

Legislative Analysis



OPT-IN "WINDOW" FOR COUNTY TO SERVE AS FORECLOSING GOVERNMENTAL UNIT

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House Bill 5058 (as passed by the House as Substitute H-1)

Sponsor: Rep. Mike Callton

Committee: Local Government

First Analysis (2-17-14)

BRIEF SUMMARY: The bill would allow county commissioners to rescind its previous decision to have the State of Michigan foreclose on tax-forfeited property in the county and instead allow the county to be the foreclosing governmental unit. (This would also enable those counties to operate their own Fast Track Land Bank Authority programs.)

FISCAL IMPACT: As written, the bill could reduce administrative costs to the state by an unknown amount. The magnitude of the reduction depends on how many of the twelve counties with state administered land banks decide to administer the bank themselves, and how many tax foreclosures occur in those counties in the future.

THE APPARENT PROBLEM:

In 1999 the Michigan legislature enacted Public Act 123, which streamlined the way in which properties were foreclosed upon for the non-payment of delinquent property taxes. Generally, the new process cut in half the number of years that a property could rest on the delinquent tax rolls before being forfeited to the county treasurer and put up for sale at a sheriff's auction. However, the new law also sought to protect the property rights of owners by requiring foreclosing government officials to conduct title searches, mail several first class notices, inspect the property on-site, and file a petition in the circuit court to initiate the foreclosure.

Under the 1999 law, county boards of commissioners could opt to administer the foreclosure process themselves, and the commissioners in 70 of Michigan's 83 counties did so. Many of the county treasurers (38 or more) who administer programs often assign their tax forfeited properties to local land banks, in order ultimately to return them to the public tax rolls and ensure their productive use.

The new law also allowed local boards of commissioners to opt out of the new law. These officials could elect to have the Michigan Department of Treasury administer their property tax forfeiture program, rather than retaining local control. (The State of Michigan operates local land banks in 12 counties that opted out.) See ***Background Information***.

According to committee testimony, the officials in five of the counties that initially opted not to administer their own tax forfeiture program have now changed their minds, and wish to become foreclosing governmental units. But there is not provision in the law at

present to allow this. To that end, legislation has been introduced that would allow local officials to opt in, if they take action before November 30, 2014.

THE CONTENT OF THE BILL:

House Bill 5058 (H-1) would amend the General Property Tax Act (MCL 211.78) to allow a board of county commissioners to rescind its previous decision to have the State of Michigan foreclose on tax-forfeited property in the county and instead allow the county to be the foreclosing governmental unit.

The bill specifies that until November 30, 2014, a county board of commissioners that had elected to have the foreclosure of forfeited property administered by the State of Michigan may rescind its resolution at an open meeting, with the written agreement of the county treasurer and county executive (if any). The commissioners would be required to forward a copy of the new resolution to the Department of Treasury not later than November 30, 2014.

Under the bill, a county that rescinded its prior choice *by January 30, 2014* would act as the foreclosing governmental unit after February 1, 2014 for all property forfeited to the county treasurer. In contrast, a county that rescinded its prior election *after January 30, 2014* but before November 30, 2014, would act as the foreclosing governmental unit for forfeited property after February 1, 2015.

BACKGROUND INFORMATION:

Following enactment of the Fast Track Land Bank Authority Act, Public Act 258 of 2003, officials in 38 Michigan counties set up local land banks with the aim of receiving tax-forfeited properties and returning them to productive use. The officials in 12 additional counties opted to have the state administer their local land banks instead of doing so themselves. The counties for which the state administers the land banks are Keweenaw, Iron, Dickinson, Luce, Kalkaska, Iosco, Mecosta, Clinton, Shiawassee, Eaton, Livingston, and Branch.

ARGUMENTS:

For:

This bill would allow county boards of commissioners to administer their property tax forfeiture programs through the offices of their county treasurers. Since the tax-forfeiture process was streamlined 13 years ago, most counties have elected to set up their own tax foreclosure programs following the model set-out in Public Act 123 of 1999. The officials in more than 70 of Michigan's 83 counties have opted in. Those counties that did not set up their own local programs asked the State of Michigan Department of Treasury to assume that responsibility, instead.

According to a spokesman for the Michigan Association of County Treasurers, as many as five counties that initially opted out would now like to opt in. This bill would allow

county boards of commissioners to rescind their earlier resolutions, and adopt new ones, if they acted before November 30, 2014.

POSITIONS:

The Michigan Association of Counties supports the bill. (11-14-13)

The Michigan Association of County Treasurers supports the bill. (11-14-13)

Eaton County Board of Commissioners supports the bill. (11-14-13)

The Tri-County Regional Planning Commission (serving Clinton, Eaton and Ingham counties) supports the bill. (9-25-13)

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