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House Bill 5124 (Substitute H-3 as passed by the House)  
Sponsor: Representative Wendell Byrd  
House Committee: Local Government and Municipal Finance  
Ways and Means  
Senate Committee: Finance

Date Completed: 1-22-20

### **CONTENT**

**The bill would amend the General Property Tax Act to do the following:**

- **Create provisions pertaining to the reduction of delinquent taxes owed on property forfeited under Section 78g (which specifies that certified abandoned property and property that is delinquent for taxes, interest, penalties, and fees over the past 12 months or more is forfeited to the county treasurer for that total outstanding amount) until July 1, 2023.**
- **Allow the county treasurer to 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, under certain circumstances.**
- **Specify that a foreclosing governmental unit's authority to apply any of the payment-reduction measures otherwise available under the bill to property forfeited would be subject to certain conditions.**
- **Specify that a delinquent property tax installment payment plan and a tax foreclosure avoidance agreement could be combined with and made subject to a delinquent property tax payment reduction as described in the bill.**
- **Require an owner of property eligible to enter into a tax foreclosure avoidance agreement to make an initial payment in an amount determined by the county treasurer, instead of at least 10% of the delinquent taxes owed on the eligible property.**

#### **Forfeited Property; Delinquent Tax Reduction**

Generally, on March 1 in each tax year, certified abandoned property (i.e., property that has been returned as delinquent to the county treasurer on March 1 of each tax year and is certified as certified abandoned property under the Certification of Abandoned Property for Accelerated Forfeiture Act) and property that is delinquent for taxes, interest, penalties, and fees for the immediately preceding 12 months or more is forfeited to the county treasurer for the total amount of the delinquency.

Under the bill, except as provided otherwise, until July 1, 2023, the following eight provisions would apply to property forfeited under Section 78g that was located in a local unit of government whose treasurer had not provided a written notice of nonparticipation, as described below.

First, if the property were subject to an exemption under Section 7u (which provides for a principal residence exemption for certain individuals determined to be in poverty) and the property's owner had not previously received a payment reduction under this provision, the foreclosing governmental unit could do one or more of the following:

- If the total amount of unpaid delinquent taxes for which the property was forfeited were greater than 10% of the most recent taxable valuation of the property immediately before the date that the property obtained exempt status under Section 7u, reduce the amount required to be paid to redeem the property to 10% of the most recent taxable valuation of the property immediately before the date that the property obtained exempt status under Section 7u; the reduction would have to be allocated to each taxing unit based on the proportion that its unpaid delinquent taxes certified to the county treasurer bore to the total amount of unpaid delinquent taxes certified to the county treasurer in connection with the property.
- Cancel some or all of any unpaid delinquent taxes that represented charges for services that had become delinquent and had been certified to the county treasurer for collection of taxes and enforcement of the lien for the certain taxes under the Revenue Bond Act.
- Cancel some or all of the interest, penalties, and fees required to be paid to redeem the property.

Second, if the amount required to redeem the property were reduced under the first provision, the foreclosing governmental unit could reduce further the redemption amount by an amount not to exceed 10% of the unpaid delinquent taxes required to be paid to redeem the property if the property were redeemed by a single lump-sum payment made within a period to be determined by the foreclosing governmental unit.

Third, a foreclosing governmental unit could apply the provisions of the bill to property subject to and in compliance with a delinquent property tax installment payment plan or a tax foreclosure avoidance agreement.

Fourth, if property were redeemed by payment of 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 for which the property was forfeited and otherwise payable would have to be canceled by the county treasurer, including any interest, fee, or penalty payment requirements set forth in a delinquent property tax installment payment plan or a tax foreclosure avoidance agreement with respect to the property. A county treasurer could not impose any additional interest, penalties, fees, or other charges of any kind in connection with a payment reduction program.

Fifth, if the owner of property subject to a payment reduction failed 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 treasurer, all of the following would apply:

- The amount required to be paid to redeem the property would be the sum of the full amount of any unpaid delinquent taxes on the property, as well as noncompounded interest charged on taxes returned as delinquent and any additional interest, fees, charges, and penalties otherwise applicable to any unpaid taxes on the property, including interest, fees, charges, and penalties canceled under the provisions above.
- The property would have to be included in the immediately succeeding petition for foreclosure.

Sixth, a foreclosing governmental unit could not approve a reduction in the amount required to redeem property if the reduction would cause noncompliance with requirements that a

revolving fund note currently must meet or otherwise impermissibly impair an outstanding debt of the county or any taxing unit.

Seventh, all payments collected in connection with property under the bill would have to be distributed to each taxing unit that had 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 bore to the total amount of paid delinquent taxes certified to the county treasurer in connection with the property.

Eighth, a county treasurer would have to set forth the terms and benefits of a payment reduction program available under the bill in a plan published on the foreclosing governmental unit's website. The plan would have to set forth which of the reductions described in the first and second provision were available under the program and would have to include any other information determined to be necessary or appropriate in the discretion of the county treasurer.

If a payment reduction under the above provisions were in effect for property for which a county had issued notes under the General Property Tax Act that were secured by the delinquent taxes and interest on that property, at any time within two years after the date that those taxes were returned as delinquent, the county treasurer could charge back to any taxing unit the face amount of the delinquent taxes that were owed to that 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 would have to 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 payment-reduction measures otherwise available under the bill to property forfeited would be subject to all of the following:

- On or before January 1 of the year in which the foreclosing governmental unit was seeking to implement a program under the bill, the foreclosing governmental unit would have to provide written notice to the treasurer of each affected local unit of government within the county in which the property was located of the foreclosing governmental unit's intent to implement the program and state that the local unit of government had the option of participating in the program, and the notice would have to contain all of the terms and conditions to be offered under the program, in addition to any other information that the foreclosing governmental unit considered necessary or appropriate.
- Within 21 days after the foreclosing governmental unit provided the written notice described above, the treasurer of any affected local unit of government could provide the foreclosing governmental unit with written notice of nonparticipation in the program, and all property within that local unit of government would be excluded from the program, and any affected local unit of government whose treasurer did not provide written notice of nonparticipation would be presumed to have consented to participation in the program, and all property within that local unit of government would be included in the program.

As used above, "local unit of government" would mean a city, township, or village.

#### Delinquent Property Tax Installment Payment Plan

The General Property Tax Act allows a foreclosing governmental unit to create a delinquent property tax installment payment plan for eligible property, the title to which is held by a financially distressed person. Under the bill, a delinquent property tax installment payment plan could be combined with and made subject to a delinquent property tax payment reduction as described in the third provision above.

## Tax Foreclosure Avoidance Agreement

Under the Act, notwithstanding any provision of the Act or charter to the contrary, until June 30, 2026, a county treasurer 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 under the Act or forfeited to the county treasurer under other provisions if the property is classified as residential real property, if the property is eligible property, and if the owner makes an initial payment of at least 10% of the delinquent taxes owed on the property. The bill would delete the requirement for the owner to make an initial payment of at least 10% and instead require the owner to pay an amount determined by the county treasurer. A tax foreclosure avoidance agreement could be combined with and made subject to a delinquent property tax payment reduction under the third provision described above.

MCL 211.78g & 211.78q

Legislative Analyst: Drew Krogulecki

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on local governments and would likely have a minor negative fiscal impact on the State. In any case that delinquent tax liability was reduced, revenue to the local government also would be reduced. If the taxes that were collected, however, would otherwise not have been collected at all, the net fiscal impact for the local government would be positive. Any additional administrative costs for county treasurers or the State would be minimal and would be absorbed under existing appropriations. Since the provisions of the bill are voluntary for local units of government, the total impact would be impossible to estimate, and would depend on how exactly the provisions were used.

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.