



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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**BULLETIN NO. 9 OF 2011
WITHHOLDING FROM
FORFEITURE
August 31, 2011
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TO: Assessors and Equalization Directors

FROM: State Tax Commission

SUBJECT: Replacement of 2002 Memorandum Regarding Withholding Property From Forfeiture

Bulletin 10 of 2010 is rescinded.

The purpose of this Bulletin is to comply with the requirements of MCL 211.78g(1) which indicates in part:

A county treasurer shall withhold a parcel of property from forfeiture for any reason determined by the state tax commission. The procedure for withholding a parcel of property from forfeiture under this subsection shall be determined by the state tax commission.

The State Tax Commission has determined the following are reasons to withhold a property from forfeiture:

1. If an interest holder in property has filed for bankruptcy PRIOR to the date of forfeiture, the property shall not be forfeited. In this situation, no Title Search Fee or any other fee can be added to the property.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

If an interest holder in property files for bankruptcy AFTER THE FORFEITURE, but prior to entry of the Judgment of Foreclosure, then the foreclosure process is stopped and no further notices are sent out to until the property comes out of bankruptcy. The Certificate of Forfeiture will stand and all the fees that are added to the property prior to filing the petition for bankruptcy will remain with the property.

Procedure: The foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

If an interest holder in property files for bankruptcy during the redemption period AFTER THE JUDGMENT OF FORECLOSURE is entered, the time to redeem is extended to 60 days after the date of the bankruptcy petition or expiration of the normal redemption period, whichever is later.

Procedure: No action on the part of the County Treasurer is needed.

Bankruptcy filed after expiration of the final redemption period has no impact on the foreclosure.

2. A property owned by the U.S. Government, the State of Michigan, a County, a City, a Village, a Township or a school district shall be withheld from forfeiture.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

3. A property with a defective or erroneous description shall be withheld from forfeiture.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

4. A property which is under appeal to the Michigan Tax Tribunal, the State Tax Commission or the Courts shall be withheld from forfeiture but only for the year under appeal. Example: a parcel for which taxes have not been paid for tax years 2008, 2009, and 2010 but is under appeal only for the 2010 tax year can still be forfeited for the 2008 and 2009 tax years.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

5. A property for which the Principal Residence Exemption has been appealed to the Michigan Department of Treasury or the Michigan Tax Tribunal shall be withheld from forfeiture for the year under appeal only.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

6. A parcel of property for which an Industrial Facility Exemption Certificate has been issued shall be withheld from forfeiture.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

7. A property which is state-assessed (i.e., assessed by the State Tax Commission) shall be withheld from forfeiture.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

8. A property on which the taxes have been paid to the Local Treasurer but the payment has not been recorded on the County Treasurer's records shall be withheld from forfeiture.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

9. A property that is assessed twice on the same assessment roll shall be withheld from forfeiture.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

10. A property subject to a mortgage held by the FDIC (typically occurring when the FDIC is appointed receiver of a failed financial institution that formerly held the mortgage) shall be withheld from forfeiture.

Procedure: If the property is forfeited in error, the County Treasurer removes all of the fees attached to the parcel, files a Cancellation of Certificate of Forfeiture (form 3839) with the Register of Deeds and the foreclosing governmental unit withholds the parcel from foreclosure and stops all title work on the parcel.

If the FDIC is appointed receiver of a failed financial institution AFTER THE FORFEITURE, but prior to entry of the Judgment of Foreclosure, the foreclosure process is stops and no further notices are sent out until the mortgage is no longer held by the FDIC. The Certificate of Forfeiture stands and all the fees added to the property prior to appointment of the FDIC as receiver, remain with the property.