Legislative Analysis

DELINQUENT PROPERTY TAX
PAYMENT REDUCTION PROGRAM

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House Bill 5124 as enacted
Public Act 33 of 2020
Sponsor: Rep. Wendell Byrd
1st House Committee: Local Government and Municipal Finance
2nd House Committee: Ways and Means
Senate Committee: Finance
Complete to 3-4-20

BRIEF SUMMARY: House Bill 5124 amends the General Property Tax Act to reduce the redemption amount for delinquent taxes on a parcel of property under certain circumstances. Specifically, until July 1, 2023, the bill applies eight new provisions to property for which delinquent property taxes remain unpaid, including property forfeited for delinquent taxes, located in a local unit of government that is participating in a payment reduction program under the bill.

FISCAL IMPACT: Counties choosing to reduce the amount required to redeem tax-foreclosed property under provisions of the bill would realize reduced revenue unless reducing the amount owed would result in payments that, but for the provisions of this bill, would not have been received. The provisions of the bill are permissive and would not require action by a county treasurer. The net change in revenue for any local unit of government would depend on the scope of use by each county treasurer and cannot be estimated. The provisions of the bill pertaining to the Department of Treasury could increase administrative and oversight costs for the department. An estimate of the costs is not available, but they are likely to be negligible and absorbed under current appropriation levels.

THE APPARENT PROBLEM:

During the Great Recession, Michigan saw a surge in home foreclosures, as many homeowners could no longer pay off their delinquent property taxes. Many people in lower income brackets lost their homes outright; at the same time, many municipalities were not made whole for the delinquent property taxes, since the property's value had dropped substantially and there was nobody left to pay off the taxes. As a result, both homeowners and local governments lost out, especially counties of the Detroit Metropolitan Area such as Wayne County. While the number of foreclosures has dropped since the Great Recession, many of these counties still have over 1,000 foreclosure cases every year. Legislation has been proposed to reduce the redemption amount for delinquent taxes under certain circumstances.

THE CONTENT OF THE BILL:

The bill applies eight new provisions to property for which delinquent property taxes remain unpaid, including property forfeited for delinquent taxes, located in a local unit of government that is participating in a payment reduction program under the bill.

First, if a parcel of property is subject to an exemption for persons in poverty and the property's owner has not previously received a payment reduction under the bill, the foreclosing governmental unit may do one or more of the following:

- If the total amount of unpaid delinquent taxes is greater than 10% of the property's taxable value for the calendar year preceding the year the property was exempt, reduce the amount of the unpaid delinquent taxes or the redemption amount to 10% of that taxable value. This reduction must be allocated to each taxing unit based on the proportion that its unpaid delinquent taxes certified to the county treasurer bears to the total amount of unpaid delinquent taxes certified in connection with the property.
- Cancel some or all of any unpaid delinquent taxes that represent charges for services that have become delinquent and have been certified to the county treasurer for collection and enforcement of the taxes' lien under the Revenue Bond Act.
- Cancel all of the interest, penalties, and fees required to be paid under the act.

Second, if the amount required to be paid under the act is reduced using one of the above methods, the foreclosing governmental unit may further reduce the amount by up to 10% of the unpaid delinquent taxes required to be paid to redeem the property if it is redeemed by a single lump-sum payment made within a period determined by the foreclosing governmental unit.

Third, a foreclosing governmental unit may apply any of these reduction provisions to property subject to a delinquent property tax installment payment plan or a tax foreclosure avoidance agreement. The terms and conditions of a payment reduction must be consistent with those of a payment plan or foreclosure agreement. Failure to pay any amounts under a payment plan or foreclosure agreement does not prohibit a property owner from receiving a payment reduction. The full amount owed, as reduced, must be payable in not more than three years after the reduction is established.

Fourth, if a property owner has paid a reduced amount under the bill in accordance with the terms, conditions, and time period established by the county treasurer, any remaining unpaid taxes, interest, penalties, and fees otherwise payable must be canceled by the county treasurer, including any interest, fee, or penalty payment required in a delinquent property tax installment payment plan or tax foreclosure avoidance agreement. The county treasurer cannot impose any additional interest, fees, penalties, or other charges in connection with a payment reduction program.

Fifth, if the owner of property subject to a payment reduction fails to pay the full reduced amount of delinquent taxes, penalties, and fees in accordance with the terms, conditions, and time period established by the county, all of the following apply:

- The amount required to be paid to redeem the property is the sum of the full amount of any unpaid delinquent taxes on the property, plus interest under section 78g(3)(b) of the act and any additional interest, fees, charges, and penalties otherwise applicable to any unpaid taxes on the property, including those canceled under the above provisions.
- The property must be included in the immediately succeeding petition for foreclosure.

Sixth, a foreclosing governmental unit may not approve a reduction on the redemption amount of property if the reduction would cause noncompliance with a delinquent tax revolving fund or otherwise impermissibly impair an outstanding debt of the county or any taxing unit.

Seventh, all payments collected in connection with property under these provisions must be distributed to each taxing unit that has certified to the county treasurer unpaid delinquent taxes for the property in an amount based on the proportion that the taxing unit's unpaid delinquent taxes certified to the county treasurer bears to the total amount of unpaid delinquent taxes certified to the county treasurer in connection with the property.

Eighth, a county treasurer must set forth the terms and benefits of a payment reduction program available under the bill in a plan available to the Department of Treasury upon request. The plan must set forth which of the reductions described in the first two provisions above are available under the program and include any other information determined necessary or appropriate by the county treasurer.

The bill stipulates that if a payment reduction under these provisions is in effect for property for which a county has issued notes under the act that are secured by the delinquent taxes and interest on that property, at any time within two years after the date those taxes were returned as delinquent, the county treasurer may charge back to any taxing unit the face amount of the delinquent taxes that were owed to that taxing unit on the date those taxes were returned as delinquent, less the amount of any payments received by the county treasurer on that property. All subsequent payments of delinquent taxes and interest on that property must be retained by the county treasurer in a separate account and either paid to or credited to the account of that taxing unit.

A foreclosing governmental unit's authority to apply any of the provisions of the bill is subject to both of the following conditions:

- A foreclosing government unit that seeks to implement a program under the bill must provide written notice to the treasurer of each affected local unit of government within the county in which the property is located of the foreclosing governmental unit's intent to implement the program and state that the local unit has the option of participating in the program. The notice must contain all of the terms and conditions to be offered under the program, in addition to any other information that the foreclosing governmental unit considers necessary or appropriate.
- Within 21 days after the written notice described above, the treasurer of any affected local unit of government may provide the foreclosing governmental unit with one of the following, as applicable:
    - Written notice of nonparticipation in the program, if the local unit is located in a county with a population of more than 1,500,000. All property within a local unit that provides written notice of nonparticipation will be excluded from the program. Any affected local government whose treasurer does not provide a written notice of nonparticipation is conclusively presumed to have consented to participation in the program, and all property within that local government unit will be included in the program.
    - Written notice of participation in the program, if the local unit is located in a county with a population of up to 1,500,000 and its governing body has approved a resolution to participate in the program. All property of a local unit that provides written notice of participation will be included in the program. Any affected local unit whose treasurer does not provide written notice of participation is conclusively presumed to have declined to participate in the program, and all property within that local unit will be excluded from the program.

Under the bill, a delinquent property tax installment payment plan or a tax foreclosure avoidance agreement can be combined with and made subject to a delinquent property tax payment reduction as outlined above.

MCL 211.78g and 211.78q

ARGUMENTS:

For:

Supporters of the bill (known as "Pay as You Stay" legislation) argued that it is a win-win scenario both for people facing foreclosure for delinquent property taxes and for foreclosing government units. The bill is targeted toward individuals of lower-income brackets who would otherwise face homelessness and destitution and whose delinquent property taxes likely would go unpaid if their local government simply foreclosed on them. The average age of a foreclosed home is 85 years, and many homeowners with delinquent taxes are senior citizens who can no longer reenter the workforce to pay off their delinquent taxes. The bill offers a way to restructure the homeowner's outstanding tax liability and allow them to pay it off over time. In addition, supporters of the bill point out that these provisions are entirely voluntary for foreclosing government units if they wish to maintain the status quo.

Against:

No arguments against the bill were offered in House committee testimony.

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