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SFA



BILL ANALYSIS

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Senate Bill 822 (Substitute S-1 as reported)
Sponsor: Senator Gary Peters
Committee: Finance

Date Completed: 6-17-98

RATIONALE

The General Property Tax Act contains detailed procedures for the disposal of property upon which delinquent taxes are not paid, including the sale of such property. In general, a tax sale is allowed for property upon which property taxes have been delinquent for three years or longer; however, the Act contains an accelerated tax foreclosure process (which allows the sale of property upon which taxes have been delinquent for two years) for "special residential property". Special residential property is a parcel of residential property or residential rental property that is located in a local unit of government that has adopted a resolution declaring that nonpayment of property taxes is contributing to neighborhood deterioration and blight; that has been determined by the local unit to be abandoned; and that is located in a county with a city having a population over 25,000, or a city in which there is an enterprise zone established under the Enterprise Zone Act.

Reportedly, many pieces of property purchased at tax sales are abandoned by the buyers after they determine that the property is not worth the price it would cost to fix it. When the buyer does not pay the taxes on the property, then it must again go through the process established for the disposition of property upon which taxes are delinquent. This may prevent a local unit from obtaining the abandoned property for several years, particularly if another buyer purchases the property at the next tax sale. Thus, local units are unable to move forward with neighborhood revitalization projects, even under the accelerated tax foreclosure process, which causes further neighborhood deterioration. It has been suggested that local units be given another method of obtaining abandoned property under certain circumstances.

CONTENT

The bill would amend the General Property Tax Act to allow the governing body of a local unit of government to recall a tax certificate or tax deed, issued after the bill's effective date, for the tax sale of property that was certified as special residential property or that was a "designated parcel".

Under the Act, a "designated parcel" is a parcel in an area for which the local tax collecting unit either: 1) has prepared for projects that include the acquisition of property; or 2) has adopted or is in the process of adopting a program or plan that provides for the adoption or creation by a public entity of a program or plan covering a geographical area or permits acquisition of property.

Under the bill, the governing body of a local unit could petition the treasurer of the county containing property that was certified special residential property or was a designated parcel, to recall and cancel any outstanding tax certificate or tax deed issued against that property. The petition would have to be in a form provided by the Department of Treasury. The governing body would have to submit one copy of the petition to the county treasurer and one copy to the Department of Treasury.

Within 30 days after the Department received a petition, it would have to provide written notification of the approval or denial of the petition to the governing body of the local unit and to the county treasurer. If the Department approved a petition, the county treasurer would have to send to the purchaser of the property by certified mail (return receipt requested, postage prepaid) a written demand that the purchaser surrender any tax certificate or tax deed issued for that property, or an affidavit attesting to the loss of the tax certificate or tax deed. Upon receiving a written demand to surrender a tax certificate or tax deed, a purchaser

would have to surrender the certificate or tax deed for the property identified in the demand, or an affidavit attesting to the loss of the tax certificate or tax deed. If a purchaser did not do so within 30 days of receiving the written demand to surrender, the county treasurer would have to do the following:

- In the case of a tax certificate, cancel the certificate in the tax record and certify the cancellation of the certificate to the Department of Treasury.
- For a tax deed, record a notice to cancel the tax deed in the office of the county register of deeds, and certify the recording of the notice to the Department of Treasury.

Upon surrender of a tax certificate or tax deed or affidavit attesting to the loss of a tax certificate or tax deed, the county treasurer would have to refund to the purchaser of the certificate or to the holder of the tax deed the purchase price without interest. Further, for a tax certificate the county treasurer would have to cancel the tax certificate in the tax record and certify the cancellation to the Department of Treasury; for a tax deed, the county treasurer would have to record a notice canceling the tax deed in the county register of deeds office and certify the recording of the notice to the Department.

Proposed MCL 211.131f

BACKGROUND

Under the Act, any property upon which taxes remain unpaid, and that is not redeemed, eventually reverts to the State. Each year on the first Tuesday in May, in those counties where the properties are located, the county treasurers hold a tax sale on behalf of the State. If property is sold, the buyer obtains a tax certificate indicating that the buyer paid the amount due for unpaid taxes, interest, and charges on the property; if the property is not redeemed after the allotted time, the buyer is entitled to a deed of conveyance. If property is not sold at the tax sale, the tax certificate is held by the State Treasurer. If the State Treasurer sells the property, the buyer obtains the tax certificate, and eventually the deed after the redemption period; if the State Treasurer is unable to sell the property, it is deeded to the Department of Natural Resources (DNR). At this point, a local unit or a county may file an application with the DNR to request conveyance of special residential property to the local unit or county. Unless the property is determined to be suitable for a State park, forest, or game refuge, the DNR must convey

the property to the local unit, the county, or a designated party. (A designated party is a person who has been given control with respect to a parcel of abandoned property under a nuisance abatement ordinance; or an entity that is exempt from Federal income taxes as a charitable organization, has demonstrated capability for home rehabilitation or community economic development, and has a community-based board.) A local unit or county that is conveyed special residential property may convey the property to a designated party for "...the public purpose of eliminating neighborhood deterioration and blight".

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

Blighted and abandoned property in residential areas does great harm to the residents who remain. In addition to lowering property values and generally depressing economic activities, abandoned property is a magnet for criminal activities, which only cause increased abandonment and deterioration. Some neighborhoods in older urban areas can turn from bad to worse in a short number of years unless the local unit takes action to reverse the trend. Municipalities need to be able to do something with derelict, abandoned property, but they must first obtain the title to that property. Even if a municipality has a detailed revitalization plan in place and has obtained certain property in an area, it may not be able to put the plan into effect if it is unable to obtain other abandoned property in the area in a reasonable amount of time. Reportedly, in some areas, property offered at a tax sale is sometimes purchased by a buyer who has never seen the property, or is purchased by a buyer who overestimated the value of the property. Once a buyer determines that a parcel would cost too much to rehabilitate, or is simply worthless, the buyer might leave the property abandoned and refuse to pay future taxes. This throws the property back into the delinquent property tax process and delays final disposition of the property for another two or three years, during which time the property further deteriorates and the rehabilitation plans of the city remain on hold or incomplete. The bill would allow a municipality to intervene in the delinquent tax process and hasten its ability to reclaim and rehabilitate long-abandoned property.

Opposing Argument

The bill raises several questions. If it is a good idea to allow local units to recall tax certificates, for special residential property and designated parcels, then perhaps locals should be allowed to recall tax certificates in all cases. Further, a buyer of property at a tax sale may have plans to live in the property or rehabilitate it for profit. Under the bill, however, a local unit could simply take the property by recalling the tax certificate, without regard to the owner's plans, for its own purposes. Moreover, this method of taking property could present constitutional concerns. In addition, there seem to be several technical problems with the bill. For instance, a tax certificate holder would be reimbursed for the certificate only if the holder either returned the certificate or claimed it was lost. The bill does not address what would happen if a certificate holder refused to return the certificate. Also, it is not clear why the Treasury Department would be involved or what criteria it would use to approve a petition to recall a tax certificate.

The process established in the Act for the disposition of property upon which delinquent taxes remain unpaid is detailed and complicated. The bill would add another layer of complication.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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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.