

Legislative Analysis



REVISE NOTICE REQUIREMENTS FOR DELINQUENT PROPERTY TAXES

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House Bill 4039 reported from committee as H-2
Sponsor: Rep. Jon Bumstead
Committee: Local Government
Complete to 4-22-15

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 190 of 2015)

BRIEF SUMMARY: The bill would allow notices concerning delinquent property taxes to be published for two weeks (instead of three) by county treasurers in a "notice publication" (including newspapers and shopping guides), and would also allow those published notices to be prepared as inserts. In addition to publishing notices, foreclosing governmental units could also post the tax forfeiture notices on their websites.

FISCAL IMPACT: As written, the bill would have no impact on state revenues or expenditures. To the extent that the options available to the county treasurer under the bill are more cost effective than current options, local government expenditures could possibly decline by an unknown, but likely small, amount.

THE APPARENT PROBLEM:

Numerous state statutes require state and local governments and governmental agencies to publish notices and other information in a newspaper. Local governments incur considerable expense—often spending thousands of dollars each year—to comply with the requirement to publish.

Public notices include, for example, government meeting minutes, bid proposals, election notices, and public hearing announcements. In addition, publication of legal notices, such as notice of bankruptcy or foreclosure, also may be required.

For example, under Michigan's General Property Tax Law, county treasurers must publish three notices in print newspapers when property owners fail to pay their property taxes and their property is subject to tax forfeiture, a process that entails eventual sale of the property by county officials if the taxes remain unpaid for several years. (In 13 Michigan counties, the tax forfeiture process is administered by the State of Michigan, at the counties' request.)

Customarily, a statute requires publication in a newspaper of general circulation in the applicable city, township, or county, or, if there is none, then in a newspaper located in an adjoining jurisdiction.

For the purpose of these notice requirements, the Michigan Compiled Laws contains a definition of the term "newspaper," in which the term is defined to mean a published newspaper that meets specific content criteria. See *Background Information*, below.

Legislation has been introduced that would allow county treasurers to publish two (instead of three) notices of the properties within their jurisdictions that are subject to tax forfeiture in print media. The legislation also would allow the list of properties to be printed as an insert. Finally, the legislation would require that tax forfeiture notices first be published in print publications, but then also allow county treasurers to post their tax forfeiture notices on-line.

THE CONTENT OF THE BILL:

House Bill 4039 (H-2) would amend the General Property Tax Act to allow two notices (instead of three) concerning delinquent property taxes to be published by county treasurers in a "notice publication" (including newspapers and shopping guides), and also to be posted on a website, including one maintained by the foreclosing governmental unit. The term "notice publication" would be new to the act, replaces the term "newspaper," and is defined in the bill. A more detailed description follows.

Currently the law requires that delinquent property tax notices be mailed to the property owner and also be published in a local newspaper so the public can learn what properties are subject to forfeiture for non-payment of taxes. House Bill 4039 (H-2) would retain the requirement that property owners be notified by first class mail when their property taxes are in arrears.

Further, under current law, if the officials of a governmental unit who are foreclosing a property are unable to ascertain the owner's address, then notice must be made by publication and published for three consecutive weeks. House Bill 4039 (H-2) would require notice for two weeks (instead of three), and also allow a notice to be inserted, once each week, in a "notice publication" circulated in the county where the property is located.

Under the bill, if a "notice publication" was not circulated in the county in which the property was located, then the foreclosing governmental unit would be required to insert the notice in a "notice publication" in an adjoining county.

The definition of the term "notice publication" under the bill *"includes a newspaper as that term is defined under Section 1 of Public Act 247 of 1963 (MCL 691.1051), a legal newspaper, or other print publication for the dissemination of news, editorial content, and other information, including, but not limited to, a print publication, to which all of the following apply:*

- (i) The print publication is published and distributed in not less than weekly intervals;*
- (ii) Not less than 50 percent of the words in the print publication are in the English language;*
- (iii) The print publication has a bona fide list of subscribers in one or more counties in this state or is available to the public at newsstands or other retail locations in one or more counties in this state, or both;*
- (iv) The print publication accepts and publishes official and other notices;*

- (v) *The print publication annually averages not less than 25 percent news and editorial content per issue. As used in this subparagraph, "news and editorial content" means any printed matter other than advertising, regularly contains information of a public character or of interest or value to residents, property owners, or the general public; and*
- (vi) *The print publication has been published or distributed for not less than one year."*

Further, in addition to providing notice in a "notice publication," the bill would allow the foreclosing governmental unit to post the notice for at least 14 days on a website, including, but not limited to, a website maintained by the foreclosing governmental unit.

Finally, the bill would go into effect 90 days after it was enacted into law.

MCL 211.78f & 211.78s

BACKGROUND INFORMATION:

Currently, Public Act 247 of 1963, concerning the publication of notices in newspapers, defines "newspaper" as follows:

691.1051 Newspaper; definition; publication of notices.

Sec. 1.

The term "newspaper" as used in any statute of this state, except the revised judicature act of 1961 relative to the publication of a notice of any kind, shall be construed to refer only to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which

(a) has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years, and

(b) has been published and of general circulation at not less than weekly intervals without interruption for at least 1 year in the county, township, city, village or district where the notice is required to be published. A newspaper shall not lose eligibility for interruption of continuous publication because of acts of God, labor disputes or because of military service of the publisher for a period of not to exceed 2 years and provided publication is resumed within 6 months following the termination of such military service,

(c) annually averages at least 25% news and editorial content per issue. The term "news and editorial content" for the purpose of this section means any printed matter other than advertising.

If no newspaper so qualifies in the county where the court is situated, the term "newspaper" shall include any newspaper in an adjoining county which by this act is qualified to publish notice of actions commenced therein.

History: 1963, Act 247, Eff. Sept. 6, 1963

ARGUMENTS:

For:

This bill will allow county treasurers to provide public notice of tax-forfeited properties in a more cost-effective manner. Costs would be cut by reducing the number of notices that must be published from three to two, and by allowing the list of tax-forfeited properties to be printed as an insert, for inclusion in a print publication.

The bill is necessary because traditional news media face a changing environment due to economic conditions and technological advances. In several regions of Michigan, newspapers are no longer published, or their publication schedules have been scaled back; electronic versions have replaced print versions of the news. In other regions, there is no competition in the publishing market, and costs to provide notice are too steep for county treasurers who must curtail public expenditures.

In order to accommodate situations in which no print publication meets the current statutory criteria, or in which publication costs are prohibitive, this bill also would allow for the publication of tax forfeiture notices in the print media, and then also enable county treasurers to publish the notices electronically, by posting the tax forfeiture notices online.

POSITIONS:

The Department of Treasury supports the bill. (4-15-15)

The Michigan Press Association supports the substitute version of the bill. (4-15-15)

The Michigan Association of County Treasurers supports the bill. (4-15-15)

The Newaygo County Treasurer supports the bill. (4-15-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.