Legislative Analysis

TAX FORECLOSURE AVOIDANCE
AGREEMENTS: EXTEND SUNSET

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House Bill 4121 as enacted
Public Act 35 of 2019
Sponsor: Rep. Wendell Byrd
1st House Committee: Local Government and Municipal Finance
2nd House Committee: Ways and Means
Senate Committee: Finance
Complete to 7-11-19

BRIEF SUMMARY: House Bill 4121 amends the General Property Tax Act to allow county treasurers to continue to enter into tax foreclosure avoidance agreements until June 30, 2026.

FISCAL IMPACT: Extending the sunset would allow local governments to potentially avoid foreclosures and collect existing property taxes. However, the fiscal impact on local governments and the state is likely to be relatively small.

THE APPARENT PROBLEM:

When a county treasurer or other governmental unit forecloses on real property with delinquent taxes, in addition to depriving a person of his or her property, there is not always a certainty that the foreclosure will pay off the total amount of the delinquent taxes in question. As a result, the governmental unit is left without its full tax revenue, while the former owner is left without the property he or she once possessed. To avoid this situation, the General Property Tax Act allows county treasurers to enter into tax foreclosure avoidance agreements with the owners of property with delinquent taxes for a term of up to five years. However, a sunset (expiration date) of June 30, 2019, was placed on this provision. House Bill 4121 extends this sunset for seven years.

THE CONTENT OF THE BILL:

The General Property Tax Act allows county treasurers to enter into tax foreclosure avoidance agreements with the owners of property with delinquent taxes for a term of up to five years. This authority was due to sunset on June 30, 2019.

The bill extends the sunset until June 30, 2026, allowing county treasurers to enter into tax foreclosure avoidance agreements for seven more years.

The bill took effect June 26, 2019.

MCL 211.78q

BACKGROUND INFORMATION:

Under section 78q of the General Property Tax Act, a county treasurer may enter into a tax foreclosure avoidance agreement for a term of up to five years with an owner of residential property returned as delinquent to the county treasurer or forfeited to the county treasurer. An owner must make an initial payment of at least 10% of the delinquent taxes owed on the property.

These agreements require regular periodic installment payments, and the final payment may not be disproportionately larger than regular periodic installment payments in prior years.

While a tax foreclosure avoidance agreement is effective, the property must be withheld or removed from the foreclosure petition, interest accumulates, and the owner must make timely payments as provided under the agreement, including timely payment of all non-delinquent taxes on the property. A county treasurer cannot enter into more than two tax foreclosure avoidance agreements with the same owner.

BRIEF DISCUSSION:

Proponents of the bill argued that tax foreclosure agreements have prevented over 24,000 foreclosures, with very few people ultimately failing to pay their delinquent taxes. Tax foreclosure avoidance agreements were of great use to a handful of counties in the aftermath of the Great Recession, allowing them to avoid foreclosing on the property of many economically vulnerable residents in order to make up for lost revenue. Supporters argued that the reason a sunset was placed on the provision in the first place was because of the experimental nature of the tax foreclosure avoidance agreements; now that the agreements have proven successful, it makes sense to extend the sunset and let counties continue to use them.

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