subsection (11).

25 (e) A statement that the judgment of the court may result in
26 title to the property vesting in the authority.

27 (f) An explanation of any rights of redemption and notice that

1 judgment of the court may extinguish any ownership interest in or
2 right to redeem the property.

3 (g) The name, address, and telephone number of the authority.

4 (h) A statement that persons with information regarding the
5 owner or prior owner of any of the properties are requested to
6 contact the authority.

7 (10) If prior to the quiet title and foreclosure hearing under
8 subsection (11) the authority discovers any deficiency in the
9 provision of notice under this section, the authority shall take
10 reasonable steps in good faith to correct the deficiency before the
11 hearing. The provisions of this section relating to notice of the
12 quiet title and foreclosure hearing are exclusive and exhaustive.
13 Other requirements relating to notice and proof of service under
14 other law, rule, or other legal requirement are not applicable to
15 notice or proof of service under this section.

16 (11) If a petition for expedited quiet title and foreclosure
17 is filed under subsection (3), before the hearing, the authority
18 shall file with the clerk of the circuit court proof of notice by
19 certified mail under subsection (6), proof of notice by posting on
20 the property under subsection (7), and proof of notice by
21 publication, if applicable. A person claiming an interest in a
22 parcel of property set forth in the petition for foreclosure who
23 desires to contest that petition shall file written objections with
24 the clerk of the circuit court and serve those objections on the
25 authority before the date of the hearing. The circuit court may
26 appoint and utilize as the court considers necessary a special
27 master for assistance with the resolution of any objections to the

1 foreclosure or questions regarding the title to property subject to
2 foreclosure. If the court withholds property from foreclosure, an
3 authority's ability to include the property in a subsequent
4 petition for expedited quiet title and foreclosure is not
5 prejudiced. No injunction shall issue to stay an expedited quiet
6 title and foreclosure action under this section. The circuit court
7 shall enter judgment on a petition to quiet title and foreclosure
8 filed under subsection (3) not more than 10 days after the
9 conclusion of the hearing or contested case, and the judgment shall
10 be effective 10 days after the conclusion of the hearing or
11 contested case. The circuit court's judgment shall specify all of
12 the following:

13 (a) The legal description and, if known, the street address of
14 the property foreclosed.

15 (b) That fee simple title to property foreclosed by the
16 judgment is vested absolutely in the authority, except as otherwise
17 provided in subdivisions (c) and (e), without any further rights of
18 redemption.

19 (c) That all liens against the property, including any lien
20 for unpaid taxes or special assessments, except future installments
21 of special assessments and liens recorded by this state or the
22 authority under the natural resources and environmental protection
23 act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.

24 (d) That, except as otherwise provided in subdivisions (c) and
25 (e), the authority has good and marketable fee simple title to the
26 property.

27 (e) That all existing recorded and unrecorded interests in

1 that property are extinguished, except a visible or recorded
2 easement or right-of-way, private deed restrictions, plat
3 restrictions, or restrictions or other governmental interests
4 imposed under the natural resources and environmental protection
5 act, 1994 PA 451, MCL 324.101 to 324.90106.

6 (f) A finding that all persons entitled to notice and an
7 opportunity to be heard have been provided that notice and
8 opportunity. A person shall be deemed to have been provided notice
9 and an opportunity to be heard if the authority followed the
10 procedures for provision of notice by mail, for visits to property
11 subject to expedited quiet title and foreclosure, and for
12 publication under this section, or if 1 or more of the following
13 apply:

14 (i) The person had constructive notice of the hearing by
15 acquiring an interest in the property after the date of the
16 recording under subsection (1) of the notice of pending expedited
17 quiet title and foreclosure action.

18 (ii) The person appeared at the hearing under this subsection
19 or submitted written objections to the clerk of the circuit court
20 under this subsection prior to the hearing.

21 (iii) Prior to the hearing under this subsection, the person had
22 actual notice of the hearing.

23 (12) Except as otherwise provided in subsection (11)(c) and
24 (e), fee simple title to property set forth in a petition for
25 foreclosure filed under subsection (3) shall vest absolutely in the
26 authority upon the effective date of the judgment by the circuit
27 court and the authority shall have absolute title to the property.

1 The authority's title is not subject to any recorded or unrecorded
2 lien, except as provided in subsection (11) and shall not be stayed
3 or held invalid except as provided in subsection (13). A judgment
4 entered under this section is a final order with respect to the
5 property affected by the judgment and shall not be modified,
6 stayed, or held invalid after the effective date of the judgment,
7 except as provided in subsection (14).

8 (13) An authority or a person claiming to have a property
9 interest under subsection (2) in property foreclosed under this
10 section may within 21 days of the effective date of the judgment
11 under subsection (12) appeal the circuit court's order or the
12 circuit court's judgment foreclosing property to the court of
13 appeals. An appeal under this subsection is limited to the record
14 of the proceedings in the circuit court under this section. The
15 circuit court's judgment foreclosing property shall be stayed until
16 the court of appeals has reversed, modified, or affirmed that
17 judgment. If an appeal under this subsection stays the circuit
18 court's judgment foreclosing property, the circuit court's judgment
19 is stayed only as to the property that is the subject of that
20 appeal and the circuit court's judgment foreclosing other property
21 that is not the subject of that appeal is not stayed. To appeal the
22 circuit court's judgment foreclosing property, a person appealing
23 the judgment shall pay to the authority any taxes, interest,
24 penalties, and fees due on the property and provide notice of the
25 appeal to the authority within 21 days after the circuit court's
26 judgment is effective. If the circuit court's judgment foreclosing
27 the property is affirmed on appeal, the amount determined to be due

1 shall be refunded to the person who appealed the judgment. If the
2 circuit court's judgment foreclosing the property is reversed or
3 modified on appeal, the authority shall refund the amount
4 determined to be due to the person who appealed the judgment, if
5 any, and forward the balance to the appropriate taxing
6 jurisdictions in accordance with the order of the court of appeals.

7 (14) The authority shall record a notice of judgment for each
8 parcel of foreclosed property in the office of the register of
9 deeds for the county in which the foreclosed property is located in
10 a form prescribed by the department of treasury. If an authority
11 records a notice of judgment in error, the authority may
12 subsequently record a certificate of correction. A notice or
13 certificate under this subsection need not be notarized and may be
14 authenticated by a digital signature or other electronic means.
15 After the entry of a judgment foreclosing the property under this
16 section, if the property has not been transferred by the authority,
17 the authority may cancel the foreclosure by recording with the
18 register of deeds of the county in which the property is located a
19 certificate of error in a form prescribed by the department of
20 treasury, if the authority discovers any of the following:

21 (a) The description of the property used in the expedited
22 quiet title and foreclosure proceeding was so indefinite or
23 erroneous that the foreclosure of the property was void.

24 (b) An owner of an interest in the property entitled to notice
25 of the expedited quiet title and proceedings against the property
26 under this section was not provided notice sufficient to satisfy
27 the minimum due process requirements of the **STATE** constitution of

1 ~~this state~~ 1963 and the constitution of the United States.

2 (c) A judgment of foreclosure was entered under this section
3 in violation of an order issued by a United States bankruptcy
4 court.

5 (15) If a judgment of foreclosure is entered under subsection
6 (12), and all existing recorded and unrecorded interests in a
7 parcel of property are extinguished as provided in subsection (12),
8 the owner of any extinguished recorded or unrecorded interest in
9 that property who claims that he or she did not receive notice of
10 the expedited quiet title and foreclosure action shall not bring an
11 action for possession of the property against any subsequent owner,
12 but may only bring an action to recover monetary damages as
13 provided in this subsection. The court of claims has original and
14 exclusive jurisdiction in any action to recover monetary damages
15 under this subsection. An action to recover monetary damages under
16 this subsection shall not be brought more than 2 years after a
17 judgment for foreclosure is entered under subsection (12). Any
18 monetary damages recoverable under this subsection shall be
19 determined as of the date a judgment for foreclosure is entered
20 under subsection (12) and shall not exceed the fair market value of
21 the interest in the property held by the person bringing the action
22 under this section on that date, less any taxes, interest,
23 penalties, and fees owed on the property as of that date. The right
24 to sue for monetary damages under this subsection shall not be
25 transferable except by testate or intestate succession.

26 (16) The owner of a property interest with notice of the quiet
27 title and foreclosure hearing under subsection (11) may not assert

1 any of the following:

2 (a) That notice to the owner was insufficient or inadequate in
3 any way because some other owner of a property interest in the
4 property was not notified.

5 (b) That any right to redeem tax reverted property was
6 extended in any way because some other person was not notified.

7 (17) A person holding or formerly holding an interest in tax
8 reverted property subject to expedited foreclosure under this
9 section is barred from questioning the validity of the expedited
10 foreclosure under this section if 1 or more of the following apply:

11 (a) Prior to the transfer of the property to the authority,
12 the property was deeded to this state under **FORMER** section 67a of
13 the general property tax act, 1893 PA 206, ~~MCL 211.67a~~, and the
14 person or the person's predecessor in title was notified of a
15 hearing regarding the deeding of the property as required by
16 section 131e of the general property tax act, 1893 PA 206, MCL
17 211.131e.

18 (b) Prior to the transfer of the property to the authority,
19 title to the property vested in a foreclosing governmental unit
20 following a circuit court hearing under section 78k of the general
21 property tax act, 1893 PA 206, MCL 211.78k, and the person or the
22 person's predecessor in title was notified of the hearing under
23 section 78i of the general property tax act, 1893 PA 206, MCL
24 211.78i.

25 (18) The failure of an authority to comply with any provision
26 of this section shall not invalidate any proceeding under this
27 section if a person with a property interest in property subject to

1 foreclosure was accorded the minimum due process required under the
2 state constitution of 1963 and the constitution of the United
3 States.

4 (19) It is the intent of the legislature that the provisions
5 of this section relating to the expedited quiet title and
6 foreclosure of property by an authority satisfy the minimum
7 requirements of due process required under the constitution of this
8 state and the constitution of the United States but that the
9 provisions do not create new rights beyond those required under the
10 state constitution of 1963 or the constitution of the United
11 States. The failure of an authority, this state, a political
12 subdivision of this state, or a local unit of government to follow
13 a requirement of this section relating to the expedited quiet title
14 and foreclosure of property held by an authority shall not be
15 construed to create a claim or cause of action against an
16 authority, this state, a political subdivision of this state, or a
17 local unit of government unless the minimum requirements of due
18 process accorded under the state constitution of 1963 or the
19 constitution of the United States are violated.

20 (20) As used in this section, "authorized representative"
21 includes 1 or more of the following:

22 (a) A title insurance company or agent licensed to conduct
23 business in this state.

24 (b) An attorney licensed to practice law in this state.

25 (c) A person accredited in land title search procedures by a
26 nationally recognized organization in the field of land title
27 searching.

1 (d) A person with demonstrated experience in the field of
2 searching land title records, as determined by the authority.

3 Sec. 10. (1) If an authority has reason to believe that
4 property held by the authority may be the site of environmental
5 contamination, the authority shall provide the department of
6 ~~environmental quality~~ **NATURAL RESOURCES** with any information in the
7 possession of the authority that suggests that the property may be
8 the site of environmental contamination.

9 (2) If property held by an authority is a facility as defined
10 under section 20101(1)(o) of the natural resources and
11 environmental protection act, 1994 PA 451, MCL 324.20101, prior to
12 the sale or transfer of the property under this section, the
13 property is subject to all of the following:

14 (a) Upon reasonable written notice from the department of
15 ~~environmental quality~~ **NATURAL RESOURCES**, the authority shall
16 provide access to the department of ~~environmental quality~~ **NATURAL**
17 **RESOURCES**, its employees, its contractors, and any other person
18 expressly authorized by the department of ~~environmental quality~~
19 **NATURAL RESOURCES** to conduct response activities at the property.
20 Reasonable written notice under this subdivision may include, but
21 is not limited to, notice by electronic mail or facsimile, if the
22 authority consents to notice by electronic mail or facsimile prior
23 to provision of notice by the department of ~~environmental quality~~
24 **NATURAL RESOURCES**.

25 (b) If requested by the department of ~~environmental quality~~
26 **NATURAL RESOURCES** to protect public health, safety, and welfare or
27 the environment, the authority shall grant an easement for access

1 to conduct response activities on the property as authorized under
2 ~~chapter 7~~ **PART 201** of the natural resources and environmental
3 protection act, 1994 PA 451, MCL 324.20101 to ~~324.20302~~ **324.20142**.

4 (c) If requested by the department of ~~environmental quality~~
5 **NATURAL RESOURCES** to protect public health, safety, and welfare or
6 the environment, the authority shall place and record deed
7 restrictions on the property as authorized under ~~chapter 7~~ **PART 201**
8 of the natural resources and environmental protection act, 1994 PA
9 451, MCL 324.20101 to ~~324.20302~~ **324.20142**.

10 (d) The department of ~~environmental quality~~ **NATURAL RESOURCES**
11 may place an environmental lien on the property as authorized under
12 section 20138 of the natural resources and environmental protection
13 act, 1994 PA 451, MCL 324.20138.

14 (3) For purposes of part 201 of the natural resources and
15 environmental protection act, 1994 PA 451, MCL 324.20101 to
16 324.20142, an authority shall be considered a local unit of
17 government. Except as provided under parts 111, 115, and 315 of the
18 natural resources and environmental protection act, 1994 PA 451,
19 MCL 324.11101 to 324.11153, 324.11501 to 324.11550, and 324.31501
20 to 324.31529, the acquisition or control of property through tax
21 delinquent forfeiture, foreclosure, or sale, abandonment, court
22 order, circumstances in which the authority has acquired title or
23 control of the property under this act, or by a transfer of the
24 property to the authority by this state, an agency or department of
25 this state, or any local unit of government of this state shall not
26 subject the authority to liability under the natural resources and
27 environmental protection act, 1994 PA 451, MCL 324.101 to

1 324.90106, unless the authority is responsible for an activity
2 causing a release on the property or other activity giving rise to
3 liability under the natural resources and environmental protection
4 act, 1994 PA 451, MCL 324.101 to 324.90106. This subsection shall
5 not be considered to restrict or diminish any protection from
6 liability that is otherwise available to the authority under the
7 natural resources and environmental protection act, 1994 PA 451,
8 MCL 324.101 to 324.90106.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No. 807

11 of the 95th Legislature is enacted into law.