

The Repealed Tax Sale & Tax Lien Process

The former process for enforcing Michigan's real property tax laws was found in the General Property Tax Act, ("GPTA"), 1893 PA 206, as amended, MCL 211.1 *et seq.* Most of the sections addressing the former process have been repealed.

A. Pre-Sale Process

Property is assessed each tax year based on the taxable status of the property on December 31 of the preceding year. Taxes become a lien on the property on December 1 of the tax year. MCL 211.40. Taxes not paid by March 1 of the year following the tax year are delinquent and tax rolls are sent to the county treasurer for collection of unpaid taxes. MCL 211.55.

Within 120 days after March 1 of the year following the tax year, the county treasurer sends notice of the delinquency to the taxpayers shown on the current land file supplied by the local assessor. MCL 211.57(2). A second notice is mailed by the county treasurer to the taxpayer within 120 days after March 1 of the second year following the tax year, using the current land file supplied by the local assessor. MCL 211.57(3).

B. The Annual Tax Sale

In the third year following the tax year, tax liens are offered at the annual tax sale held in each county. MCL 211.60. The action is commenced by the filing of a petition in the circuit court in the county in which the lands are situated on behalf of the Michigan State Treasurer. MCL 211.61. Upon filing of the petition, the county treasurer is required to notify persons against whom delinquent taxes are assessed, according to the records of the county treasurer's office, of the impending tax sale. MCL 211.61a. "Failure to receive or serve the notice shall not invalidate the proceedings taken under the state treasurer's petition and decree of the circuit court" *Id.* Notice is also given by newspaper publication. MCL 211.62. Notice is also sent by

the county treasurer not later than 30 days prior to sale, addressed to "occupant" at the street address of each parcel included in the sale if notice has not earlier been sent to that address or if notice sent to such address was returned. MCL 211.61b.

Following the newspaper publication, a hearing is held in the circuit court at which time any person having an interest in a parcel of property may object to inclusion of a tax lien on the property in the tax sale. In response to objections made at the hearing, the court may exclude parcels from the sale. Following the hearing, the circuit court issues its order decreeing the taxes valid and ordering sale of the property at the annual tax sale if not redeemed prior to the sale date.

The tax sale is held on the first Tuesday in May of each year. MCL 211.70. The successful bidder is issued a tax certificate. Any lien not purchased at the tax sale is automatically bid to the State of Michigan. *Id.* State bids may be purchased "over the counter" from the Department of Treasury at any time prior to April 20th in the year following the sale. The purchaser receives a tax certificate treated the same as certificates issued upon purchase at the tax sale. MCL 211.84.

C. Post-Sale Process

1. Redemption Pursuant To Section 74

Owners have until the first Tuesday in May of the year following the tax sale in which to redeem parcels from the preceding year's tax sale, by payment of the judgment amount plus interest at 1.25% per month or portion thereof. MCL 211.74. Not later than 120 days before the expiration of the redemption period, the county treasurer must send yet another notice to each person who, according to the records of the county treasurer, has an interest in a parcel of land offered at the tax sale and not yet redeemed. MCL 211.73c(1). "Failure to receive or serve the

notice or a defect in the notice shall not invalidate the proceedings taken under the state treasurer's petition and order of the circuit court" *Id.*

2. Liens Bid To The State

a. Redemption pursuant to section 131c

Title vests in the state on the first Tuesday in May of the year following the tax sale if not redeemed prior thereto. MCL 211.67. Once title is vested in the state, owners have an additional right of redemption pursuant to section 131c of the GPTA, MCL 211.131c, extending to the day before the first Tuesday in November following vesting of title in the state, *e.g.*, 18 months following the tax sale. Redemption is by payment of the judgment amount plus interest at 1.25% per month, all other delinquent taxes plus accrued interest and penalties and an additional processing fee of \$50 per parcel.

b. Redemption pursuant to section 131e

One final right of redemption arises under section 131e of the GPTA, MCL 211.131e, after expiration of the section 131c redemption period. Section 131e provides that a right of redemption shall be extended until the owners of record interest in the lands have been notified of a hearing before the Department of Treasury. Section 131e allows redemption up to 30 days following the hearing. Redemption requires payment of the amounts set out above for redemption under section 131c, plus an additional amount of 50% of the taxes for which the property was offered at the tax sale. Section 131e originally required notice be sent to "owners of a significant property interest" for those lands "which have a state equalized value of \$1,000 or more." After amendment by 1996 PA 476, effective December 26, 1996, section 131e required notice to "the owners of a recorded property interest in the property"

3. Privately Purchased Liens

If the tax lien is purchased by a private purchaser at the tax sale and is not redeemed by the first Tuesday in May of the following year, the tax lien purchaser is entitled to a tax deed from the state treasurer. MCL 211.72. After the tax deed is issued, the prior owners have a second and final redemption period pursuant to section 140 of the Act, MCL 211.140. Section 140 requires the tax deed holder to serve notice of a right of redemption on (a) the last grantees in the regular chain of title of the land or of an interest in the land, (b) persons in open possession of the land, (c) grantees under the latest tax deed of record, and (d) holders of undischarged mortgages and liens of record. Parties entitled to notice have six months after service of the section 140 notice in which to redeem the property by payment of the judgment amount that the tax deed holder paid at the tax sale, plus 50% of the judgment amount, plus service fees for service of the notices. The section 140 notice provisions apply only to property deeded by the State Treasurer to a tax lien purchaser. They do not apply to lands purchased from the Department of Natural Resources pursuant to MCL 211.131.

D. Disposal of Surplus Lands by the Department of Natural Resources

The DNR reviews those lands deeded to it by the State Treasurer to determine lands suitable for use by the Department. MCL 211.131. Lands not suitable for DNR use may be transferred to other governmental entities, churches, or public educational institutions for public uses. MCL 324.2101. Lands not withheld from sale by the DNR or deeded for public purposes may be offered by the DNR at public auction at a minimum bid established by the DNR director. MCL 211.131. Sale proceeds, after deducting costs incurred by the DNR, are accounted back to the taxing authorities pro rata according to their interests in the land arising from the nonpayment of taxes and special assessments.