Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1009 (as enacted) **PUBLIC ACT 518 of 2016**
Sponsor: Senator Bert Johnson
Senate Committee: Finance
House Committee: Tax Policy

Date Completed: 4-6-17

RATIONALE

Public Act 499 of 2014 amended the General Property Tax Act to allow a county treasurer to enter into a tax foreclosure avoidance agreement for a term of up to five years with an owner of tax-delinquent property that is the owner's principal residence. Under the agreement, the owner must make an initial payment of at least 10% of the delinquent taxes owed on the property and timely payments as provided in the agreement, including timely payment of all nondelinquent taxes on the property. In exchange, the property is withheld or removed from a foreclosure petition.

County treasurers' ability to enter into tax foreclosure avoidance agreements, however, sunseted on June 30, 2016. Some suggested establishing a new sunset date to allow county treasurers to continue to enter into those agreements.

CONTENT

The bill amended the General Property Tax Act to allow a county treasurer, until June 30, 2019, to enter into a tax foreclosure avoidance agreement with an owner of residential property returned as delinquent or forfeited to the county treasurer.

Under the Act, on March 1 each year, certified abandoned property and property that is delinquent for taxes, interest, penalties, and fees for the previous 12 months or more is forfeited to the county treasurer for the total unpaid amount. Property forfeited to the county treasurer may be redeemed at any time by March 31 immediately after the entry of a foreclosure judgment or in a contested case within 21 days of the entry of a foreclosure judgment, upon the payment of certain amounts to the county treasurer.

By June 15 each year, a foreclosing governmental unit must file with the circuit court a petition listing all property forfeited and not redeemed to the county treasurer to be foreclosed for the total of the forfeited unpaid delinquent taxes, interest, penalties, and fees. The petition must seek a judgment in favor of the foreclosing governmental unit for the forfeited unpaid delinquent taxes, interest, penalties, and fees listed against each parcel of property. The governmental unit may withhold property from the petition under certain circumstances, including cases of substantial financial hardship.

The Act permits a foreclosing governmental unit to create a delinquent property tax installment payment plan for eligible property whose title is held by a financially distressed person. If the person makes the initial required payment, the property may be removed from the foreclosure petition. If the payment plan is completed, interest that had accumulated must be waived.

("Eligible property" means property that is a principal residence exempt from the tax levied by a local school district for school operating purposes.)

Under the bill, until June 30, 2019, a county treasurer also may enter into a tax foreclosure avoidance agreement for a term of up to five years with an owner of property returned as delinquent to the county treasurer or forfeited to the county treasurer if the property is classified as residential real property and is eligible property; and if the owner makes an initial payment of at least 10% of the delinquent taxes owed on the property.

A county treasurer may not enter into more than two tax foreclosure avoidance agreements with an owner. A county treasurer may refuse to enter into a tax foreclosure avoidance agreement with an owner who is not in compliance with another tax foreclosure avoidance agreement with the county treasurer or with a delinquent property tax installment plan with the county treasurer.

While a tax foreclosure avoidance agreement is effective, the property must be withheld or removed from the foreclosure petition, interest at the rate provided under Section 78g(3)(c)(ii) must apply, and the owner must make timely payments as provided under the agreement, including timely payment of all nondelinquent taxes on the property.

A tax foreclosure avoidance agreement must require regular periodic installment payments, and the final payment may not be disproportionately larger than regular periodic installment payments in prior years.

If an owner fails to comply with a tax foreclosure avoidance agreement or if the tax foreclosure avoidance agreement is no longer effective, all of the following will occur:

-- Interest under Section 78g(3)(b) and any additional interest otherwise applicable must apply to any unpaid taxes on the property.
-- The property must be included in the immediately succeeding foreclosure petition.
-- The owner may not bid on property subject to sale if that property was subject to the tax foreclosure avoidance agreement.

Previously, a county treasurer could enter into a tax foreclosure avoidance agreement, subject to the conditions described above, only until June 30, 2016.

The bill took effect on March 29, 2017.

(Section 78g(3)(b) provides for additional interest computed at a noncompounded rate of 0.5% per month or fraction of a month on the taxes that were originally returned as delinquent, computed from the March 1 preceding the forfeiture. Section 78g(3)(c)(ii) provides for interest computed at a noncompounded rate of 0.5% per month or a fraction of a month on the taxes that were originally returned as delinquent, computed from the date that the taxes originally were returned as delinquent, and the additional interest collected under Section 78g(3)(b) is waived.)

MCL 211.78q

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the Department of Treasury's State-Wide Real Property Tax Forfeiture and Foreclosure Statistics, between approximately 30,000 and 38,000 properties were foreclosed annually in 2012, 2013, and 2014. Public Act 449 of 2014 was important to mitigate the problem of homes being auctioned off due to delinquency in tax payments, something that was especially common in Wayne County, through the use of tax foreclosure avoidance agreements. These agreements have been successful and it is necessary to continue offering them to homeowners who meet the criteria under the Act.

Response: If the program is successful, it has been suggested that the sunset date be eliminated altogether.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill will have an unknown but likely minimal impact on State and local property tax revenue. The extension of authority for a foreclosing governmental unit to enter into an installment payment plan with an eligible taxpayer maintains an option for collecting property tax revenue and preventing foreclosure.

Fiscal Analyst: Elizabeth Pratt

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