

# HOUSE BILL No. 6306

July 1, 2010, Introduced by Reps. Tlaib, Geiss, Durhal, Leland, Bettie Scott, Young, Valentine, Womack, Constan, Cushingberry, Kennedy, Meadows, Jackson, Johnson and Nathan and referred to the Committee on Urban Policy.

A bill to amend 1893 PA 206, entitled  
"The general property tax act,"  
by amending section 78k (MCL 211.78k), as amended by 2006 PA 611.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 78k. (1) If a petition for foreclosure is filed under  
2       section 78h, not later than the date of the hearing, the  
3       foreclosing governmental unit shall file with the clerk of the  
4       circuit court proof of service of the notice of the show cause  
5       hearing under section 78j, proof of service of the notice of the  
6       foreclosure hearing under this section, and proof of the personal  
7       visit to the property and publication under section 78i.

8       (2) A person claiming an interest in a parcel of property set

1    forth in the petition for foreclosure may contest the validity or  
2    correctness of the forfeited unpaid delinquent taxes, interest,  
3    penalties, and fees for 1 or more of the following reasons:

4            (a) No law authorizes the tax.

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

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

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

12           (e) The tax was assessed fraudulently.

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

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

21           (4) If the court determines that the owner of property subject  
22   to foreclosure is a minor heir, is incompetent, is without means of  
23   support, or is undergoing a substantial financial hardship, the  
24   court may withhold that property from foreclosure for 1 year or may  
25   enter an order extending the redemption period as the court  
26   determines to be equitable. If the court withholds property from  
27   foreclosure under this subsection, a taxing unit's lien for taxes

1 due is not prejudiced and that property shall be included in the  
2 immediately succeeding year's tax foreclosure 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 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

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

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

19 (e) That all existing recorded and unrecorded interests in  
20 that property are extinguished, except a visible or recorded  
21 easement or right-of-way, private deed restrictions, interests of a  
22 lessee or an assignee of an interest of a lessee under a recorded  
23 oil or gas lease, interests in oil or gas in that property that are  
24 owned by a person other than the owner of the surface that have  
25 been preserved as provided in section 1(3) of 1963 PA 42, MCL  
26 554.291, or restrictions or other governmental interests imposed  
27 pursuant to the natural resources and environmental protection act,

1 1994 PA 451, MCL 324.101 to 324.90106, if all forfeited delinquent  
2 taxes, interest, penalties, and fees are not paid on or before the  
3 March 31 immediately succeeding the entry of a judgment foreclosing  
4 the property under this section, or in a contested case within 21  
5 days of the entry of a judgment foreclosing the property under this  
6 section.

7 (f) A finding that all persons entitled to notice and an  
8 opportunity to be heard have been provided that notice and  
9 opportunity. A person shall be deemed to have been provided notice  
10 and an opportunity to be heard if the foreclosing governmental unit  
11 followed the procedures for provision of notice by mail, for visits  
12 to forfeited property, and for publication under section 78i, or if  
13 1 or more of the following apply:

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

17 (ii) The person appeared at the hearing under this section or  
18 filed written objections with the clerk of the circuit court under  
19 subsection (3) prior to the hearing.

20 (iii) Prior to the hearing under this section, the person had  
21 actual notice of the hearing.

22 (g) A judgment entered under this section is a final order  
23 with respect to the property affected by the judgment and except as  
24 provided in subsection ~~(7)~~—(8) shall not be modified, stayed, or  
25 held invalid after the March 31 immediately succeeding the entry of  
26 a judgment foreclosing the property under this section, or for  
27 contested cases 21 days after the entry of a judgment foreclosing

1 the property under this section.

2 (6) THE FORECLOSING GOVERNMENTAL UNIT SHALL SEND A NOTICE OF  
3 JUDGMENT BY FIRST-CLASS MAIL TO EACH PERSON WITH A LEGAL INTEREST  
4 IN AN IMPROVED PROPERTY AND TO THE OCCUPANT, IF ANY, AT THE ADDRESS  
5 FOR THE PROPERTY LISTED IN THE TAX ROLLS OR ASCERTAINED DURING THE  
6 PERSONAL VISIT TO THE PROPERTY UNDER SECTION 78I, IF THE ADDRESS IS  
7 EVIDENT. THE NOTICE OF JUDGMENT SHALL STATE THE LAST DATE ON WHICH  
8 THE PROPERTY MAY BE REDEEMED, WHICH DATE SHALL BE MARCH 31  
9 IMMEDIATELY SUCCEEDING THE ENTRY OF A JUDGMENT FORECLOSING THE  
10 PROPERTY UNDER THIS SECTION OR IN A CONTESTED CASE WITHIN 21 DAYS  
11 OF THE ENTRY OF A JUDGMENT FORECLOSING THE PROPERTY UNDER THIS  
12 SECTION.

13 (7) ~~(6)~~ Except as otherwise provided in subsection (5)(c) and  
14 (e), fee simple title to property set forth in a petition for  
15 foreclosure filed under section 78h on which forfeited delinquent  
16 taxes, interest, penalties, and fees are not paid on or before the  
17 March 31 immediately succeeding the entry of a judgment foreclosing  
18 the property under this section, or in a contested case within 21  
19 days of the entry of a judgment foreclosing the property under this  
20 section, shall vest absolutely in the foreclosing governmental  
21 unit, and the foreclosing governmental unit shall have absolute  
22 title to the property, including all interests in oil or gas in  
23 that property except the interests of a lessee or an assignee of an  
24 interest of a lessee under an oil or gas lease in effect as to that  
25 property or any part of that property if the lease was recorded in  
26 the office of the register of deeds in the county in which the  
27 property is located before the date of filing the petition for

1 foreclosure under section 78h, and interests preserved as provided  
2 in section 1(3) of 1963 PA 42, MCL 554.291. The foreclosing  
3 governmental unit's title is not subject to any recorded or  
4 unrecorded lien and shall not be stayed or held invalid except as  
5 provided in subsection ~~(7)~~-(8) or ~~(9)~~-(10).

6       (8) ~~(7)~~—The foreclosing governmental unit or a person claiming  
7 to have a property interest under section 78i in property  
8 foreclosed under this section may appeal the circuit court's order  
9 or the circuit court's judgment foreclosing property to the court  
10 of appeals. An appeal under this subsection is limited to the  
11 record of the proceedings in the circuit court under this section  
12 and shall not be de novo. The circuit court's judgment foreclosing  
13 property shall be stayed until the court of appeals has reversed,  
14 modified, or affirmed that judgment. If an appeal under this  
15 subsection stays the circuit court's judgment foreclosing property,  
16 the circuit court's judgment is stayed only as to the property that  
17 is the subject of that appeal and the circuit court's judgment  
18 foreclosing other property that is not the subject of that appeal  
19 is not stayed. To appeal the circuit court's judgment foreclosing  
20 property, a person appealing the judgment shall pay to the county  
21 treasurer the amount determined to be due to the county treasurer  
22 under the judgment on or before the March 31 immediately succeeding  
23 the entry of a judgment foreclosing the property under this  
24 section, or in a contested case within 21 days of the entry of a  
25 judgment foreclosing the property under this section, together with  
26 a notice of appeal. If the circuit court's judgment foreclosing the  
27 property is affirmed on appeal, the amount determined to be due

1 shall be refunded to the person who appealed the judgment. If the  
2 circuit court's judgment foreclosing the property is reversed or  
3 modified on appeal, the county treasurer shall refund the amount  
4 determined to be due to the person who appealed the judgment, if  
5 any, and retain the balance in accordance with the order of the  
6 court of appeals.

7 (9) ~~(8)~~—The foreclosing governmental unit shall record a  
8 notice of judgment for each parcel of foreclosed property in the  
9 office of the register of deeds for the county in which the  
10 foreclosed property is located in a form prescribed by the  
11 department of treasury.

12 (10) ~~(9)~~—After the entry of a judgment foreclosing the  
13 property under this section, if the property has not been  
14 transferred under section 78m to a person other than the  
15 foreclosing governmental unit, a foreclosing governmental unit may  
16 cancel the foreclosure by recording with the register of deeds for  
17 the county in which the property is located a certificate of error  
18 in a form prescribed by the department of treasury, if the  
19 foreclosing governmental unit discovers any of the following:

20 (a) The foreclosed property was not subject to taxation on the  
21 date of the assessment of the unpaid taxes for which the property  
22 was foreclosed.

23 (b) The description of the property used in the assessment of  
24 the unpaid taxes for which the property was foreclosed was so  
25 indefinite or erroneous that the forfeiture of the property was  
26 void.

27 (c) The taxes for which the property was foreclosed had been



1 paid to the proper officer within the time provided under this act  
2 for the payment of the taxes or the redemption of the property.

3 (d) A certificate, including a certificate issued under  
4 section 135, or other written verification authorized by law was  
5 issued by the proper officer within the time provided under this  
6 act for the payment of the taxes for which the property was  
7 foreclosed or for the redemption of the property.

8 (e) An owner of an interest in the property entitled to notice  
9 under section 78i was not provided notice sufficient to satisfy the  
10 minimum requirements of due process required under the state  
11 constitution of 1963 and the constitution of the United States.

12 (f) A judgment of foreclosure was entered under this section  
13 in violation of an order issued by a United States bankruptcy  
14 court.

15 (11) ~~(10)~~—A certificate of error submitted to the county  
16 register of deeds for recording under subsection ~~(9)~~—(10) need not  
17 be notarized and may be authenticated by a digital signature of the  
18 foreclosing governmental unit or by other electronic means.