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Senate Bills 725 and 726 (as introduced 1-21-20)
Sponsor: Senator Jim Runestad
Committee: Finance

Date Completed: 2-5-20

CONTENT

Senate Bill 725 would amend the General Property Tax Act to revise and expand the information that must be included in notices that are sent to individuals regarding delinquent property taxes.

Senate Bill 726 would amend the General Property Tax Act to do the following:

- **Require a foreclosing governmental unit to request that a property be removed from a foreclosure petition before entry of judgment if certain circumstances applied and if the owner of the property provided a written statement to the county treasurer stating that the payment of subsequent taxes was made in error and was intended to be applied toward redeeming the property.**
- **Allow a foreclosing governmental unit to withhold from a foreclosure petition property on which taxes levied after the levy of taxes for which the property was subject to foreclosure had been paid and the money used to pay those subsequent taxes could have been used instead to redeem the property.**
- **Allow a foreclosing governmental unit to cancel a foreclosure by recording with the appropriate register of deeds a certificate of error if the foreclosing governmental unit discovered that taxes levied on the property after the levy of taxes for which the property was foreclosed had been paid and the money used to pay those subsequent taxes could have been used instead to pay the taxes for which the property was foreclosed.**

The bills are tie-barred.

Senate Bill 725

Under the Act, except as otherwise provided for certified abandoned property, on or within 60 days before the June 1 or September 1 immediately succeeding the date that unpaid taxes are returned to the county treasurer as delinquent (or not later than the February 1 immediately succeeding the date that unpaid taxes were returned to the county treasurer for forfeiture, foreclosure, and sale), the county treasurer must send a notice containing certain information to the person to whom a tax bill for property returned for delinquent taxes was last sent or to the person identified as the owner of property returned for delinquent taxes, to a person entitled to notice of the return of delinquent taxes, and to a person to whom a tax certificate for property returned for delinquent taxes was issued, as shown on the current records of the county treasurer. Among other information, the notice must contain the following:

- A statement that a person who holds a legal interest in the property may lose that interest as a result of the forfeiture and subsequent foreclosure proceeding.
- A legal description or parcel number of the property and the street address of the property, if available.
- The person or people to whom the notice is addressed.

The notice also must include the following:

- The date property on which unpaid taxes were returned as delinquent will be forfeited to the county treasurer for those unpaid delinquent taxes, interest, penalties, and fees.
- The unpaid delinquent taxes, interest, penalties, and fees due on the property.

Under the bill, except for the February 1 notice, the above provisions would be revised to the following:

- The date property on which unpaid taxes were returned as delinquent would have to be forfeited to the county treasurer for those unpaid delinquent taxes, interest, penalties, and fees, along with a statement that payment plans could be available to avoid forfeiture and foreclosure proceedings.
- The unpaid delinquent taxes, interest, penalties, and fees due on the property, and, for property that was a principal residence exempt from the tax levied by a local school district for school operating purposes, a schedule of all additional interest, penalties, and fees that would accrue through the immediately succeeding March 1 under the provisions of the Act relating to the return, forfeiture, and foreclosure of property for delinquent taxes if no payment were made by that March 1 toward delinquent taxes, interest, penalties, and fees due on the property.

In addition, each of the notices would have to include the following:

- A statement warning that a payment submitted to the local tax collecting unit, rather than the county treasurer, might not be applied to the delinquent amount and might not prevent foreclosure.
- A statement in bold type not smaller than 12-point font providing contact information for an individual in the county treasurer's office with whom a taxpayer could discuss options for delinquent property tax installment payment plans, tax foreclosure avoidance agreements, or any other means by which the taxpayer could be able to prevent additional interest, penalties, and fees from accruing and avoid foreclosure.

Senate Bill 726

Foreclosure Petition; Removal of Property from Petition

Under the Act, no later than June 15 in each tax year, a foreclosing governmental unit must file a single petition with the clerk of the circuit court of that county 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. If available to the foreclosing unit, the petition must include the street address of each parcel of property set forth in the petition. 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, and must request that a judgment be entered vesting absolute title to each parcel of property in the foreclosing governmental unit, without right of redemption.

If property is redeemed after the petition for foreclosure is filed, the foreclosing governmental unit must request that the circuit court remove that property from the petition for foreclosure before entry of judgment foreclosing the property.

Under the bill, the foreclosing governmental unit also would have to request that the property be removed from the petition before entry of judgment for property that was a principal residence exempt from the tax levied by a local school district for school operating purposes, taxes levied on the property after the levy of taxes for which the property was subject to foreclosure had been paid and the money used to pay those subsequent taxes could have been used instead to redeem the property after the petition for foreclosure was filed, if the owner of the property provided a written statement to the county treasurer stating that the payment of subsequent taxes was made in error and was intended to be applied toward redeeming the property. If property were removed from the petition for foreclosure, a taxing unit could stipulate that the property owner would have to enter a tax foreclosure avoidance agreement and a taxing unit's lien for taxes due or the foreclosing governmental unit's rights to include the property in a subsequent petition for foreclosure was not prejudiced.

Property Withheld from Foreclosure Petition

The Act lists certain property that a foreclosing governmental unit may withhold from the petition for foreclosure. The bill would include in this list property on which taxes levied after the levy of taxes for which the property was subject to foreclosure had been paid and the money used to pay those subsequent taxes could have been used instead to redeem the property.

Cancellation of Foreclosure

Under the Act, after the entry of a judgment foreclosing the property, if the property has not been transferred to a person other than the foreclosing governmental unit, a foreclosing governmental unit may cancel the foreclosure by recording with the register of deeds for the county in which the property is located a certificate of error in a form prescribed by the Department of Treasury, if the foreclosing governmental unit discovers any of the following:

- The foreclosed property was not subject to taxation on the date of the assessment of the unpaid taxes for which the property was foreclosed.
- The description of the property used in the assessment of the unpaid taxes for which the property was foreclosed was so indefinite or erroneous that the forfeiture of the property was void.
- The taxes for which the property was foreclosed had been paid to the proper officer within the time provided under the Act for the payment of the taxes or the redemption of the property.
- A certificate or other written verification authorized by law was issued by the proper officer within the time provided under the Act for the payment of the taxes for which the property was foreclosed or for the redemption of the property.
- An owner of an interest in the property entitled to notice was not provided notice sufficient to satisfy the minimum requirements of due process required under the Michigan Constitution and the U.S. Constitution.

The bill would add to the above list the discovery that taxes levied on the property after the levy of taxes for which the property was foreclosed had been paid and the money used to pay those subsequent taxes could have been used instead to pay the taxes for which the property was foreclosed to the proper officer within the time provided under the Act for the payment of the taxes for which the property was foreclosed or within the time provided under the Act for the redemption of the property. If a foreclosure were canceled under this provision, a

taxing unit's lien for taxes due or the foreclosing governmental unit's right to include the property in a subsequent petition for foreclosure would not be prejudiced.

MCL 211.78b et al. (S.B. 725)
211.78h & 211.78k (S.B. 726)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

Senate Bill 725

The bill would have no fiscal impact on the State and would have a minimal negative fiscal impact on local government. The bill would require additional disclosures to be included in notices that already are required to be sent. Any additional costs for county treasurers to add the required disclosures to the notices would be covered by existing appropriations.

Senate Bill 726

The bill would have no fiscal impact on the State and would have an unknown but likely minimal fiscal impact on local property tax revenue. The impact would depend on the frequency with which a foreclosing governmental unit cancelled a foreclosure under the bill's provisions, and the amount of repayment received compared to the possible proceeds of a foreclosure sale.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.