

Act No. 256
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**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senators Runestad and MacGregor

ENROLLED SENATE BILL No. 1137

AN ACT to amend 1893 PA 206, entitled “An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts,” by amending sections 78g, 78i, and 78l (MCL 211.78g, 211.78i, and 211.78l), section 78g as amended by 2020 PA 33, section 78i as amended by 2015 PA 190, and section 78l as amended by 2003 PA 263, and by adding section 78t.

The People of the State of Michigan enact:

Sec. 78g. (1) Except as otherwise provided in this subsection, on March 1 in each tax year, certified abandoned property 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 those unpaid delinquent taxes, interest, penalties, and fees. If property is forfeited to a county treasurer under this subsection, the foreclosing governmental unit does not have a right to possession of the property until the April 1 immediately succeeding the entry of a judgment foreclosing the property under section 78k or in a contested case until 22 days after the entry of a judgment foreclosing the property under section 78k. If property is forfeited to a county treasurer under this subsection, the county treasurer shall add a \$175.00 fee to each property for which those delinquent taxes, interest, penalties, and fees remain unpaid. The fee added under this subsection must be used by the foreclosing governmental unit and the fee added under section 78d must be used by the county treasurer for the administration of sections 78 to 79a, including, but not limited to, costs associated with providing required notices and with the forfeiture, foreclosure, sale, maintenance, repair, and remediation of property. A county treasurer shall withhold a property from forfeiture for any reason determined by the state tax commission. The state tax commission shall determine the procedure for withholding a property from forfeiture under this subsection.

(2) Not more than 45 days after property is forfeited under subsection (1), the county treasurer shall record with the county register of deeds a certificate in a form determined by the department of treasury for each property forfeited to the county treasurer, specifying that the property has been forfeited to the county treasurer and not redeemed and that absolute title to the property and any equity associated with an interest in the property will

vest in the foreclosing governmental unit on the March 31 immediately succeeding the entry of a judgment foreclosing the property under section 78k or in a contested case 21 days after the entry of a judgment foreclosing the property under section 78k. The certificate must include an explanation of the right of a person with an interest in the property at the time a judgment of foreclosure of the property is effective under section 78k to claim that person's interest in any remaining proceeds pursuant to section 78t after a sale or transfer of the property under section 78m. If a certificate of forfeiture is recorded in error, the county treasurer shall record with the county register of deeds a certificate of error in a form prescribed by the department of treasury. A certificate submitted to the county register of deeds for recording under this subsection need not be notarized and may be authenticated by a digital signature of the county treasurer or by other electronic means. If the county has elected under section 78 to have this state foreclose property under this act forfeited to the county treasurer under this section, the county treasurer shall immediately transmit to the department of treasury a copy of each certificate recorded under this subsection. The county treasurer shall upon collection transmit to the department of treasury within 30 days the fee added to each property under subsection (1), which may be paid from the county's delinquent tax revolving fund and upon receipt must be deposited by the department of treasury in the land reutilization fund created under section 78n.

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

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

(b) Except as otherwise provided in this subdivision and subdivision (c), in addition to the interest calculated under sections 60a(1) or (2) and 78a(3), additional 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 March 1 preceding the forfeiture. The county treasurer may waive the additional interest under this subdivision if the property is withheld from the petition for foreclosure under 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 apply:

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

(ii) The additional interest under subdivision (b) 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, 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 in the property as provided under subsection (3), any unpaid taxes, interest, penalties, and fees 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 in the property 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 a 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 must be recorded within 30 days with the register of deeds by the person entitled to the lien. The lien acquired has the same priority as the existing lien, title, or interest.

(6) If property is redeemed as provided under subsection (3), the county treasurer shall issue a redemption certificate in quadruplicate in a form prescribed by the department of treasury. One of the quadruplicate certificates must be delivered to the person making the redemption payment, 1 must be filed in the office of the county treasurer, 1 must be recorded in the office of the county register of deeds, and 1 must be immediately transmitted to the department of treasury if this state is the foreclosing governmental unit. The county treasurer shall also make a note of the redemption certificate in the tax record kept in his or her office, with the name of the person making the final redemption payment, the date of the payment, and the amount paid. If the county treasurer accepts partial redemption payments, the county treasurer shall include in the tax record kept in his or her office the name of the person or persons making each partial redemption payment, the date of each partial redemption payment, the amount of each partial redemption payment, and the total amount of all redemption payments. A certificate and the entry of the certificate in the tax record by the county treasurer is evidence of a

redemption payment in the courts of this state. A certificate submitted to the county register of deeds for recording under this subsection need not be notarized and may be authenticated by a digital signature of the county treasurer or by other electronic means. If a redemption certificate is recorded in error, the county treasurer shall record with the county register of deeds a certificate of error in a form prescribed by the department of treasury. A copy of a certificate of error recorded under this section must be immediately transmitted to the department of treasury if this state is the foreclosing governmental unit.

(7) If a foreclosing governmental unit has reason to believe that a property forfeited under this section may be the site of environmental contamination, the foreclosing governmental unit shall provide the department of environment, Great Lakes, and energy with any information in the possession of the foreclosing governmental unit that suggests the property may be the site of environmental contamination.

(8) Notwithstanding any provision of this act or charter to the contrary, until July 1, 2025, all of the following apply to property for which delinquent property taxes remain unpaid, including property forfeited under this section, located in a local unit of government that, pursuant to subsection (10)(b)(i) or (ii), is participating in a payment reduction program authorized by this subsection:

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

(i) If the total amount of unpaid delinquent taxes is greater than 10% of the property's taxable value for the calendar year preceding the year the property was exempt from the collection of taxes under section 7u, reduce the amount required to be paid under section 78a(1) or required to be paid to redeem the property under subsection (3)(a) to 10% of the property's taxable value for the calendar year preceding the year the property was exempt from the collection of taxes under section 7u. A reduction under this subparagraph must be allocated to each taxing unit based on the proportion that its unpaid delinquent taxes certified to the county treasurer bear to the total amount of unpaid delinquent taxes certified to the county treasurer in connection with the property.

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

(iii) Cancel all of the interest, penalties, and fees required to be paid under this act.

(b) If the amount required to be paid under this act is reduced under subdivision (a), the foreclosing governmental unit may further reduce the amount by an amount not to exceed 10% of the unpaid delinquent taxes required to be paid to redeem the property if the property is redeemed by a single lump-sum payment made within a period to be determined by the foreclosing governmental unit.

(c) A foreclosing governmental unit may apply the provisions of this subsection to property subject to a delinquent property tax installment payment plan under section 78q(1) or a tax foreclosure avoidance agreement under section 78q(5). Except as provided in this subdivision, the terms and conditions of a payment reduction applied to property under this subsection must be consistent with the terms and conditions of a delinquent property tax installment payment plan under section 78q(1) or tax foreclosure agreement under section 78q(5) for the property. If the owner of property subject to a delinquent property tax installment payment plan under section 78q(1) or a tax foreclosure avoidance agreement under section 78q(5) has failed to pay any amounts owed under the plan or agreement, that nonpayment does not prohibit the property owner from receiving a payment reduction under this subsection. Notwithstanding any provision of this act to the contrary, the full amount owed by an owner of property as reduced by this subsection must be payable in not more than 3 years after the date the reduction is established by the foreclosing governmental unit.

(d) If a property owner has paid a reduced amount under this subsection in accordance with the terms, conditions, and time period established by the county treasurer, any remaining unpaid taxes, interest, penalties, and fees otherwise payable shall be canceled by the county treasurer, including, but not limited to, any interest, fee, or penalty payment requirements set forth in a delinquent property tax installment payment plan under section 78q(1) or a tax foreclosure avoidance agreement under section 78q(5) with respect to the property. A county treasurer shall not impose any additional interest, penalties, fees, or other charges of any kind in connection with a payment reduction program under this subsection.

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

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

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

(B) Interest under subsection (3)(b) and any additional interest, fees, charges, and penalties otherwise applicable to any unpaid taxes on the property, including, but not limited to, interest, fees, charges, and penalties canceled under subdivision (d).

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

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

(g) All payments collected in connection with property under this subsection must be distributed to each taxing unit that has 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 bear to the total amount of unpaid delinquent taxes certified to the county treasurer in connection with the property.

(h) A county treasurer shall set forth the terms and benefits of a payment reduction program available under this subsection in a plan available upon request to the department of treasury. The plan must set forth which of the reductions described in subdivisions (a) and (b) are available under the program and must include any other information determined to be necessary or appropriate in the discretion of the county treasurer.

(9) If a payment reduction under subsection (8) is in effect for property for which a county has issued notes under this act that are secured by the delinquent taxes and interest on that property, at any time within 2 years after the date that those taxes were returned as delinquent, the county treasurer may 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. All subsequent payments of delinquent taxes and interest on that property must be retained by the county treasurer in a separate account and either paid to or credited to the account of that taxing unit.

(10) A foreclosing governmental unit's authority to apply any of the payment-reduction measures otherwise available under subsection (8) is subject to all of the following:

(a) A foreclosing governmental unit that seeks to implement a program under subsection (8) shall provide written notice to the treasurer of each affected local unit of government within the county in which the property is located of the foreclosing governmental unit's intent to implement the program and state that the local unit of government has the option of participating in the program. The notice must contain all of the terms and conditions to be offered under the program, in addition to any other information that the foreclosing governmental unit considers necessary or appropriate.

(b) Not later than 21 days after the foreclosing governmental unit provides the written notice described in subdivision (a), the treasurer of any affected local unit of government may provide the foreclosing governmental unit with 1 of the following, as applicable:

(i) Written notice of nonparticipation in the program, if the local unit of government is located in a county with a population of more than 1,500,000 according to the most recent population estimate produced by the United States Census Bureau's Population Estimates Program (PEP). All property within a local unit of government that provides written notice of nonparticipation under this subparagraph will be excluded from the program. Any affected local unit of government whose treasurer does not provide written notice of nonparticipation under this subparagraph is conclusively presumed to have consented to participation in the program, and all property within that local unit of government will be included in the program.

(ii) Written notice of participation in the program, if the local unit of government is located in a county other than one described in subparagraph (i) and the governing body of the local unit of government has approved a resolution to participate in the program. All property within a local unit of government that provides written notice of participation under this subparagraph will be included in the program. Any affected local unit of government whose treasurer does not provide written notice of participation under this subparagraph is conclusively presumed to have declined to participate in the program, and all property within that local unit of government will be excluded from the program.

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

Sec. 78i. (1) Not later than May 1 immediately succeeding the forfeiture of property to the county treasurer under section 78g, the foreclosing governmental unit shall initiate a search of records identified in subsection (6) to identify the persons with a property interest in the property entitled to notice under this section of the show cause hearing under section 78j and the foreclosure hearing under section 78k. The foreclosing governmental unit may enter into a contract with 1 or more authorized representatives to perform a title search or may request from 1 or more authorized representatives another title search product to identify the persons with a property interest in the property as required under this subsection or to perform other functions required for the collection of delinquent taxes under this act, including, but not limited to, the administration of sections 78 to 79a.

(2) After conducting the search of records under subsection (1), the foreclosing governmental unit or its authorized representative shall determine the address reasonably calculated to apprise each person with a property interest in a forfeited property of the show cause hearing under section 78j and the foreclosure hearing under section 78k and shall send notice of the show cause hearing under section 78j and the foreclosure hearing under section 78k to those persons, and to a person entitled to notice of the return of delinquent taxes under section 78a(4), by certified mail, return receipt requested, not less than 30 days before the show cause hearing. If after conducting the search of records under subsection (1) the foreclosing governmental unit is unable to determine an address reasonably calculated to inform a person with an interest in a forfeited property, or if the foreclosing governmental unit discovers a deficiency in notice under subsection (4), the following are reasonable steps by the foreclosing governmental unit or its authorized representative to ascertain the address of a person with an interest in property entitled to notice under this section or to ascertain an address necessary to correct the deficiency in notice under subsection (4):

(a) For an individual, a search of the records of the probate court for the county in which the property is located.

(b) For an individual, a search of the qualified voter file established under section 509o of the Michigan election law, 1954 PA 116, MCL 168.509o. A search of the qualified voter file is authorized by this subdivision.

(c) For a partnership, a search of partnership records filed with the county clerk.

(d) For a business entity other than a partnership, a search of business entity records filed with the department of licensing and regulatory affairs.

(3) The foreclosing governmental unit or its authorized representative or authorized agent shall make a personal visit to each property forfeited to the county treasurer under section 78g to ascertain whether or not the property is occupied. If the property appears to be occupied, the foreclosing governmental unit or its authorized representative shall do all of the following:

(a) Attempt to personally serve upon a person occupying the property notice of the show cause hearing under section 78j and the foreclosure hearing under section 78k.

(b) If a person occupying the property is personally served, verbally inform the occupant that the property will be foreclosed and the occupants will be required to vacate unless all forfeited unpaid delinquent taxes, interest, penalties, and fees are paid, of the time within which all forfeited unpaid delinquent taxes, interest, penalties, and fees must be paid, and of agencies or other resources that may be available to assist in avoiding loss of the property interest and any equity associated with the interest in the property.

(c) If the occupant appears to lack the ability to understand the information provided, notify the department of health and human services or provide the occupant with the names and telephone numbers of the agencies that may be able to assist the occupant, or both.

(d) If the foreclosing governmental unit or its authorized representative does not personally meet with the occupant, the foreclosing governmental unit or its authorized representative shall place in a conspicuous location on the property a notice that explains, in plain English, that the property will be foreclosed unless forfeited unpaid delinquent taxes, interest, penalties, and fees owed on the property are paid, the time within which forfeited unpaid delinquent taxes, interest, penalties, and fees must be paid, and the names, addresses, and telephone numbers of agencies or other resources that may be available to assist a person with an interest in the property with avoiding the loss of the property interest and any equity associated with the property interest. The notice must include the internet website address for the legal resource and referral center of the state bar of Michigan and the toll-free telephone number for the state bar of Michigan's lawyer referral service. The notice also must include an explanation of the right of a person with an interest in the property at the time a judgment of foreclosure of the property is effective under section 78k to claim that person's interest in any remaining proceeds pursuant to section 78t after a sale or transfer of the property under section 78m. If this state is the foreclosing governmental unit within a county, the department of treasury or its authorized representative shall perform the personal visit to each property under this subsection on behalf of this state.

(4) If the foreclosing governmental unit or its authorized representative discovers any deficiency in the provision of notice, the foreclosing governmental unit shall take reasonable steps in good faith to correct that deficiency not later than 30 days before the show cause hearing under section 78j, if possible.

(5) If the foreclosing governmental unit or its authorized representative is unable to ascertain an address reasonably calculated to apprise a person with a property interest entitled to notice under this section, or is unable to notify a person with a property interest under subsection (2), the foreclosing governmental unit shall provide notice by publication as provided in this subsection and section 78s. The notice must be inserted for 2 successive weeks, once each week, in a notice publication circulated in the county in which the property is located. If a notice publication is not circulated in the county in which the property is located, the foreclosing governmental unit shall insert the notice in a notice publication circulated in an adjoining county. In addition to provision of notice in a

notice publication, the foreclosing governmental unit may also post the notice under this subsection for not less than 14 days on a website, including, but not limited to, a website maintained by the foreclosing governmental unit.

(6) A person with a property interest is entitled to notice under this section of the show cause hearing under section 78j and the foreclosure hearing under section 78k if that person's interest was identifiable by reference to any of the following sources before the date that the county treasurer records the certificate required under section 78g(2):

(a) Land title records in the office of the county register of deeds.

(b) Tax records in the office of the county treasurer.

(c) Tax records in the office of the local assessor.

(d) Tax records in the office of the local treasurer.

(7) The notice required under subsections (2) and (3) must include all of the following:

(a) The date on which the property was forfeited to the county treasurer.

(b) A statement that the person notified may lose that person's interest in the property and any equity associated with that property interest as a result of the foreclosure proceeding under section 78k.

(c) A legal description or parcel number of the property and, if available, the street address of the property.

(d) The person to whom the notice is addressed.

(e) The total taxes, interest, penalties, and fees due on the property.

(f) The date and time of the show cause hearing under section 78j.

(g) The date and time of the hearing on the petition for foreclosure under section 78k, and a statement that unless the forfeited unpaid delinquent taxes, interest, penalties, and fees are paid on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under section 78k, or in a contested case within 21 days of the entry of a judgment foreclosing the property under section 78k, the title to the property will vest absolutely in the foreclosing governmental unit and that all existing interests in oil or gas in that property will be extinguished except the following:

(i) The interests of a lessee or an assignee of an interest of a lessee under an oil or gas lease in effect as to that property or any part of that property if the lease was recorded in the office of the register of deeds in the county in which the property is located before the date of filing the petition for foreclosure under section 78h.

(ii) Interests preserved as provided in section 1(3) of 1963 PA 42, MCL 554.291.

(h) An explanation of the person's rights of redemption and notice that the rights of redemption will expire on the March 31 immediately succeeding the entry of a judgment foreclosing the property under section 78k, or in a contested case 21 days after the entry of a judgment foreclosing the property under section 78k.

(i) An explanation of the right of a person with an interest in the property at the time a judgment of foreclosure of the property is effective under section 78k to claim that person's interest in any remaining proceeds pursuant to section 78t after a sale or transfer of the property under section 78m.

(j) The internet website address for the legal resource and referral center of the state bar of Michigan and the toll-free telephone number for the state bar of Michigan's lawyer referral service.

(8) The published notice required under subsection (5) must include all of the following:

(a) A legal description or parcel number of each property.

(b) The street address of each property, if available.

(c) The name of any person entitled to notice under this section who has not been notified under subsection (2) or (3).

(d) The date and time of the show cause hearing under section 78j.

(e) The date and time of the hearing on the petition for foreclosure under section 78k.

(f) A statement that unless all forfeited unpaid delinquent taxes, interest, penalties, and fees are paid on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under section 78k, or in a contested case within 21 days of the entry of a judgment foreclosing the property under section 78k, the title to the property will vest absolutely in the foreclosing governmental unit and that all existing interests in oil or gas in that property will be extinguished except the following:

(i) The interests of a lessee or an assignee of an interest of a lessee under an oil or gas lease in effect as to that property or any part of that property if the lease was recorded in the office of the register of deeds in the county in which the property is located before the date of filing the petition for foreclosure under section 78h.

(ii) Interests preserved as provided in section 1(3) of 1963 PA 42, MCL 554.291.

(g) A statement that a person with an interest in the property may lose that interest and any equity associated with that interest as a result of the foreclosure proceeding under section 78k and that all existing interests in oil or gas in that property will be extinguished except the following:

(i) The interests of a lessee or an assignee of an interest of a lessee under an oil or gas lease in effect as to that property or any part of that property if the lease was recorded in the office of the register of deeds in the county in which the property is located before the date of filing the petition for foreclosure under section 78h.

(ii) Interests preserved as provided in section 1(3) of 1963 PA 42, MCL 554.291.

(h) An explanation of the right of a person with an interest in the property at the time a judgment of foreclosure of the property is effective under section 78k to claim that person's interest in any remaining proceeds pursuant to section 78t after a sale or transfer of the property under section 78m.

(i) The internet website address for the legal resource and referral center of the state bar of Michigan and the toll-free telephone number for the state bar of Michigan's lawyer referral service.

(9) A person with a property interest properly served under this section with a notice of the show cause hearing under section 78j and the foreclosure hearing under section 78k that fails to redeem the property as provided under this act shall not assert any of the following:

(a) That notice was insufficient or inadequate on the grounds that some other person with a property interest was not also served.

(b) That the redemption period provided under this act was extended in any way on the grounds that some other person with a property interest was not also served.

(c) That the person did not receive the notice required by law of the show cause hearing under section 78j or the foreclosure hearing under section 78k.

(10) The failure of the foreclosing governmental unit to comply with any provision of this section does not invalidate any proceeding under this act if the person with a property interest is notified of the show cause hearing under section 78j and the foreclosure hearing under section 78k consistent with the minimum due process required under the state constitution of 1963 and the Constitution of the United States.

(11) As used in this section, "authorized representative" includes all of the following:

(a) A title insurance company or agent licensed to conduct business in this state.

(b) An attorney licensed to practice law in this state.

(c) A person accredited in land title search procedures by a nationally recognized organization in the field of land title searching.

(d) A person with demonstrated experience searching land title records, as determined by the foreclosing governmental unit.

(12) The provisions of this section relating to notice of the show cause hearing under section 78j and the foreclosure hearing under section 78k are exclusive and exhaustive. Other requirements relating to notice or proof of service under other law, rule, or legal requirement are not applicable to notice and proof of service under this section.

Sec. 78l. (1) If a judgment for foreclosure is entered under section 78k and all existing recorded and unrecorded interests in a property are extinguished as provided in section 78k, the owner of any extinguished recorded or unrecorded interest in that property shall not bring an action, including an action for possession or recovery of the property or any interests in the property or of any proceeds from the sale or transfer of the property under this act, or other violation of this act or other law of this state, the state constitution of 1963, or the Constitution of the United States more than 2 years after the judgment of foreclosure of the property is effective under section 78k. Nothing in this section authorizes an action not otherwise authorized under the laws of this state. An action to recover any proceeds from the sale or transfer of property foreclosed for nonpayment of real property taxes under this act must be brought as provided under section 78t.

(2) The right to sue recognized by this section is not transferable except by testate or intestate succession.

Sec. 78t. (1) A claimant may submit a notice of intention to claim an interest in any applicable remaining proceeds from the transfer or sale of foreclosed property under section 78m, subject to the following:

(a) For foreclosed property transferred or sold under section 78m after July 17, 2020, the notice of intention must be submitted pursuant to subsection (2).

(b) For foreclosed property transferred or sold under section 78m before July 18, 2020, both of the following:

(i) A claim may be made only if the Michigan supreme court orders that its decision in *Rafaeli, LLC v Oakland County*, docket no. 156849, applies retroactively.

(ii) Subject to subparagraph (i), the notice of intention must be submitted pursuant to subsection (6).

(2) For foreclosed property transferred or sold under section 78m after July 17, 2020, by the July 1 immediately following the effective date of the foreclosure of the property, a claimant seeking remaining proceeds for the property must notify the foreclosing governmental unit using a form prescribed by the department of treasury. The department of treasury shall make the form available to the public on an internet website maintained by the department of treasury. A foreclosing governmental unit shall make the form available to the public on an internet website maintained by the foreclosing governmental unit if the foreclosing governmental unit maintains an internet website. Notice to a foreclosing governmental unit under this subsection must be by personal service acknowledged by the foreclosing governmental unit or by certified mail, return receipt requested. The notice must be notarized and include all of the following:

(a) The name of the claimant.

(b) The telephone number of the claimant.

(c) The address at which the claimant wants to receive service.

(d) The parcel identification number of the property, and, if available, the address of the property.

(e) An explanation of the claimant's interest in the property.

(f) A description of any other interest in the property immediately before the foreclosure under section 78k held by other persons and known by the claimant, including a lien or a mortgage.

(g) A sworn statement or affirmation by the claimant that the information included in the notice is accurate.

(3) Not later than the January 31 immediately succeeding the sale or transfer of the property under section 78m, the foreclosing governmental unit shall send by certified mail, return receipt requested, a notice in a form prescribed by the department of treasury to each claimant that notified the foreclosing governmental unit pursuant to subsection (2). The notice must include the following information:

(a) The parcel identification number of the property.

(b) The legal description of the property.

(c) The address for the property if an address is available for the property.

(d) The date on which the property was sold or transferred under section 78m or, if the property was not sold or transferred under section 78m, a statement indicating that the property was not sold or transferred.

(e) The minimum bid for the property as determined by the foreclosing governmental unit under section 78m.

(f) The amount for which the property was sold or transferred under section 78m.

(g) The amount of the sale cost recovery for the property, which must be equal to 5% of the amount under subdivision (f).

(h) The amount of any outstanding unpaid state, federal, or local tax collecting unit tax liens on the property immediately preceding the effective date of the foreclosure of the property under section 78k based on the records of the foreclosing governmental unit.

(i) The total amount of any remaining proceeds, or the amount of the shortfall in proceeds if the minimum bid under section 78m and other fees incurred by the foreclosing governmental unit in foreclosing and selling the property under section 78m exceed the amount received by the foreclosing governmental unit from a sale or transfer of the property under section 78m.

(j) The name and address provided by each claimant for the property pursuant to subsection (2).

(k) A statement that a claimant must file pursuant to subsection (4) a motion with the circuit court in the same proceeding in which the judgment of foreclosure of the property was effective under section 78k to claim any remaining proceeds payable to the claimant. The statement must include the case number assigned to the proceeding, the name of the judge assigned to the proceeding, and contact information for the clerk of the circuit court.

(4) For a claimant seeking remaining proceeds from the transfer or sale of a foreclosed property transferred or sold under section 78m after July 17, 2020, after receipt of a notice under subsection (3), the claimant may file a motion with the circuit court in the same proceeding in which the judgment of foreclosure of the property was effective under section 78k to claim any portion of the remaining proceeds that the claimant is entitled to under this section. A motion under this subsection must be filed during the period beginning on February 1 immediately succeeding the date on which the property was sold or transferred under section 78m and ending on the immediately succeeding May 15, and may not be filed after that May 15 if notice was provided under section 78i

of the show cause hearing under section 78j and the foreclosure hearing under section 78k before the show cause hearing and the foreclosure hearing, notwithstanding section 78l. The motion must indicate both of the following:

(a) Whether the claimant or an entity in which the claimant held a direct or indirect interest purchased the property under section 78m.

(b) Whether the claimant does or does not hold a direct or indirect interest in the property at the time the motion is filed.

(5) At the end of the claim period described in subsection (4), the foreclosing governmental unit shall file with the circuit court proof of service of the notice required under subsection (3) and, for each property for which a claimant provided notice under subsection (2), a list of all of the following information:

(a) The parcel identification number of the property.

(b) The legal description of the property.

(c) The address for the property if an address is available for the property.

(d) The date on which the property was sold or transferred under section 78m or, if the property was not sold or transferred under section 78m, a statement indicating that the property was not sold or transferred.

(e) The minimum bid for the property as determined by the foreclosing governmental unit under section 78m.

(f) The amount for which the property was sold or transferred under section 78m.

(g) The amount of the sale commission for the property, which must be equal to 5% of the amount under subdivision (f).

(h) The amount of any outstanding unpaid state, federal, or local tax collecting unit tax liens on the property immediately preceding the effective date of the foreclosure of the property under section 78k based on the records of the county treasurer.

(i) The amount of any remaining proceeds, or the amount of the shortfall in proceeds if the minimum bid under section 78m and other fees incurred in foreclosing and selling the property exceed the amount received by the foreclosing governmental unit from a sale or transfer of the property under section 78m.

(j) The name and address provided by each claimant for the property pursuant to subsection (2).

(6) For a claimant seeking remaining proceeds from the transfer or sale of a foreclosed property transferred or sold under section 78m pursuant to this subsection, the claimant must notify the foreclosing governmental unit using the form prescribed by the department of treasury under subsection (2) in the manner prescribed under subsection (2) by the March 31 at least 180 days after any qualified order. By the following July 1, the foreclosing governmental unit shall provide each claimant seeking remaining proceeds for the property and notifying the foreclosing governmental unit under this subsection with a notice relating to the foreclosed property in the form and manner provided under subsection (3). To claim any applicable remaining proceeds to which the claimant is entitled, the claimant must file a motion with the circuit court in the same proceeding in which a judgement of foreclosure was effective under section 78k by the following October 1. The motion must be certified and include all of the following:

(a) The name of the claimant filing the motion.

(b) The telephone number of the claimant.

(c) The address at which the claimant wants to receive service.

(d) The parcel identification number of the property, and, if available, the address of the property.

(e) An explanation of the claimant's interest in the property.

(f) A description of any other interest in the property, including a lien or a mortgage, immediately before the foreclosure under section 78k held by any other person or entity and known by the claimant.

(g) A statement indicating that the claimant or an entity in which the claimant held a direct or indirect interest did or did not purchase the property under section 78m.

(h) A statement indicating that the claimant does or does not hold a direct or indirect interest in the property at the time the motion is filed.

(i) A sworn statement or affirmation by the claimant that the information included in the motion is accurate.

(7) At the end of the claim period described in subsection (4) or after receipt of a motion under subsection (6), the foreclosing governmental unit shall file with the circuit court proof of service of the notice required under subsection (3) and, for each property for which a claimant provided notice under subsection (2) or filed a motion under subsection (6), a list of all of the following information:

(a) The parcel identification number of the property.

(b) The legal description of the property.

(c) The address for the property if an address is available for the property.

(d) The date on which the property was sold or transferred under section 78m or, if the property was not sold or transferred under section 78m, a statement indicating that the property was not sold or transferred.

(e) The minimum bid for the property as determined by the foreclosing governmental unit under section 78m.

(f) The amount for which the property was sold or transferred under section 78m.

(g) The amount of the sale commission for the property, which must be equal to 5% of the amount under subsection (f).

(h) The amount of any remaining proceeds, or the amount of the shortfall in proceeds if the minimum bid under section 78m and other fees incurred in foreclosing and selling the property exceed the amount received by the foreclosing governmental unit from a sale or transfer of the property under section 78m.

(i) The amount of any outstanding unpaid state, federal, or local tax collecting unit tax liens on the property immediately preceding the effective date of the foreclosure of the property under section 78k based on the records of the county treasurer.

(j) The name and address provided by each claimant for the property pursuant to subsection (2) or (6).

(8) A motion by a claimant under this section must provide the specific basis for the claimant's asserted interest in some or all of the remaining proceeds, including the claimant's interest in the property immediately before its foreclosure under section 78k and documentation evidencing that interest. The claimant also shall affirm that the claimant did not transfer and was not otherwise divested of the claimant's interest in the property before the judgment of foreclosure was effective under section 78k. If a claimant had a lien or other security interest in the property at the time the judgment of foreclosure was effective under section 78k, the claimant shall indicate the amount owed to the claimant pursuant to the lien or security interest and the priority of the claimant's lien or security interest. The motion must be verified and include a sworn statement or affirmation by the claimant of its accuracy. A claimant filing a motion under this section must serve a copy of the motion on the foreclosing governmental unit.

(9) After the foreclosing governmental unit responds to a claimant's motion under this section, the court shall set a hearing date and time for each property for which 1 or more claimants filed a motion under this section and notify each claimant and the foreclosing governmental unit of the hearing date at least 21 days before the hearing date. At the hearing, the court shall determine the relative priority and value of the interest of each claimant in the foreclosed property immediately before the foreclosure was effective. The foreclosing governmental unit may appear at the hearing. The burden of proof of a claimant's interest in any remaining proceeds for a claimant is on the claimant. The court shall require payment to the foreclosing governmental unit of a sale commission equal to 5% of the amount for which the property was sold by the foreclosing governmental unit. The court shall allocate any remaining proceeds based upon its determination and order that the foreclosing governmental unit pay applicable remaining proceeds to 1 or more claimants consistent with its determination under this subsection. An order for the payment of remaining proceeds must not unjustly enrich a claimant at the expense of the public. If a claimant indicated in the motion that the claimant or an entity in which the claimant held a direct or indirect interest purchased the property under section 78m or if the claimant indicated in the motion that the claimant held a direct or indirect interest in the property at the time the motion was filed, the order must require remaining proceeds to be applied to any unpaid obligations payable to a tenant at the time the foreclosure was effective or any unpaid civil fines relating to the property owed at the time the foreclosure was effective for violation of an ordinance authorized by section 4l of the home rule city act, 1909 PA 279, MCL 117.4l, in the local tax collecting unit in which the property is located. The order must provide for the payment of any unpaid amounts not otherwise payable to another claimant owed by a claimant to satisfy a state, federal, or local tax collecting unit tax lien on the property immediately preceding the effective date of the foreclosure under section 78k if the lien had priority over the claimant's interest in the property. The order also must provide that any further claim by a claimant under this act relating to the foreclosed property is barred.

(10) The foreclosing governmental unit shall pay the amounts ordered by the court to the claimants and any other persons ordered by the court under subsection (9) within 21 days of the order pursuant to section 78m.

(11) This section is the exclusive mechanism for a claimant to claim and receive any applicable remaining proceeds under the laws of this state. A right to claim remaining proceeds under this section is not transferable except by testate or intestate succession.

(12) As used in this section:

(a) "Claimant" means a person with a legal interest in property immediately before the effectiveness of a judgment of foreclosure of the property under section 78k who seeks pursuant to this section recognition of its interest in any remaining proceeds associated with the property.

(b) "Remaining proceeds" means the amount equal to the difference between the amount paid to the foreclosing governmental unit for a property due to the sale or transfer of the property under section 78m and the sum of all of the following:

(i) The minimum bid under section 78m.

(ii) All other fees and expenses incurred by the foreclosing governmental unit pursuant to section 78m in connection with the forfeiture, foreclosure, sale, maintenance, repair, and remediation of the property not included in the minimum bid.

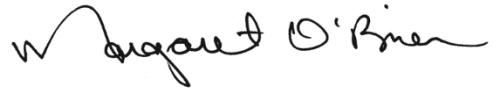
(iii) A sale commission payable to the foreclosing governmental unit equal to 5% of the amount paid to the foreclosing governmental unit for the property.

Enacting section 1. Sections 78g and 78i of the general property tax act, 1893 PA 206, MCL 211.78g and 211.78i, as amended by this amendatory act, take effect January 1, 2021.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 676 of the 100th Legislature is enacted into law.

Enacting section 3. This amendatory act is curative and is intended to codify and give full effect to the right of a former holder of a legal interest in property to any remaining proceeds resulting from the foreclosure and sale of the property to satisfy delinquent real property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, as recognized by the Michigan supreme court in *Rafaeli, LLC v Oakland County*, docket no. 156849, consistent with the legislative findings and intent under section 78 of the general property tax act, 1893 PA 206, MCL 211.78.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor