

HOUSE BILL No. 5264

August 19, 2009, Introduced by Reps. Ball, Byrnes, Jackson, Johnson, Stanley, Switalski, Hansen, Leland, Bettie Scott, Rocca, Robert Jones, Liss, Polidori, Segal, Durhal, Haugh, Coulouris, Melton, Tlaib, Dean, Meadows, Gonzales, Lipton, Geiss and Nathan and referred to the Committee on Urban Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78i (MCL 211.78i), as amended by 2006 PA 611.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78i. (1) Not later than May 1 immediately succeeding the
2 forfeiture of property to the county treasurer under section 78g,
3 the foreclosing governmental unit shall initiate a search of
4 records identified in subsection (6) to identify the owners of a
5 property interest in the property who are entitled to notice under
6 this section of the show cause hearing under section 78j and the
7 foreclosure hearing under section 78k. The foreclosing governmental

1 unit may enter into a contract with 1 or more authorized
2 representatives to perform a title search or may request from 1 or
3 more authorized representatives another title search product to
4 identify the owners of a property interest in the property as
5 required under this subsection or to perform other functions
6 required for the collection of delinquent taxes under this act.

7 (2) After conducting the search of records under subsection
8 (1), the foreclosing governmental unit or its authorized
9 representative shall determine the address reasonably calculated to
10 apprise those owners of a property interest of the show cause
11 hearing under section 78j and the foreclosure hearing under section
12 78k and shall send notice of the show cause hearing under section
13 78j and the foreclosure hearing under section 78k to those owners,
14 and to a person entitled to notice of the return of delinquent
15 taxes under section 78a(4), by certified mail, return receipt
16 requested, not less than 30 days before the show cause hearing. **THE**
17 **FORECLOSING GOVERNMENTAL UNIT OR ITS AUTHORIZED REPRESENTATIVE**
18 **SHALL ALSO SEND NOTICE OF THE SHOW CAUSE HEARING UNDER SECTION 78J**
19 **AND THE FORECLOSURE HEARING UNDER SECTION 78K BY FIRST-CLASS MAIL**
20 **TO THOSE OWNERS OF THE PROPERTY IDENTIFIED UNDER SUBSECTION (1), TO**
21 **A PERSON ENTITLED TO NOTICE OF THE RETURN OF DELINQUENT TAXES UNDER**
22 **SECTION 78A(4), AND TO THE OCCUPANT, IF ANY, AT THE ADDRESS FOR THE**
23 **PROPERTY LISTED IN THE TAX ROLLS OR ASCERTAINED DURING THE PERSONAL**
24 **VISIT TO THE PROPERTY UNDER SECTION 78I, IF THE ADDRESS IS EVIDENT.**
25 If after conducting the search of records under subsection (1) the
26 foreclosing governmental unit is unable to determine an address
27 reasonably calculated to inform a person with an interest in a

1 forfeited property, or if the foreclosing governmental unit
2 discovers a deficiency in notice under subsection (4), the
3 following shall be considered reasonable steps by the foreclosing
4 governmental unit or its authorized representative to ascertain the
5 address of a person entitled to notice under this section or to
6 ascertain an address necessary to correct the deficiency in notice
7 under subsection (4):

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

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

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

15 (d) For a business entity other than a partnership, a search
16 of business entity records filed with the department of labor and
17 economic growth.

18 (3) The foreclosing governmental unit or its authorized
19 representative or authorized agent shall make a personal visit to
20 each parcel of property forfeited to the county treasurer under
21 section 78g to ascertain whether or not the property is occupied.
22 If the property appears to be occupied, the foreclosing
23 governmental unit or its authorized representative shall do all of
24 the following:

25 (a) Attempt to personally serve upon a person occupying the
26 property notice of the show cause hearing under section 78j and the
27 foreclosure hearing under section 78k.

1 (b) If a person occupying the property is personally served,
2 orally inform the occupant that the property will be foreclosed and
3 the occupants will be required to vacate unless all forfeited
4 unpaid delinquent taxes, interest, penalties, and fees are paid, of
5 the time within which all forfeited unpaid delinquent taxes,
6 interest, penalties, and fees must be paid, and of agencies or
7 other resources that may be available to assist the owner to avoid
8 loss of the property.

9 (c) If the occupant appears to lack the ability to understand
10 the advice given, notify the department of human services or
11 provide the occupant with the names and telephone numbers of the
12 agencies that may be able to assist the occupant.

13 (d) If the foreclosing governmental unit or its authorized
14 representative is not able to personally meet with the occupant,
15 the foreclosing governmental unit or its authorized representative
16 shall place the notice in a conspicuous manner on the property and
17 shall also place in a conspicuous manner on the property a notice
18 that explains, in plain English, that the property will be
19 foreclosed unless forfeited unpaid delinquent taxes, interest,
20 penalties, and fees are paid, the time within which forfeited
21 unpaid delinquent taxes, interest, penalties, and fees must be
22 paid, and the names, addresses, and telephone numbers of agencies
23 or other resources that may be available to assist the occupant to
24 avoid loss of the property. If this state is the foreclosing
25 governmental unit within a county, the department of treasury shall
26 perform the personal visit to each parcel of property under this
27 subsection on behalf of this state.

1 (4) If the foreclosing governmental unit or its authorized
2 representative discovers any deficiency in the provision of notice,
3 the foreclosing governmental unit shall take reasonable steps in
4 good faith to correct that deficiency not later than 30 days before
5 the show cause hearing under section 78j, if possible.

6 (5) If the foreclosing governmental unit or its authorized
7 representative is unable to ascertain the address reasonably
8 calculated to apprise the owners of a property interest entitled to
9 notice under this section, or is unable to notify the owner of a
10 property interest under subsection (2), the notice shall be made by
11 publication. A notice shall be published for 3 successive weeks,
12 once each week, in a newspaper published and circulated in the
13 county in which the property is located, if there is one. If no
14 paper is published in that county, publication shall be made in a
15 newspaper published and circulated in an adjoining county. This
16 publication shall be instead of notice under subsection (2).

17 (6) The owner of a property interest is entitled to notice
18 under this section of the show cause hearing under section 78j and
19 the foreclosure hearing under section 78k if that owner's interest
20 was identifiable by reference to any of the following sources
21 before the date that the county treasurer records the certificate
22 required under section 78g(2):

23 (a) Land title records in the office of the county register of
24 deeds.

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

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

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

1 (7) The notice required under subsections (2) and (3) shall
2 include all of the following:

3 (a) The date on which the property was forfeited to the county
4 treasurer.

5 (b) A statement that the person notified may lose his or her
6 interest in the property as a result of the foreclosure proceeding
7 under section 78k.

8 (c) A legal description or parcel number of the property and
9 the street address of the property, if available.

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

11 (e) The total taxes, interest, penalties, and fees due on the
12 property.

13 (f) The date and time of the show cause hearing under section
14 78j.

15 (g) The date and time of the hearing on the petition for
16 foreclosure under section 78k, and a statement that unless the
17 forfeited unpaid delinquent taxes, interest, penalties, and fees
18 are paid on or before the March 31 immediately succeeding the entry
19 of a judgment foreclosing the property under section 78k, or in a
20 contested case within 21 days of the entry of a judgment
21 foreclosing the property under section 78k, the title to the
22 property shall vest absolutely in the foreclosing governmental unit
23 and that all existing interests in oil or gas in that property
24 shall be extinguished except the following:

25 (i) The interests of a lessee or an assignee of an interest of
26 a lessee under an oil or gas lease in effect as to that property or
27 any part of that property if the lease was recorded in the office

1 of the register of deeds in the county in which the property is
2 located before the date of filing the petition for foreclosure
3 under section 78h.

4 (ii) Interests preserved as provided in section 1(3) of 1963 PA
5 42, MCL 554.291.

6 (h) An explanation of the person's rights of redemption and
7 notice that the rights of redemption will expire on the March 31
8 immediately succeeding the entry of a judgment foreclosing the
9 property under section 78k, or in a contested case 21 days after
10 the entry of a judgment foreclosing the property under section 78k.

11 (8) The published notice required under subsection (5) shall
12 include all of the following:

13 (a) A legal description or parcel number of each property.

14 (b) The street address of each property, if available.

15 (c) The name of any person or entity entitled to notice under
16 this section who has not been notified under subsection (2) or (3).

17 (d) The date and time of the show cause hearing under section
18 78j.

19 (e) The date and time of the hearing on the petition for
20 foreclosure under section 78k.

21 (f) A statement that unless all forfeited unpaid delinquent
22 taxes, interest, penalties, and fees are paid on or before the
23 March 31 immediately succeeding the entry of a judgment foreclosing
24 the property under section 78k, or in a contested case within 21
25 days of the entry of a judgment foreclosing the property under
26 section 78k, the title to the property shall vest absolutely in the
27 foreclosing governmental unit and that all existing interests in

1 oil or gas in that property shall be extinguished except the
2 following:

3 (i) The interests of a lessee or an assignee of an interest of
4 a lessee under an oil or gas lease in effect as to that property or
5 any part of that property if the lease was recorded in the office
6 of the register of deeds in the county in which the property is
7 located before the date of filing the petition for foreclosure
8 under section 78h.

9 (ii) Interests preserved as provided in section 1(3) of 1963 PA
10 42, MCL 554.291.

11 (g) A statement that a person with an interest in the property
12 may lose his or her interest in the property as a result of the
13 foreclosure proceeding under section 78k and that all existing
14 interests in oil or gas in that property shall be extinguished
15 except the following:

16 (i) The interests of a lessee or an assignee of an interest of
17 a lessee under an oil or gas lease in effect as to that property or
18 any part of that property if the lease was recorded in the office
19 of the register of deeds in the county in which the property is
20 located before the date of filing the petition for foreclosure
21 under section 78h.

22 (ii) Interests preserved as provided in section 1(3) of 1963 PA
23 42, MCL 554.291.

24 (9) The owner of a property interest who has been properly
25 served with a notice of the show cause hearing under section 78j
26 and the foreclosure hearing under section 78k and who failed to
27 redeem the property as provided under this act shall not assert any

1 of the following:

2 (a) That notice was insufficient or inadequate on the grounds
3 that some other owner of a property interest was not also served.

4 (b) That the redemption period provided under this act was
5 extended in any way on the grounds that some other owner of a
6 property interest was not also served.

7 (10) The failure of the foreclosing governmental unit to
8 comply with any provision of this section shall not invalidate any
9 proceeding under this act if the owner of a property interest or a
10 person to whom a tax deed was issued is accorded the minimum due
11 process required under the state constitution of 1963 and the
12 constitution of the United States.

13 (11) As used in this section, "authorized representative"
14 includes all of the following:

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

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

18 (c) A person accredited in land title search procedures by a
19 nationally recognized organization in the field of land title
20 searching.

21 (d) A person with demonstrated experience searching land title
22 records, as determined by the foreclosing governmental unit.

23 (12) The provisions of this section relating to notice of the
24 show cause hearing under section 78j and the foreclosure hearing
25 under section 78k are exclusive and exhaustive. Other requirements
26 relating to notice or proof of service under other law, rule, or
27 legal requirement are not applicable to notice and proof of service

1 under this section.