

## MEMORANDUM

**TO:** Real Property Law Section Council

**FROM:** Gregory J. Gamalski

**DATE:** February 7, 2020

**SUBJECT:** Legislative Report

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1. **Monthly Call.** The Committee held a conference call on Monday February 3, 2020. The Legislative Committee was updated on the Marketable Title Act Ad Hoc Committee's work.
2. **Seminar Presentation.** Two Legislative Committee members participated the Section's January 2020 Homeward Bound Program, David Pierson and Greg Gamalski along with the Section's lobbyist from Karoub Associates, Tabitha Zimny
3. **Electronic Recording Commission.** Karoub Associates advises the Governor will appoint former Section Chairperson Brian Henry to the Electronic Recording Commission. Karoub introduced the Section to the opportunity. Link to Commission site below. Brian will replace Tom Richardson of Liberty Title whose term expired in early 2020. [https://www.michigan.gov/dtmb/0,5552,7-358-82547\\_56345\\_60583---,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82547_56345_60583---,00.html)
4. **Property Tax Relief; Committee Chair Suggestion and Prerogative.** HB 5124 regarding property relief was reported out of House committee favorably with a recommendation of immediate effect. It moves on to the Senate. The bill's recent progress took place after our committee meeting The Section has not taken a position. The bill and summary are attached. Should we take a position? Distilled it simplifies some measures for poverty tax exemptions and allows the treasurer to REDUCE the redemption amount to not more than 10% of the taxable value. People can stay in their homes and the homes do not go into the land bank or investor/speculator hands, often leading to blight. The notion is that more people could thus retain their homes and it also would address in part the problem of over assessed property. The measure sunsets in 2023. Property tax foreclosures are a major headache in the real estate industry and our industry depend in the end to a large degree on affordable and continued home ownership. Our brief as a Section might cover this. It would not appear any Section constituency's ox will be gored by supporting HB 5124. To some extent the complained of over appraisal of real property acknowledged by the City of Detroit in various news reports recently are a matter of real estate practice and administration. <https://www.freep.com/story/opinion/columnists/nancy-kaffer/2020/01/17/detroit-overtaxation-duggan-foreclosure/4464944002/>

As a matter of simple social equity the Section might consider supporting the bill just as good public policy related to real estate. Since recent movement just occurred the Legislative Committee Chair proposes more detailed position be prepared with an eye toward supporting the bill formally at our next Council meeting if not before.

<https://www.legislature.mi.gov/documents/2019-2020/billanalysis/Senate/pdf/2019-SFA-5124-L.pdf>

<https://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-5124-86939B45.pdf>

<https://www.legislature.mi.gov/documents/2019-2020/billengrossed/House/pdf/2019-HEBH-5124.pdf>

5. **Pending Legislation; Positions.** Bills on which we recently took action remain in committee and have not advanced.
  - a. HB 4123 and 4699. These bills essentially authorize a lien against all real estate throughout the state owned by an owner of even a single blighted property subject to blight citations.
  - b. HB 4676 and HB 4677. The bills essentially attempt to bar certain noisome restrictions related to race, religion and sexual orientation, etc. which is a laudable goal.
  - c. HB 4509 about members of single member LLC's representing an LCC in eviction action has moved to Judiciary and Public Safety Committee in the House.
6. **Emotional Support Animals.** SB609 and SB 610, about emotional support animals and residential landlord tenant issues seem to remain viable. They are however still in the Committee on Local Government.
7. **Tree Liability; HB4195.** This bill seems to have lost momentum. We continue to monitor it. Comments received can be summarized as the proposal is an unnecessary dramatic change from settled law and is fraught with unintended consequences.
8. **Soil Erosion Bill.** SB 0714 Dealing with temporary erosion control structures being authorized without permit during high water levels seems to have legs and has moved to the Committee of Natural Resources and Outdoor Recreation.  
<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2020-SIB-0714.pdf>
9. **Assignment of Rents Statutes.** Likewise the bills related to a new assignment of rents statute, HB 5086 and HB 5092 remain in the Judiciary Committee.

**SUBSTITUTE FOR  
HOUSE BILL NO. 5124**

A bill to amend 1893 PA 206, entitled  
"The general property tax act,"  
by amending sections 78g and 78q (MCL 211.78g and 211.78q), section  
78g as amended by 2014 PA 500 and section 78q as amended by 2019 PA  
35.

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

1       Sec. 78g. (1) Except as otherwise provided in this subsection,  
2 on March 1 in each tax year, certified abandoned property and  
3 property that is delinquent for taxes, interest, penalties, and  
4 fees for the immediately preceding 12 months or more is forfeited  
5 to the county treasurer for the total amount of those unpaid  
6 delinquent taxes, interest, penalties, and fees. If property is  
7 forfeited to a county treasurer under this subsection, the



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1   foreclosing governmental unit does not have a right to possession  
2   of the property until the April 1 immediately succeeding the entry  
3   of a judgment foreclosing the property under section 78k or in a  
4   contested case until 22 days after the entry of a judgment  
5   foreclosing the property under section 78k. If property is  
6   forfeited to a county treasurer under this subsection, the county  
7   treasurer shall add a \$175.00 fee to each parcel of property for  
8   which those delinquent taxes, interest, penalties, and fees remain  
9   unpaid. A county treasurer shall withhold a parcel of property from  
10   forfeiture for any reason determined by the state tax commission.  
11   The **state tax commission shall determine the** procedure for  
12   withholding a parcel of property from forfeiture under this  
13   subsection. ~~shall be determined by the state tax commission.~~

14       (2) Not more than 45 days after property is forfeited under  
15   subsection (1), the county treasurer shall record with the county  
16   register of deeds a certificate in a form determined by the  
17   department of treasury for each parcel of property forfeited to the  
18   county treasurer, specifying that the property has been forfeited  
19   to the county treasurer and not redeemed and that absolute title to  
20   the property ~~shall~~**will** vest in the county treasurer on the March  
21   31 immediately succeeding the entry of a judgment foreclosing the  
22   property under section 78k or in a contested case 21 days after the  
23   entry of a judgment foreclosing the property under section 78k. If  
24   a certificate of forfeiture is recorded in error, the county  
25   treasurer shall record with the county register of deeds a  
26   certificate of error in a form prescribed by the department of  
27   treasury. A certificate submitted to the county register of deeds  
28   for recording under this subsection need not be notarized and may  
29   be authenticated by a digital signature of the county treasurer or

1 by other electronic means. If the county has elected under section  
2 78 to have this state foreclose property under this act forfeited  
3 to the county treasurer under this section, the county treasurer  
4 shall immediately transmit to the department of treasury a copy of  
5 each certificate recorded under this subsection. The county  
6 treasurer shall upon collection transmit to the department of  
7 treasury within 30 days the fee added to each parcel under  
8 subsection (1), which may be paid from the county's delinquent tax  
9 revolving fund and ~~shall~~**must** be deposited in the land  
10 reutilization fund created under section 78n.

11 (3) Property forfeited to the county treasurer under  
12 subsection (1) may be redeemed at any time on or before the March  
13 31 immediately succeeding the entry of a judgment foreclosing the  
14 property under section 78k or in a contested case within 21 days of  
15 the entry of a judgment foreclosing the property under section 78k  
16 upon payment to the county treasurer of all of the following:

17 (a) The total amount of unpaid delinquent taxes, interest,  
18 penalties, and fees for which the property was forfeited or the  
19 reduced amount of unpaid delinquent taxes, interest, penalties, and  
20 fees payable under subsection (8), if applicable.

21 (b) Except as otherwise provided in this subdivision and  
22 subdivision (c), in addition to the interest calculated under  
23 sections 60a(1) or (2) and 78a(3), additional interest computed at  
24 a noncompounded rate of 1/2% per month or fraction of a month on  
25 the taxes that were originally returned as delinquent, computed  
26 from the March 1 preceding the forfeiture. The county treasurer may  
27 waive the additional interest under this subdivision if the  
28 property is withheld from the petition for foreclosure under  
29 section 78h(3)(c).



(c) If the property is classified as residential real property under section 34c, the property is a principal residence exempt from the tax levied by a local school district for school operating purposes under section 7cc, and a tax foreclosure avoidance agreement is in effect for the property under section 78q(5), while the tax foreclosure avoidance agreement is effective, all of the following ~~shall~~ apply:

(i) The property ~~shall~~ **must** be withheld from the petition for foreclosure under section 78h.

(ii) The additional interest under subdivision (b) ~~shall~~ **does** not apply and interest computed at a noncompounded rate of 1/2% per month or fraction of a month on the taxes that were originally returned as delinquent, computed from the date that the taxes originally were returned as delinquent, ~~shall apply~~ **applies** to the property.

(d) All recording fees and all fees for service of process or notice.

(4) If property is redeemed by a person with a legal interest as provided under subsection (3), any unpaid taxes not returned as delinquent to the county treasurer under section 78a are not extinguished.

(5) If property is redeemed by a person with a legal interest as provided under subsection (3), the person redeeming does not acquire a title or interest in the property greater than that person would have had if the property had not been forfeited to the county treasurer, but the person redeeming, other than the owner, is entitled to a lien for the amount paid to redeem the property in addition to any other lien or interest the person may have, which ~~shall~~ **must** be recorded within 30 days with the register of deeds by



1 the person entitled to the lien. The lien acquired ~~shall have~~ **has**  
2 the same priority as the existing lien, title, or interest.

3 (6) If property is redeemed as provided under subsection (3),  
4 the county treasurer shall issue a redemption certificate in  
5 quadruplicate in a form prescribed by the department of treasury.  
6 One of the quadruplicate certificates ~~shall must~~ be delivered to  
7 the person making the redemption payment, 1 ~~shall must~~ be filed in  
8 the office of the county treasurer, 1 ~~shall must~~ be recorded in the  
9 office of the county register of deeds, and 1 ~~shall must~~ be  
10 immediately transmitted to the department of treasury if this state  
11 is the foreclosing governmental unit. The county treasurer shall  
12 also make a note of the redemption certificate in the tax record  
13 kept in his or her office, with the name of the person making the  
14 final redemption payment, the date of the payment, and the amount  
15 paid. If the county treasurer accepts partial redemption payments,  
16 the county treasurer shall include in the tax record kept in his or  
17 her office the name of the person or persons making each partial  
18 redemption payment, the date of each partial redemption payment,  
19 the amount of each partial redemption payment, and the total amount  
20 of all redemption payments. A certificate and the entry of the  
21 certificate in the tax record by the county treasurer is prima  
22 facie evidence of a redemption payment in the courts of this state.  
23 A certificate submitted to the county register of deeds for  
24 recording under this subsection need not be notarized and may be  
25 authenticated by a digital signature of the county treasurer or by  
26 other electronic means. If a redemption certificate is recorded in  
27 error, the county treasurer shall record with the county register  
28 of deeds a certificate of error in a form prescribed by the  
29 department of treasury. A copy of a certificate of error recorded



1 under this section ~~shall~~**must** be immediately transmitted to the  
2 department of treasury if this state is the foreclosing  
3 governmental unit.

4 (7) If a foreclosing governmental unit has reason to believe  
5 that a property forfeited under this section may be the site of  
6 environmental contamination, the foreclosing governmental unit  
7 shall provide the department of environmental quality with any  
8 information in the possession of the foreclosing governmental unit  
9 that suggests the property may be the site of environmental  
10 contamination.

11 ~~(8) Before July 1, 2016, if the amount of unpaid delinquent~~  
12 ~~taxes, interest, penalties, and fees for which a property was~~  
13 ~~forfeited is greater than 50% of the state equalized valuation of~~  
14 ~~the property and the property is subject to and in compliance with~~  
15 ~~a delinquent property tax installment payment plan under section~~  
16 ~~78q(1) or a tax foreclosure avoidance agreement under section~~  
17 ~~78q(5), or both, the foreclosing governmental unit may reduce the~~  
18 ~~amount of taxes, interest, penalties, and fees required to be paid~~  
19 ~~to redeem the property under subdivision (3) (a) to an amount equal~~  
20 ~~to 50% of the state equalized valuation of the property. If a~~  
21 ~~property is redeemed by payment of the reduced amount under this~~  
22 ~~subsection, any remaining unpaid taxes, interest, penalties, and~~  
23 ~~fees for which the property was forfeited and otherwise payable~~  
24 ~~shall be canceled by the county treasurer. A foreclosing~~  
25 ~~governmental unit may not approve a reduction in the amount~~  
26 ~~necessary to redeem property under this subsection if the reduction~~  
27 ~~would cause noncompliance with section 87c(7) or otherwise~~  
28 ~~impermissibly impair an outstanding debt of the county.~~

29 **(8) Notwithstanding any provision of this act or charter to**





1 the contrary, until July 1, 2023, all of the following apply to  
2 property forfeited under this section that is located in a local  
3 unit of government whose treasurer has not provided a written  
4 notice of nonparticipation under subsection (10):

5 (a) If the property is subject to an exemption under section  
6 7u and the property's owner has not previously received a payment  
7 reduction under this subsection, the foreclosing governmental unit  
8 may do 1 or more of the following:

9 (i) If the total amount of unpaid delinquent taxes for which  
10 the property was forfeited is greater than 10% of the most recent  
11 taxable valuation of the property immediately prior to the date  
12 that the property obtained exempt status under section 7u, reduce  
13 the amount required to be paid to redeem the property under  
14 subsection (3) (a) to 10% of the most recent taxable valuation of  
15 the property immediately prior to the date that the property  
16 obtained exempt status under section 7u. A reduction under this  
17 subparagraph must be allocated to each taxing unit based on the  
18 proportion that its unpaid delinquent taxes certified to the county  
19 treasurer bear to the total amount of unpaid delinquent taxes  
20 certified to the county treasurer in connection with the property.

21 (ii) Cancel some or all of any unpaid delinquent taxes that  
22 represent charges for services that have become delinquent and have  
23 been certified to the county treasurer for collection of taxes and  
24 enforcement of the lien for the taxes under section 21(3) of the  
25 revenue bond act of 1933, 1933 PA 94, MCL 141.121.

26 (iii) Cancel some or all of the interest, penalties, and fees  
27 required to be paid to redeem the property.

28 (b) If the amount required to redeem the property is reduced  
29 under subdivision (a), the foreclosing governmental unit may



1 further reduce the redemption amount by an amount not to exceed 10%  
2 of the unpaid delinquent taxes required to be paid to redeem the  
3 property if the property is redeemed by a single lump-sum payment  
4 made within a period to be determined by the foreclosing  
5 governmental unit.

6 (c) A foreclosing governmental unit may apply the provisions  
7 of this subsection to property subject to and in compliance with a  
8 delinquent property tax installment payment plan under section  
9 78q(1) or a tax foreclosure avoidance agreement under section  
10 78q(5).

11 (d) If property is redeemed by payment of a reduced amount  
12 under this subsection in accordance with the terms, conditions, and  
13 time period established by the county treasurer, any remaining  
14 unpaid taxes, interest, penalties, and fees for which the property  
15 was forfeited and otherwise payable shall be canceled by the county  
16 treasurer, including, but not limited to, any interest, fee, or  
17 penalty payment requirements set forth in a delinquent property tax  
18 installment payment plan under section 78q(1) or a tax foreclosure  
19 avoidance agreement under section 78q(5) with respect to the  
20 property. A county treasurer shall not impose any additional  
21 interest, penalties, fees, or other charges of any kind in  
22 connection with a payment reduction program under this subsection.

23 (e) If the owner of property subject to a payment reduction  
24 under this subsection fails to pay the full reduced amount of  
25 delinquent taxes, penalties, and fees under this subsection in  
26 accordance with the terms, conditions, and time period established  
27 by the county treasurer, all of the following apply:

28 (i) The amount required to be paid to redeem the property is  
29 the sum of both of the following:



1 (A) The full amount of any unpaid delinquent taxes on the  
2 property.

3 (B) Interest under section 78g(3) (b) and any additional  
4 interest, fees, charges, and penalties otherwise applicable to any  
5 unpaid taxes on the property, including, but not limited to,  
6 interest, fees, charges, and penalties canceled under subdivision  
7 (d).

8 (ii) The property must be included in the immediately  
9 succeeding petition for foreclosure under section 78h.

10 (f) A foreclosing governmental unit may not approve a  
11 reduction in the amount required to redeem property under this  
12 subsection if the reduction would cause noncompliance with section  
13 87c(7) or otherwise impermissibly impair an outstanding debt of the  
14 county or any taxing unit.

15 (g) All payments collected in connection with property under  
16 this subsection must be distributed to each taxing unit that has  
17 certified to the county treasurer unpaid delinquent taxes for the  
18 property in an amount based on the proportion that the taxing  
19 unit's unpaid delinquent taxes certified to the county treasurer  
20 bear to the total amount of unpaid delinquent taxes certified to  
21 the county treasurer in connection with the property.

22 (h) A county treasurer shall set forth the terms and benefits  
23 of a payment reduction program available under this subsection in a  
24 plan published on the foreclosing governmental unit's website. The  
25 plan must set forth which of the reductions described in  
26 subdivisions (a) and (b) are available under the program and must  
27 include any other information determined to be necessary or  
28 appropriate in the discretion of the county treasurer.

29 (9) If a payment reduction under subsection (8) is in effect



1 for property for which a county has issued notes under this act  
2 that are secured by the delinquent taxes and interest on that  
3 property, at any time within 2 years after the date that those  
4 taxes were returned as delinquent, the county treasurer may charge  
5 back to any taxing unit the face amount of the delinquent taxes  
6 that were owed to that taxing unit on the date those taxes were  
7 returned as delinquent, less the amount of any payments received by  
8 the county treasurer on that property. All subsequent payments of  
9 delinquent taxes and interest on that property must be retained by  
10 the county treasurer in a separate account and either paid to or  
11 credited to the account of that taxing unit.

12 (10) A foreclosing governmental unit's authority to apply any  
13 of the payment-reduction measures otherwise available under  
14 subsection (8) to property forfeited under this section is subject  
15 to all of the following:

16 (a) On or before January 1 of the year in which the  
17 foreclosing governmental unit seeks to implement a program under  
18 subsection (8), the foreclosing governmental unit shall provide  
19 written notice to the treasurer of each affected local unit of  
20 government within the county in which the property is located of  
21 the foreclosing governmental unit's intent to implement the program  
22 and state that the local unit of government has the option of  
23 participating in the program. The notice must contain all of the  
24 terms and conditions to be offered under the program, in addition  
25 to any other information that the foreclosing governmental unit  
26 considers necessary or appropriate.

27 (b) Not later than 21 days after the foreclosing governmental  
28 unit provides the written notice described in subdivision (a), the  
29 treasurer of any affected local unit of government may provide the



1   foreclosing governmental unit with written notice of  
2   nonparticipation in the program, and all property within that local  
3   unit of government will be excluded from the program. Any affected  
4   local unit of government whose treasurer does not provide written  
5   notice of nonparticipation under this subdivision is conclusively  
6   presumed to have consented to participation in the program, and all  
7   property within that local unit of government will be included in  
8   the program.

9       (11) As used in this section, "local unit of government" means  
10   a city, township, or village.

11       Sec. 78q. (1) Notwithstanding any provision of this act or  
12   charter to the contrary, a foreclosing governmental unit may create  
13   a delinquent property tax installment payment plan for eligible  
14   property, the title to which is held by a financially distressed  
15   person. **A delinquent property tax installment payment plan created**  
16   **under this subsection may be combined with and made subject to a**  
17   **delinquent property tax payment reduction under section 78g(8)(c).**

18       (2) If a financially distressed person agrees to participate  
19   in a delinquent property tax installment payment plan created under  
20   subsection (1) and makes the initial payment required under that  
21   delinquent property tax installment payment plan, the foreclosing  
22   governmental unit may remove eligible property the title to which  
23   is held by that financially distressed person from the petition for  
24   foreclosure as provided in section 78h(3)(c).

25       (3) If a financially distressed person successfully completes  
26   a delinquent property tax installment payment plan created under  
27   subsection (1), interest under section 78g(3)(b) and any additional  
28   interest otherwise applicable ~~shall~~**must** be waived.

29       (4) If a financially distressed person does not successfully



1 complete a delinquent property tax installment payment plan created  
2 under subsection (1), both of the following apply:

3 (a) Interest under section 78g(3)(b) and any additional  
4 interest otherwise applicable apply to any unpaid taxes on the  
5 property.

6 (b) The eligible property ~~shall~~**must** be included in the  
7 immediately succeeding petition for foreclosure under section 78h.

8 (5) Notwithstanding any provision of this act or charter to  
9 the contrary, until June 30, 2026, a county treasurer may enter  
10 into a tax foreclosure avoidance agreement for a term of up to 5  
11 years with an owner of property returned as delinquent to the  
12 county treasurer under this act or forfeited to the county  
13 treasurer under section 78g if the property is classified as  
14 residential real property under section 34c, if the property is  
15 eligible property, and if the owner makes an initial payment of ~~at~~  
16 ~~least 10% of~~ the delinquent taxes owed on the property **in an amount**  
17 **determined by the county treasurer. A tax foreclosure avoidance**  
18 **agreement entered into under this subsection may be combined with**  
19 **and made subject to a delinquent property tax payment reduction**  
20 **under section 78g(8)(c).** While a tax foreclosure avoidance  
21 agreement is effective, the property ~~shall~~**must** be withheld or  
22 removed from the petition for foreclosure as provided under section  
23 78h(3)(c), interest at the rate provided in section 78g(3)(c)(ii)  
24 applies, and the owner shall make timely payments as provided under  
25 the tax foreclosure avoidance agreement, including timely payment  
26 of all nondelinquent taxes on the property. A tax foreclosure  
27 avoidance agreement must require regular periodic installment  
28 payments. The final payment must not be disproportionately larger  
29 than a regular periodic installment payment and regular periodic



1 installment payments in the final year must not be  
2 disproportionately larger than regular periodic installment  
3 payments in prior years. A county treasurer may refuse to enter  
4 into a tax foreclosure avoidance agreement with an owner under this  
5 subsection if that owner is not in compliance with another tax  
6 foreclosure avoidance agreement with the county treasurer or with a  
7 delinquent property tax installment plan with the county treasurer  
8 under this section. A county treasurer may not enter into more than  
9 2 tax foreclosure avoidance agreements with an owner. If an owner  
10 fails to comply with a tax foreclosure avoidance agreement or if  
11 the tax foreclosure avoidance agreement is no longer effective, all  
12 of the following apply:

13 (a) Interest under section 78g(3)(b) and any additional  
14 interest otherwise applicable apply to any unpaid taxes on the  
15 property.

16 (b) The property ~~shall~~**must** be included in the immediately  
17 succeeding petition for foreclosure under section 78h.

18 (c) The owner shall not bid on property subject to sale under  
19 section 78m, if that property was subject to the tax foreclosure  
20 avoidance agreement.

21 (6) A delinquent property tax installment payment plan or a  
22 tax foreclosure avoidance agreement may not be approved under this  
23 section if the delinquent property tax installment payment plan or  
24 tax foreclosure avoidance agreement would impermissibly impair an  
25 outstanding debt of the county.

26 (7) If a foreclosing governmental unit has created a  
27 delinquent property tax installment payment plan under this  
28 section, the department of treasury may audit the books and records  
29 of that foreclosing governmental unit concerning the details of



1 that delinquent property tax installment payment plan.

2 (8) Property classified as industrial real property under  
3 section 34c that is occupied at less than 10% of its facility  
4 capacity for more than 3 years and that is located in a county with  
5 a population of more than 1,500,000 according to the most recent  
6 federal decennial census is not eligible to participate in a  
7 delinquent property tax installment payment plan and is subject to  
8 section 78m, including sale under section 78m(2) to the person  
9 bidding the highest amount above the minimum bid.

10 (9) If a delinquent property tax installment payment plan is  
11 in effect for property for which a county has issued notes under  
12 this act that are secured by the delinquent taxes and interest on  
13 that property, at any time 2 years after the date that those taxes  
14 were returned as delinquent, the county treasurer may charge back  
15 to any taxing unit the face amount of the delinquent taxes that  
16 were owed to that taxing unit on the date those taxes were returned  
17 as delinquent, less the amount of any principal installments  
18 received by the county treasurer on that property under the  
19 delinquent property tax installment payment plan. All subsequent  
20 payments of delinquent taxes and interest on that property ~~shall~~  
21 **must** be retained by the county treasurer in a separate account and  
22 either paid to or credited to the account of that taxing unit.

23 (10) As used in this section:

24 (a) "Eligible property" means property that is a principal  
25 residence exempt from the tax levied by a local school district for  
26 school operating purposes under section 7cc.

27 (b) "Financially distressed person" means a person who meets  
28 all of the following conditions:

29 (i) Is eligible to have property to which he or she holds title





1 withheld from a petition for foreclosure under section 78h(3)(b).  
2 (ii) Is not delinquent in satisfying a delinquent property tax  
3 installment payment plan or tax foreclosure avoidance agreement  
4 under this section for any other property within the foreclosing  
5 governmental unit.



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 5124 (Substitute H-3 as passed by the House)  
Sponsor: Representative Wendell Byrd  
House Committee: Local Government and Municipal Finance  
Ways and Means  
Senate Committee: Finance

Date Completed: 1-22-20

**CONTENT**

**The bill would amend the General Property Tax Act to do the following:**

- **Create provisions pertaining to the reduction of delinquent taxes owed on property forfeited under Section 78g (which specifies that certified abandoned property and property that is delinquent for taxes, interest, penalties, and fees over the past 12 months or more is forfeited to the county treasurer for that total outstanding amount) until July 1, 2023.**
- **Allow the county treasurer to charge back to any taxing unit the face amount of the delinquent taxes that were owed to that taxing unit on the date those taxes were returned as delinquent, less the amount of any payments received by the county treasurer on that property, under certain circumstances.**
- **Specify that a foreclosing governmental unit's authority to apply any of the payment-reduction measures otherwise available under the bill to property forfeited would be subject to certain conditions.**
- **Specify that a delinquent property tax installment payment plan and a tax foreclosure avoidance agreement could be combined with and made subject to a delinquent property tax payment reduction as described in the bill.**
- **Require an owner of property eligible to enter into a tax foreclosure avoidance agreement to make an initial payment in an amount determined by the county treasurer, instead of at least 10% of the delinquent taxes owed on the eligible property.**

**Forfeited Property; Delinquent Tax Reduction**

Generally, on March 1 in each tax year, certified abandoned property (i.e., property that has been returned as delinquent to the county treasurer on March 1 of each tax year and is certified as certified abandoned property under the Certification of Abandoned Property for Accelerated Forfeiture Act) and property that is delinquent for taxes, interest, penalties, and fees for the immediately preceding 12 months or more is forfeited to the county treasurer for the total amount of the delinquency.

Under the bill, except as provided otherwise, until July 1, 2023, the following eight provisions would apply to property forfeited under Section 78g that was located in a local unit of government whose treasurer had not provided a written notice of nonparticipation, as described below.

First, if the property were subject to an exemption under Section 7u (which provides for a principal residence exemption for certain individuals determined to be in poverty) and the property's owner had not previously received a payment reduction under this provision, the foreclosing governmental unit could do one or more of the following:

- If the total amount of unpaid delinquent taxes for which the property was forfeited were greater than 10% of the most recent taxable valuation of the property immediately before the date that the property obtained exempt status under Section 7u, reduce the amount required to be paid to redeem the property to 10% of the most recent taxable valuation of the property immediately before the date that the property obtained exempt status under Section 7u; the reduction would have to be allocated to each taxing unit based on the proportion that its unpaid delinquent taxes certified to the county treasurer bore to the total amount of unpaid delinquent taxes certified to the county treasurer in connection with the property.
- Cancel some or all of any unpaid delinquent taxes that represented charges for services that had become delinquent and had been certified to the county treasurer for collection of taxes and enforcement of the lien for the certain taxes under the Revenue Bond Act.
- Cancel some or all of the interest, penalties, and fees required to be paid to redeem the property.

Second, if the amount required to redeem the property were reduced under the first provision, the foreclosing governmental unit could reduce further the redemption amount by an amount not to exceed 10% of the unpaid delinquent taxes required to be paid to redeem the property if the property were redeemed by a single lump-sum payment made within a period to be determined by the foreclosing governmental unit.

Third, a foreclosing governmental unit could apply the provisions of the bill to property subject to and in compliance with a delinquent property tax installment payment plan or a tax foreclosure avoidance agreement.

Fourth, if property were redeemed by payment of a reduced amount under the bill in accordance with the terms, conditions, and time period established by the county treasurer, any remaining unpaid taxes, interest, penalties, and fees for which the property was forfeited and otherwise payable would have to be canceled by the county treasurer, including any interest, fee, or penalty payment requirements set forth in a delinquent property tax installment payment plan or a tax foreclosure avoidance agreement with respect to the property. A county treasurer could not impose any additional interest, penalties, fees, or other charges of any kind in connection with a payment reduction program.

Fifth, if the owner of property subject to a payment reduction failed to pay the full reduced amount of delinquent taxes, penalties, and fees in accordance with the terms, conditions, and time period established by the county treasurer, all of the following would apply:

- The amount required to be paid to redeem the property would be the sum of the full amount of any unpaid delinquent taxes on the property, as well as noncompounded interest charged on taxes returned as delinquent and any additional interest, fees, charges, and penalties otherwise applicable to any unpaid taxes on the property, including interest, fees, charges, and penalties canceled under the provisions above.
- The property would have to be included in the immediately succeeding petition for foreclosure.

Sixth, a foreclosing governmental unit could not approve a reduction in the amount required to redeem property if the reduction would cause noncompliance with requirements that a

revolving fund note currently must meet or otherwise impermissibly impair an outstanding debt of the county or any taxing unit.

Seventh, all payments collected in connection with property under the bill would have to be distributed to each taxing unit that had certified to the county treasurer unpaid delinquent taxes for the property in an amount based on the proportion that the taxing unit's unpaid delinquent taxes certified to the county treasurer bore to the total amount of paid delinquent taxes certified to the county treasurer in connection with the property.

Eighth, a county treasurer would have to set forth the terms and benefits of a payment reduction program available under the bill in a plan published on the foreclosing governmental unit's website. The plan would have to set forth which of the reductions described in the first and second provision were available under the program and would have to include any other information determined to be necessary or appropriate in the discretion of the county treasurer.

If a payment reduction under the above provisions were in effect for property for which a county had issued notes under the General Property Tax Act that were secured by the delinquent taxes and interest on that property, at any time within two years after the date that those taxes were returned as delinquent, the county treasurer could charge back to any taxing unit the face amount of the delinquent taxes that were owed to that unit on the date those taxes were returned as delinquent, less the amount of any payments received by the county treasurer on that property. All subsequent payments of delinquent taxes and interest on that property would have to be retained by the county treasurer in a separate account and either paid to or credited to the account of that taxing unit.

A foreclosing governmental unit's authority to apply any of the payment-reduction measures otherwise available under the bill to property forfeited would be subject to all of the following:

- On or before January 1 of the year in which the foreclosing governmental unit was seeking to implement a program under the bill, the foreclosing governmental unit would have to provide written notice to the treasurer of each affected local unit of government within the county in which the property was located of the foreclosing governmental unit's intent to implement the program and state that the local unit of government had the option of participating in the program, and the notice would have to contain all of the terms and conditions to be offered under the program, in addition to any other information that the foreclosing governmental unit considered necessary or appropriate.
- Within 21 days after the foreclosing governmental unit provided the written notice described above, the treasurer of any affected local unit of government could provide the foreclosing governmental unit with written notice of nonparticipation in the program, and all property within that local unit of government would be excluded from the program, and any affected local unit of government whose treasurer did not provide written notice of nonparticipation would be presumed to have consented to participation in the program, and all property within that local unit of government would be included in the program.

As used above, "local unit of government" would mean a city, township, or village.

#### Delinquent Property Tax Installment Payment Plan

The General Property Tax Act allows a foreclosing governmental unit to create a delinquent property tax installment payment plan for eligible property, the title to which is held by a financially distressed person. Under the bill, a delinquent property tax installment payment plan could be combined with and made subject to a delinquent property tax payment reduction as described in the third provision above.

### Tax Foreclosure Avoidance Agreement

Under the Act, notwithstanding any provision of the Act or charter to the contrary, until June 30, 2026, a county treasurer may enter into a tax foreclosure avoidance agreement for a term of up to five years with an owner of property returned as delinquent to the county treasurer under the Act or forfeited to the county treasurer under other provisions if the property is classified as residential real property, if the property is eligible property, and if the owner makes an initial payment of at least 10% of the delinquent taxes owed on the property. The bill would delete the requirement for the owner to make an initial payment of at least 10% and instead require the owner to pay an amount determined by the county treasurer. A tax foreclosure avoidance agreement could be combined with and made subject to a delinquent property tax payment reduction under the third provision described above.

MCL 211.78g & 211.78q

Legislative Analyst: Drew Krogulecki

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on local governments and would likely have a minor negative fiscal impact on the State. In any case that delinquent tax liability was reduced, revenue to the local government also would be reduced. If the taxes that were collected, however, would otherwise not have been collected at all, the net fiscal impact for the local government would be positive. Any additional administrative costs for county treasurers or the State would be minimal and would be absorbed under existing appropriations. Since the provisions of the bill are voluntary for local units of government, the total impact would be impossible to estimate, and would depend on how exactly the provisions were used.

Fiscal Analyst: Ryan Bergan

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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.

## OPINION

# Detroit residents lost homes in city's \$600M mistake. It's time to fix it.

**Nancy Kaffer**, Detroit Free Press

Published 12:37 p.m. ET Jan. 17, 2020 | Updated 3:31 p.m. ET Jan. 17, 2020



A box of all the properties United Housing Coalition bid on and lost in the 2017 Wayne County Tax Foreclosure Auction. (Photo: Allie Gross)

For years, the City of Detroit levied illegally high taxes on its homeowners, even as property values plummeted. Some Detroiters couldn't pay those inflated tax bills, and lost their homes to foreclosure.

It's one thing to understand that Detroiters' homes were illegally assessed. It's another to put a price tag on that transgression, as investigative reporters Christine MacDonald and Mark Betancourt did in the Detroit News last week: **\$600 million.** (<https://www.detroitnews.com/story/news/local/detroit-city/housing/2020/01/09/detroit-homeowners-overtaxed-600-million/2698518001/>)

That's how much Detroiters, most of them long-time owners, were overtaxed between 2010 and 2016, MacDonald found, using public records and meticulous methodology. Worse, MacDonald's analysis, undertaken with help from Reveal from the Center for Investigative Reporting, and freelance reporter Mark Betancourt, showed 90% of tax-delinquent Detroit homes were overtaxed during those years, and that at least 28,000 of those overtaxed homes had been foreclosed since 2013.

### More Detroit stories:

[About half of Detroit water shutoffs are still off \(/story/opinion/columnists/nancy-kaffer/2020/01/13/detroit-water-shutoffs/2834866001/\)](#)

[Why Detroit City Council rejected Mayor Duggan's \\$250M blight bond proposal \(/story/news/local/michigan/detroit/2019/11/24/detroit-city-council-rejects-duggan-blight-bond/4272197002/\)](#)

ADVERTISING

But it also needs residents. Duggan has said that his most important job is to grow Detroit's population. That means attracting new residents, but it also means keeping old ones. It means not ignoring their struggles. It means honoring their value to this city.

And it means rejecting the premise that years of inflated, unjust taxation are just something Detroiters have to live with.

OPINION

Columns from Nancy Kaffer



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([https://www.freep.com/story/opinion/columnists/nancy-kaffer/2019/12/19/trump-2020-impeachment-election-biden-warren/2679909001/?utm\\_source=oembed&utm\\_medium=onsite&utm\\_campaign=storylines&utm\\_content=news&utm\\_term=3786597002](https://www.freep.com/story/opinion/columnists/nancy-kaffer/2019/12/19/trump-2020-impeachment-election-biden-warren/2679909001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=3786597002))
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- [Michigan teacher salaries look good on paper. They aren't.](https://www.freep.com/story/opinion/columnists/nancy-kaffer/2019/09/18/teacher-salaries-michigan-pay-schools/2314368001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=3786597002)  
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- [What we get wrong about standardized testing](https://www.freep.com/story/opinion/columnists/nancy-kaffer/2019/09/07/standardized-testing-michigan/2209047001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=3786597002)  
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