

# SENATE BILL NO. 726

January 21, 2020, Introduced by Senators JOHNSON, RUNESTAD, BIZON, CHANG, GEISS, LUCIDO, BARRETT, ALEXANDER, SANTANA and HOLLIER and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 78h and 78k (MCL 211.78h and 211.78k), section 78h as amended by 2014 PA 499 and section 78k as amended by 2016 PA 433.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**           Sec. 78h. (1) Not later than June 15 in each tax year, the  
**2** foreclosing governmental unit shall file a single petition with the  
**3** clerk of the circuit court of that county listing all property  
**4** forfeited and not redeemed to the county treasurer under section

1 78g to be foreclosed under section 78k for the total of the  
 2 forfeited unpaid delinquent taxes, interest, penalties, and fees.  
 3 If available to the foreclosing governmental unit, the petition  
 4 shall ~~must~~ include the street address of each parcel of property  
 5 set forth in the petition. The petition shall ~~must~~ seek a judgment  
 6 in favor of the foreclosing governmental unit for the forfeited  
 7 unpaid delinquent taxes, interest, penalties, and fees listed  
 8 against each parcel of property. The petition shall ~~must~~ request  
 9 that a judgment be entered vesting absolute title to each parcel of  
 10 property in the foreclosing governmental unit, without right of  
 11 redemption.

12 ~~(2) If property is redeemed after the petition for foreclosure~~  
 13 ~~is filed under this section, the~~ **The** foreclosing governmental unit  
 14 shall request that the circuit court remove ~~that~~ property from the  
 15 petition for foreclosure before entry of judgment foreclosing the  
 16 property under section 78k ~~-in either of the following~~

17 **circumstances:**

18 **(a) The property is redeemed after the petition for**  
 19 **foreclosure is filed under this section.**

20 **(b) For property that is a principal residence exempt from the**  
 21 **tax levied by a local school district for school operating purposes**  
 22 **under section 7cc, taxes levied on the property after the levy of**  
 23 **taxes for which the property is subject to foreclosure have been**  
 24 **paid and the money used to pay those subsequent taxes could have**  
 25 **been used instead to redeem the property after the petition for**  
 26 **foreclosure was filed under this section, if the owner of the**  
 27 **property provides a written statement to the county treasurer**  
 28 **stating that the payment of subsequent taxes was made in error and**  
 29 **was intended to be applied toward redeeming the property. If**

1 property is removed from the petition for foreclosure under this  
 2 subdivision, a taxing unit may stipulate that the property owner  
 3 must enter a tax foreclosure avoidance agreement under section 78q  
 4 and a taxing unit's lien for taxes due or the foreclosing  
 5 governmental unit's right to include the property in a subsequent  
 6 petition for foreclosure is not prejudiced.

7 (3) The foreclosing governmental unit may withhold the  
 8 following property from the petition for foreclosure filed under  
 9 this section:

10 (a) Property the title to which is held by minor heirs or  
 11 persons who are incompetent, persons without means of support, or  
 12 persons unable to manage their affairs due to age or infirmity,  
 13 until a guardian is appointed to protect that person's rights and  
 14 interests.

15 (b) Property the title to which is held by a person undergoing  
 16 substantial financial hardship, as determined under a written  
 17 policy developed and adopted by the foreclosing governmental unit.  
 18 The foreclosing governmental unit shall make available to the  
 19 public the written policy adopted under this subdivision. The  
 20 written policy adopted under this subdivision ~~shall~~**must** include,  
 21 but is not limited to, all of the following:

22 (i) The person requesting that the property be withheld from  
 23 the petition for foreclosure holds the title to the property.

24 (ii) The total household resources of the person requesting  
 25 that the property be withheld from the petition for foreclosure  
 26 meets the federal poverty income standards as defined and  
 27 determined annually by the United States ~~office~~**Office** of  
 28 ~~management~~**Management** and ~~budget~~**Budget** or alternative guidelines  
 29 adopted by the foreclosing governmental unit, provided that the

1 alternative guidelines include all persons who would otherwise meet  
2 the federal poverty income standards under this subparagraph. As  
3 used in this subparagraph, "total household resources" means that  
4 term as defined in section 508 of the income tax act of 1967, 1967  
5 PA 281, MCL 206.508.

6 (c) Property the title to which is held by a person subject to  
7 a delinquent property tax installment payment plan or tax  
8 foreclosure avoidance agreement under section 78q.

9 **(d) Property on which taxes levied after the levy of taxes for**  
10 **which the property is subject to foreclosure have been paid and the**  
11 **money used to pay those subsequent taxes could have been used**  
12 **instead to redeem the property.**

13 (4) If a foreclosing governmental unit withholds property from  
14 the petition for foreclosure under subsection (3), a taxing unit's  
15 lien for taxes due or the foreclosing governmental unit's right to  
16 include the property in a subsequent petition for foreclosure is  
17 not prejudiced.

18 (5) The clerk of the circuit court in which the petition is  
19 filed shall immediately set the date, time, and place for a hearing  
20 on the petition for foreclosure, which hearing ~~shall~~**must** be held  
21 not more than 30 days before the March 1 immediately succeeding the  
22 date the petition for foreclosure is filed.

23 Sec. 78k. (1) If a petition for foreclosure is filed under  
24 section 78h, not later than the date of the hearing, the  
25 foreclosing governmental unit shall file with the clerk of the  
26 circuit court proof of service of the notice of the show cause  
27 hearing under section 78j, proof of service of the notice of the  
28 foreclosure hearing under this section, and proof of the personal  
29 visit to the property and publication under section 78i.

1           (2) A person claiming an interest in a parcel of property set  
2 forth in the petition for foreclosure may contest the validity or  
3 correctness of the forfeited unpaid delinquent taxes, interest,  
4 penalties, and fees for 1 or more of the following reasons:

5           (a) No law authorizes the tax.

6           (b) The person appointed to decide whether a tax ~~shall~~**will** be  
7 levied under a law of this state acted without jurisdiction, or did  
8 not impose the tax in question.

9           (c) The property was exempt from the tax in question, or the  
10 tax was not legally levied.

11           (d) The tax has been paid within the time limited by law for  
12 payment or redemption.

13           (e) The tax was assessed fraudulently.

14           (f) The description of the property used in the assessment was  
15 so indefinite or erroneous that the forfeiture was void.

16           (3) A person claiming an interest in a parcel of property set  
17 forth in the petition for foreclosure who desires to contest that  
18 petition shall file written objections with the clerk of the  
19 circuit court and serve those objections on the foreclosing  
20 governmental unit before the date of the hearing required under  
21 this section.

22           (4) If the court determines that the owner of property subject  
23 to foreclosure is a minor heir, is incompetent, is without means of  
24 support, or is undergoing a substantial financial hardship, the  
25 court may withhold that property from foreclosure for 1 year or may  
26 enter an order extending the redemption period as the court  
27 determines to be equitable. If the court withholds property from  
28 foreclosure under this subsection, a taxing unit's lien for taxes  
29 due is not prejudiced and that property ~~shall be included in~~**is**

1 **subject to** the immediately succeeding year's tax foreclosure  
2 proceeding.

3 (5) The circuit court shall enter final judgment on a petition  
4 for foreclosure filed under section 78h at any time after the  
5 hearing under this section but not later than the March 30  
6 immediately succeeding the hearing with the judgment effective on  
7 the March 31 immediately succeeding the hearing for uncontested  
8 cases or 10 days after the conclusion of the hearing for contested  
9 cases. All redemption rights to the property expire on the March 31  
10 immediately succeeding the entry of a judgment foreclosing the  
11 property under this section, or in a contested case 21 days after  
12 the entry of a judgment foreclosing the property under this  
13 section. The circuit court's judgment ~~shall~~**must** specify all of the  
14 following:

15 (a) The legal description and, if known, the street address of  
16 the property foreclosed and the forfeited unpaid delinquent taxes,  
17 interest, penalties, and fees due on each parcel of property.

18 (b) That fee simple title to property foreclosed by the  
19 judgment will vest absolutely in the foreclosing governmental unit,  
20 except as otherwise provided in subdivisions (c) and (e), without  
21 any further rights of redemption, if all forfeited delinquent  
22 taxes, interest, penalties, and fees are not paid on or before the  
23 March 31 immediately succeeding the entry of a judgment foreclosing  
24 the property under this section, or in a contested case within 21  
25 days of the entry of a judgment foreclosing the property under this  
26 section.

27 (c) That all liens against the property, including any lien  
28 for unpaid taxes or special assessments, except future installments  
29 of special assessments and liens recorded by this state or the

1 foreclosing governmental unit ~~pursuant to~~**under** the natural  
2 resources and environmental protection act, 1994 PA 451, MCL  
3 324.101 to 324.90106, are extinguished, if all forfeited delinquent  
4 taxes, interest, penalties, and fees are not paid on or before the  
5 March 31 immediately succeeding the entry of a judgment foreclosing  
6 the property under this section, or in a contested case within 21  
7 days of the entry of a judgment foreclosing the property under this  
8 section.

9 (d) That, except as otherwise provided in subdivisions (c) and  
10 (e), the foreclosing governmental unit has good and marketable fee  
11 simple title to the property, if all forfeited delinquent taxes,  
12 interest, penalties, and fees are not paid on or before the March  
13 31 immediately succeeding the entry of a judgment foreclosing the  
14 property under this section, or in a contested case within 21 days  
15 of the entry of a judgment foreclosing the property under this  
16 section.

17 (e) That all existing recorded and unrecorded interests in  
18 that property are extinguished, except a visible or recorded  
19 easement or right-of-way, private deed restrictions, interests of a  
20 lessee or an assignee of an interest of a lessee under a recorded  
21 oil or gas lease, interests in oil or gas in that property that are  
22 owned by a person other than the owner of the surface that have  
23 been preserved as provided in section 1(3) of 1963 PA 42, MCL  
24 554.291, interests in property assessable as personal property  
25 under section 8(g), or restrictions or other governmental interests  
26 imposed ~~pursuant to~~**under** the natural resources and environmental  
27 protection act, 1994 PA 451, MCL 324.101 to 324.90106, if all  
28 forfeited delinquent taxes, interest, penalties, and fees are not  
29 paid on or before the March 31 immediately succeeding the entry of

1 a judgment foreclosing the property under this section, or in a  
2 contested case within 21 days of the entry of a judgment  
3 foreclosing the property under this section.

4 (f) A finding that all persons entitled to notice and an  
5 opportunity to be heard have been provided that notice and  
6 opportunity. A person ~~shall be deemed~~ **is considered** to have been  
7 provided notice and an opportunity to be heard if the foreclosing  
8 governmental unit followed the procedures for provision of notice  
9 by mail, for visits to forfeited property, and for publication  
10 under section 78i, or if 1 or more of the following apply:

11 (i) The person had constructive notice of the hearing under  
12 this section by acquiring an interest in the property after the  
13 date the notice of forfeiture is recorded under section 78g.

14 (ii) The person appeared at the hearing under this section or  
15 filed written objections with the clerk of the circuit court under  
16 subsection (3) before the hearing.

17 (iii) Before the hearing under this section, the person had  
18 actual notice of the hearing.

19 (g) A judgment entered under this section is a final order  
20 with respect to the property affected by the judgment and except as  
21 provided in subsection (7) ~~shall~~ **is** not **to** be modified, stayed, or  
22 held invalid after the March 31 immediately succeeding the entry of  
23 a judgment foreclosing the property under this section, or for  
24 contested cases 21 days after the entry of a judgment foreclosing  
25 the property under this section.

26 (6) Except as otherwise provided in subsection (5) (c) and (e),  
27 fee simple title to property set forth in a petition for  
28 foreclosure filed under section 78h on which forfeited delinquent  
29 taxes, interest, penalties, and fees are not paid on or before the



1 March 31 immediately succeeding the entry of a judgment foreclosing  
2 the property under this section, or in a contested case within 21  
3 days of the entry of a judgment foreclosing the property under this  
4 section, ~~shall~~**will** vest absolutely in the foreclosing governmental  
5 unit, and the foreclosing governmental unit ~~shall~~**will** have  
6 absolute title to the property, including all interests in oil or  
7 gas in that property except the interests of a lessee or an  
8 assignee of an interest of a lessee under an oil or gas lease in  
9 effect as to that property or any part of that property if the  
10 lease was recorded in the office of the register of deeds in the  
11 county in which the property is located before the date of filing  
12 the petition for foreclosure under section 78h, and interests  
13 preserved as provided in section 1(3) of 1963 PA 42, MCL 554.291.  
14 The foreclosing governmental unit's title is not subject to any  
15 recorded or unrecorded lien and ~~shall~~**is** not **to** be stayed or held  
16 invalid except as provided in subsection (7) or (9).

17 (7) The foreclosing governmental unit or a person claiming to  
18 have a property interest under section 78i in property foreclosed  
19 under this section may appeal the circuit court's order or the  
20 circuit court's judgment foreclosing property to the court of  
21 appeals. An appeal under this subsection is limited to the record  
22 of the proceedings in the circuit court under this section and  
23 ~~shall~~**is** not ~~be~~ de novo. The circuit court's judgment foreclosing  
24 property ~~shall~~**must** be stayed until the court of appeals has  
25 reversed, modified, or affirmed that judgment. If an appeal under  
26 this subsection stays the circuit court's judgment foreclosing  
27 property, the circuit court's judgment is stayed only as to the  
28 property that is the subject of that appeal and the circuit court's  
29 judgment foreclosing other property that is not the subject of that

1 appeal is not stayed. To appeal the circuit court's judgment  
2 foreclosing property, a person appealing the judgment shall pay to  
3 the county treasurer the amount determined to be due to the county  
4 treasurer under the judgment on or before the March 31 immediately  
5 succeeding the entry of a judgment foreclosing the property under  
6 this section, or in a contested case within 21 days of the entry of  
7 a judgment foreclosing the property under this section, together  
8 with a notice of appeal. If the circuit court's judgment  
9 foreclosing the property is affirmed on appeal, the amount  
10 determined to be due ~~shall~~**must** be refunded to the person who  
11 appealed the judgment. If the circuit court's judgment foreclosing  
12 the property is reversed or modified on appeal, the county  
13 treasurer shall refund the amount determined to be due to the  
14 person who appealed the judgment, if any, and retain the balance in  
15 accordance with the order of the court of appeals.

16 (8) The foreclosing governmental unit shall record a notice of  
17 judgment for each parcel of foreclosed property in the office of  
18 the register of deeds for the county in which the foreclosed  
19 property is located in a form prescribed by the department of  
20 treasury.

21 (9) After the entry of a judgment foreclosing the property  
22 under this section, if the property has not been transferred under  
23 section 78m to a person other than the foreclosing governmental  
24 unit, a foreclosing governmental unit may cancel the foreclosure by  
25 recording with the register of deeds for the county in which the  
26 property is located a certificate of error in a form prescribed by  
27 the department of treasury, if the foreclosing governmental unit  
28 discovers any of the following:

29 (a) The foreclosed property was not subject to taxation on the

1 date of the assessment of the unpaid taxes for which the property  
2 was foreclosed.

3 (b) The description of the property used in the assessment of  
4 the unpaid taxes for which the property was foreclosed was so  
5 indefinite or erroneous that the forfeiture of the property was  
6 void.

7 (c) The taxes for which the property was foreclosed had been  
8 paid to the proper officer within the time provided under this act  
9 for the payment of the taxes or the redemption of the property.

10 (d) A certificate, including a certificate issued under  
11 section 135, or other written verification authorized by law was  
12 issued by the proper officer within the time provided under this  
13 act for the payment of the taxes for which the property was  
14 foreclosed or for the redemption of the property.

15 (e) An owner of an interest in the property entitled to notice  
16 under section 78i was not provided notice sufficient to satisfy the  
17 minimum requirements of due process required under the state  
18 constitution of 1963 and the ~~constitution~~ **Constitution** of the  
19 United States.

20 (f) A judgment of foreclosure was entered under this section  
21 in violation of an order issued by a United States Bankruptcy  
22 Court.

23 **(g) Taxes levied on the property after the levy of taxes for**  
24 **which the property was foreclosed had been paid and the money used**  
25 **to pay those subsequent taxes could have been used instead to pay**  
26 **the taxes for which the property was foreclosed to the proper**  
27 **officer within the time provided under this act for the payment of**  
28 **the taxes for which the property was foreclosed or within the time**  
29 **provided under this act for the redemption of the property. If a**

1 foreclosure is canceled under this subdivision, a taxing unit's  
2 lien for taxes due or the foreclosing governmental unit's right to  
3 include the property in a subsequent petition for foreclosure under  
4 section 78h is not prejudiced.

5 (10) A certificate of error submitted to the county register  
6 of deeds for recording under subsection (9) need not be notarized  
7 and may be authenticated by a digital signature of the foreclosing  
8 governmental unit or by other electronic means.

9 Enacting section 1. This amendatory act does not take effect  
10 unless Senate Bill No. 725 of the 100th Legislature is enacted into  
11 law.