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BILL



ANALYSIS

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Senate Bill 386 (as introduced 5-18-17)  
Sponsor: Senator Judy K. Emmons  
Committee: Finance

Date Completed: 6-5-17

### **CONTENT**

**The bill would amend the General Property Tax Act to allow a person claiming to have an interest in property foreclosed due to unpaid taxes to seek to invalidate the foreclosure on certain grounds (reasons for which a court may relieve a party of a final judgment), if the property had not been transferred to a person other than the foreclosing governmental unit. The bill also would require, instead of allow, a foreclosing governmental unit to cancel a foreclosure under certain circumstances if the property had not been transferred to a person other than the governmental unit after a foreclosure judgment was entered.**

The bill would be retroactive and would be effective January 1, 2015.

The Act establishes procedures for the return of tax-delinquent property to a county treasurer, the placement of a lien on the property, forfeiture of the property, and the eventual foreclosure and sale of the property. These procedures require a number of notices, allow the owner to "redeem" the property by paying the delinquent taxes and other amounts, and involve court proceedings.

The Act requires a circuit court to enter a final judgment on a foreclosure petition at any time after the hearing on the petition, but within a time frame set forth in the Act. The foreclosure judgment must specify that it is a final order with respect to the property affected by the judgment and, except as provided, may not be modified, stayed, or held invalid after specified dates.

The bill would allow a person claiming to have a property interest under Section 78i in property foreclosed to seek to invalidate the foreclosure on any of the grounds described in Michigan Court Rule (MCR) 2.612, so long as the property had not been transferred under Section 78m to a person other than the foreclosing governmental unit.

(Section 78i of the Act contains provisions regarding the identification of owners with an interest in property forfeited for unpaid delinquent taxes, among other things.

Under MCR 2.612, on motion and on just terms, the court in a civil action may relieve a party or the legal representative of a party from a final judgment, order, or proceeding on the following grounds:

- Mistake, inadvertence, surprise, or excusable neglect.
- Newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial.

- Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party.
- The judgment is void.
- The judgment has been satisfied, released, or discharged; a prior judgment on which it is based has been reversed or otherwise vacated; or it is no longer equitable that the judgment should have prospective application.
- Any other reason justifying relief from the operation of the judgment.

Section 78m, under certain circumstances, allows a foreclosing governmental unit, or its authorized agent, at the option of the governmental unit, to hold one or more property sales at which foreclosed property will be sold by auction sale. Section 78m contains further provisions regarding the sale of property, or the retention of property by a foreclosing governmental unit, among other things.)

Under the Act, after the entry of a foreclosure judgment, if the property has not been transferred under Section 78m to a person other than the foreclosing governmental unit, the unit may cancel the foreclosure by recording with the register of deeds for the county in which the property is located a certificate of error in a form prescribed by the Department of Treasury, if the foreclosing governmental unit discovers certain circumstances regarding the property (e.g., the property was not subject to taxation or the taxes had been paid).

Under the bill, the governmental unit would be required to cancel the foreclosure, instead, in the situation described above, if the foreclosing governmental unit or a court of competent jurisdiction determined any of the circumstances listed in the Act.

MCL 211.78k

Legislative Analyst: Drew Krogulecki

### **FISCAL IMPACT**

The bill would have an unknown fiscal impact on State and local government. By allowing a person with an interest in property to challenge a foreclosure judgment in additional circumstances, the bill could lead to the identification of an interested party who would pay back taxes to prevent a foreclosure sale. Alternatively, depending on the outcome of the litigation, the bill could delay a foreclosure auction that would raise funds to pay the back taxes and return the property to productive use.

Fiscal Analyst: Elizabeth Pratt

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