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# CRC Memorandum

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## CHANGES TO THE PROPERTY TAX DELINQUENCY AND REVERSION PROCESS IN MICHIGAN

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### In Brief

Recent changes to the General Property Tax Act have significantly shortened and simplified administrative processes affecting delinquent real property taxes. Before these changes, it was common for thousands of tax-delinquent parcels of property to revert to the State annually, a process that took up to five years or more. Beginning with the 1999 tax year, tax-delinquent parcels will proceed to judicial foreclosure in local circuit court in a process that returns the property--with marketable title--back to tax productive status about two and a half years after delinquency.

Included in the changes are two additional acts that allow local units of government in Michigan to return tax-reverted or abandoned property to the tax rolls more quickly. The Tax Reverted Property Emergency Disposal Act addresses the problem of large backlogs of tax-reverted parcels returned by the State to the local unit, which, because of their tax-reverted status, are not marketable by the local unit. The Certification of Abandoned Property for Accelerated Foreclosure Act allows local units to subject locally-certified abandoned property to an accelerated foreclosure process that shortens the two and a half year process to about one and a half years.

In July 1999, Public Acts 123, 132, 133 and 134 became law. Collectively, these acts amended and brought new provisions to the delinquent tax and reversion provisions of the General Property Tax Act of 1893. For a description of this process before the amendments, and a glossary of terms, see *Citizens Research Council Report # 325, Delinquent Property Taxes as an Impediment to Development in Michigan*.

### Generally

The changes in the law addressed two problems that significantly hindered the ability to develop tax-delinquent properties: namely, the inordinate length of time it was taking tax-delinquent or reverted properties to return to tax-producing status, and the inability of local units of government to secure marketable title on the backlog of tax-reverted properties returned by the State. Public Act 123 addresses the time problem by changing and shortening administrative responsibilities and procedures, while also mandating that the property emerge from the shortened process with clear and marketable title. Public Act 134 addresses the unmarketable title problem for tax-reverted properties that were returned to local units, by allowing local units to obtain clear and marketable title through "en masse" judicial action.

### Certified Abandoned Property

An ancillary problem addressed by Public Act 132 is that of abandoned tax-delinquent property. The "Certification of Abandoned Property for Accelerated Forfeiture Act" enables local units of government to identify abandoned, tax-delinquent property and subject it to accelerated foreclosure, relative to the new foreclosure provisions of Public Act 123. Specifically, this act allows local units to shorten the foreclosure process for abandoned properties by one year, which, as amended by Public Act 123, is currently just over two years for all other property. Until Public Act 132, all property in Michigan was subject to the same delinquency process (with one minor exception), irrespective of property use or condition.

### Disposition of Pre-1999 Delinquent Property

Despite these changes in the law, a significant number of tax distressed properties remain largely unaffected by them, as Public Act 123 only applies to properties that become delinquent for 1999 taxes and beyond. Properties that became delinquent before 1999 are subject to the same tax sale and reversion process as previously existed, although counties, under certain conditions, may opt to cancel tax sales for 1997 and 1998 delinquencies, and then subject those properties to the new process.

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## A. Changes in the Process for the Disposition of Tax Delinquent Property

Public Act 123 amends 12 and adds 19 sections to the General Property Tax Act. Generally, the changes and additions made by the act pertain to administrative procedures that govern the disposition of tax-delinquent real property. The changes apply only to property that becomes delinquent for 1999 taxes and after, and the previous set of procedures may or may not apply for properties that became delinquent for taxes in 1998 and prior. Chart 1 offers a chronological outline of the tax delinquency and reversion process in Michigan pursuant to Public Act 123 of 1999. Major differences with the previous system are outlined as follows:

**1. Counties as Foreclosing Governmental Units.** The new system allows counties to opt out of their new duties as Foreclosing Governmental Unit (FGU). If they do not exercise their option by December 1, 1999, they will become the FGU of unredeemed tax-delinquent property, and as such, will become owners of the property upon foreclosure. If counties opt out, FGU responsibilities will transfer to the State. However, all counties remain responsible for the provision of stricter notice and forfeiture requirements that exist through the initial 13 months of delinquency.

One advantage for counties to remain as the FGU is the possibility that, under the terms of the new land sales of tax-foreclosed property, they will be able to build a significant balance in their delinquent tax revolving fund with proceeds from the land sales. This

is achievable insofar as tax-foreclosed property may fetch bids in excess of tax delinquency, interest, penalties, and fees at land sales. Any such excesses that remain after taxing units are made whole are retained by the FGU. Given that counties typically issue short-term notes, secured by the taxing authority of the county, to keep their delinquent tax revolving fund solvent, an increase in proceeds from the land sales necessarily means that counties will do less borrowing to fund the process.

Under the previous system, counties did not have the option to take ownership, as unredeemed delinquent tax parcels eventually reverted to the State. As collection agents, all counties were compelled to hold annual tax sales (also referred to as tax lien sales) to recoup revenue losses incurred by taxing units for unpaid taxes. Counties remain the sole collector of delinquent tax payments under the new system, irrespective of whether they opt out of their assigned FGU duties, but have an added incentive, as FGU, to augment their cash flow.

**2. Shortened Period of Redemption and Reduced Interest and Penalty Schedule.** The new system shortens the period of tax delinquency to foreclosure from 40-46 months to approximately 25 months. This is the only time in which the owner or taxpayer of record may redeem taxes, interest, penalties, and fees associated with the tax-delinquent property. Although tax-delinquent property

owners are accorded less time to redeem their property, they are no longer subject to a geometric escalation of interest, penalties, and fees as foreclosure approaches.

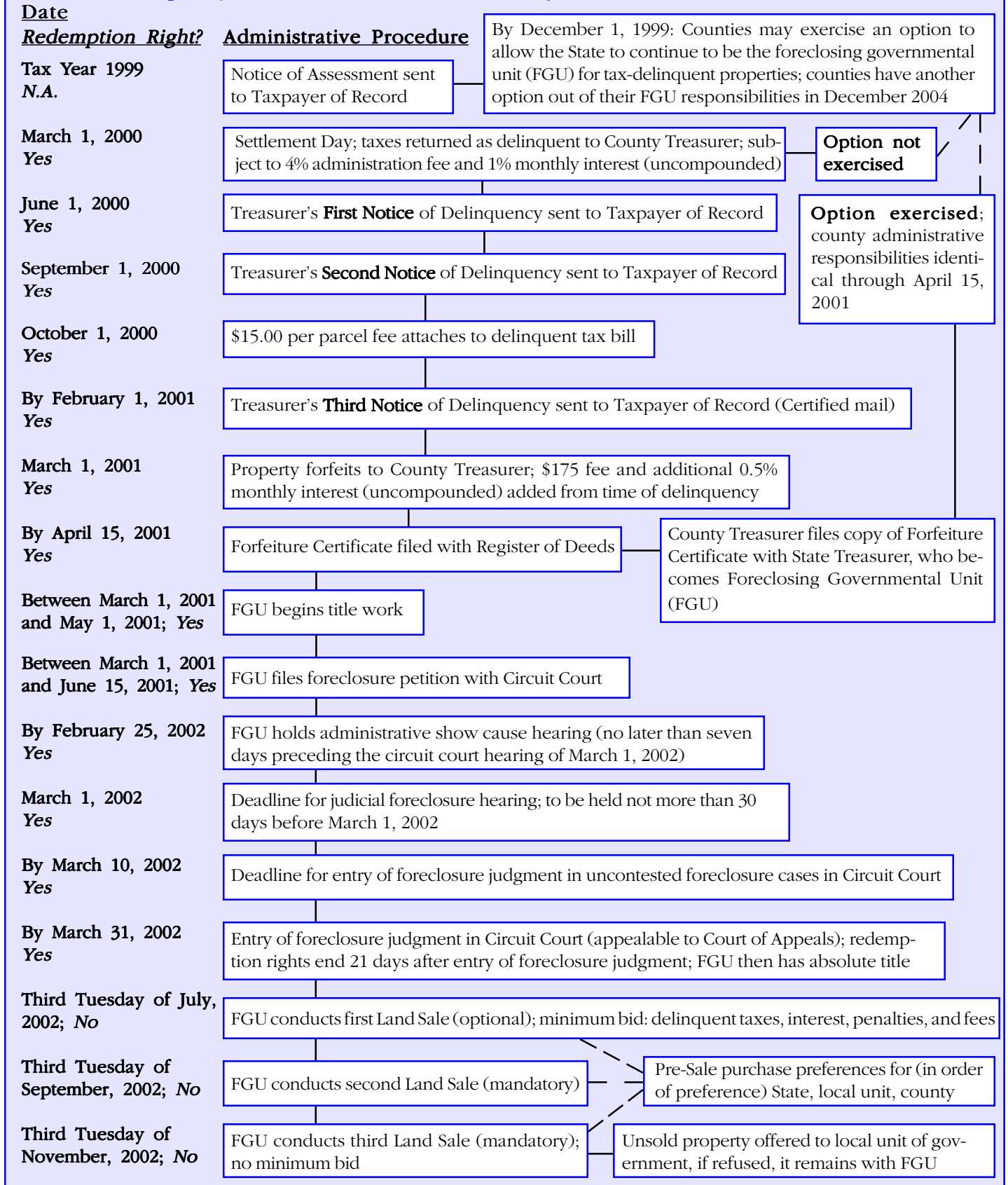
**3. Elimination of County Tax Sales.** Under the previous system, counties were compelled to administer annual tax sales, where tax liens were offered to the public for the price of unpaid taxes, interest, penalties, and fees. The new system eliminates county tax sales for tax years 1999 and beyond. In their stead is foreclosure for unpaid taxes in circuit court. After foreclosure and statutorily-mandated title work, a series of three public land sales are held at two month intervals, starting four months after property foreclosure. For 1997 and 1998 delinquent taxes, counties may cancel tax lien sales (otherwise scheduled for the first Tuesday in May of 2000 and 2001, respectively) *only if there are no anticipated proceeds from such sales that are needed to pay notes issued for the purpose of delinquent tax collection.* Counties that elect to cancel tax lien sales must wait until the April 30<sup>th</sup> immediately preceding the scheduled lien sale to do so. Disposition of delinquent taxes in counties that cancel lien sales is described on page 6.

**4. Marketable Title.** Upon judicial foreclosure by the FGU, the property emerges with a marketable title. This is achieved by the levy of a fee used to finance a thorough title search by the FGU. Such title search, executed relatively early in the reversion pro-

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**Chart 1**

**Tax Delinquency and Reversion Process in Michigan – Public Act 123 of 1999 Amendments**



cess, ensures the likelihood that all significant interests are identified and given notice regarding the pending foreclosure proceeding in circuit court. In addition, the title search greatly increases the probability that a title insurer will issue insurable title on the property, which, for all practical purposes, means marketable title. Under the old system, all unredeemed properties were administratively foreclosed by the State. Upon foreclosure, the State would elect to retain, sell, or return the property to the local unit, often with only a quitclaim deed, but not a title deed.

**5. Fees for Costs.** The new system has built in fees that attach to delinquent properties to finance the various new statutory mandates to FGUs. The \$175.00 per parcel fee that attaches two years after delinquency is intended to finance title search costs borne by the FGU, and the \$15.00 per parcel fee that attaches on the first October 1 subsequent to tax delinquency is intended to cover certified mailing costs associated with the third notice of delinquency to be sent (if necessary) by the following February 1.

**6. Local Units That Retain Local Delinquencies.** In accordance with their charters, the cities of Detroit and Kalamazoo do not return local portions of delinquent property taxes to the county. Under the old system, this meant that the county would sell liens at the annual tax sale on all *county and state* delinquent property taxes, and the local unit, if it retained local delinquencies, would either retain or sell its own liens. If the local unit sold local

liens, it was likely that two liens would be bought by different purchasers on the same property for the same tax year, one sold by the county and the other by the local unit. Changes in the law allow purchasers of local tax liens sold pursuant to the Michigan Tax Lien Sale and Collateralized Securities Act (PA 379 of 1998) to have first purchase rights for concomitant county tax liens, which should reduce the number of multiple lienholders on such parcels of property.

### Summary Table of Changes

Table 1 offers comparisons of the previous and current tax delinquency and reversion provisions of the General Property Tax Act.<sup>1</sup> While not a comprehensive examination of all of the changes, it offers brief descriptions of the most major changes. It is organized under topic headings regarded by policymakers as being the most relevant to the delinquent property tax process.

### Preference Groups for the Sale of Tax Delinquent Property

The recent changes to the General Property Tax Act provide no preference to community groups to acquire tax-delinquent property. In the State's most disinvested ar-

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<sup>1</sup> For an excellent summary of relevant changes in the tax delinquency and reversion process in Michigan, see "Real Property Tax Foreclosure in 2000 and Beyond," by John R. Axe & Associates. Presentation to the Michigan Association of Treasurers, August 9, 1999. Also see the Michigan Department of Treasury's Tax Reversion Reference Guide, September 1999, available online at the Department of Treasury's website at [www.treas.state.mi.us](http://www.treas.state.mi.us)

reas, which have a preponderance of Michigan's tax-reverted property, development is done primarily by community and faith-based nonprofit organizations, who develop affordable housing and commercial enterprises where private developers do not. If community non-profits have to compete with the public for acquisition of tax-delinquent property, it is less likely that development will occur, as community non-profits with housing programs are more likely to pursue housing development in areas where for-profit developers will not.

The recent changes do, however, offer a "first-look" to the State for all properties offered at the first and second land sales. That is, the State has a right of first referral to purchase the property, and may acquire it for either the minimum bid, or the fair market value, whichever is greater. Local units of government have the second right of referral if the State does not want to purchase it (for the same purchase terms as the State less local delinquency), and counties have the third right of referral on the property (same terms as State less county delinquency), before it proceeds to the land sale(s).<sup>2</sup>

It is unclear why community-based organizations were not accorded preferential treatment at

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<sup>2</sup> As pointed out in the John Axe and Associates paper, the statute is silent on the question of sale preferences for villages and townships. Presumably, the statute failed to account for the fact that villages remain dependent on service and administration provision from the township where they are sited, and as such are not discrete local units of government, as are cities.

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any point in the process. It is possible that cities and local units of government, which are second in line for preferential purchase of tax foreclosed properties, were presumed to have

working partnerships with their community-based organizations, and are free to amend their charters to provide preference to community nonprofit groups. However, evidence exists that in

the State's largest city, this is not necessarily the case.<sup>3</sup>

<sup>3</sup> See "Abandoned Commercial Property in Detroit," The University of Michigan School of Public Policy, April 1998, p. 31.

**Table 1**

## Differences Between Previous and Current Delinquent Property Tax and Reversion Laws

The following table describes major changes enacted in Michigan's property tax delinquency and reversion process, effective July 1999. The first eight issues cited are described in *CRC Report #325, Delinquent Property Taxes as an Impediment to Development in Michigan*. A summary of the previous delinquent property tax and reversion process, as well as a glossary of terms, is found there. The remaining three issues relate to other major changes in the process. Please note that the changes listed in the "Current Law" column may apply to the county or the State, depending on whether the county options out of the new process, in which case the State becomes the Foreclosing Governmental Unit (FGU).

Issue	Previous Law	Current Law
1. Process Length for Unredeemed Taxes after Delinquency	The <i>fastest</i> an unredeemed, tax delinquent property could change ownership through lien perfection was 42 months. If no tax liens were purchased, and the property was not redeemed, title reverted to State ownership through administrative foreclosure, a process that required at least 39 (but could take up to 45) months. Upon obtaining title, State administrative processes (inspections, court hearings) added 16 to 24 months to the process before final disposition (retention by State, conveyance to local unit, or outright sale).	County or the State becomes the Foreclosing Governmental Unit (FGU) and initiates forfeiture proceedings 12 months after delinquency, and foreclosure proceedings 24 months after delinquency. Upon completion of title work, FGU can sell the tax-delinquent property at a series of locally-held land sales beginning approximately 28½ months after delinquency. Process length equal whether county or State is FGU. Property that does not sell at land sales reverts to local unit ownership if local unit does not object, but remains with the FGU if it does object.
2. Fees and Interest Schedules for Redemption of Tax Delinquent Property	<p>Upon delinquency (March 1 following tax year): 1 percent local administration fee, 4 percent county administration fee, interest at 1 percent per month.</p> <p>After tax sale (26 months after delinquency): interest at 1.25 percent per month, retroactive to date of delinquency.</p> <p>After tax deed issued to lien buyer (38 months after delinquency): additional 50 percent of delinquent tax principal attached to amount due.</p>	<p>Upon delinquency (March 1 following tax year): 4 percent county administration fee, and 1 percent un-compounded monthly interest.</p> <p>Seven months after delinquency: \$15.00 per parcel fee attaches to delinquent tax bill.</p> <p>Upon forfeiture (one year after delinquency): \$175 fee, and additional interest of 0.5 percent per month (un-compounded) from the time of delinquency.</p>

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Issue	Previous Law	Current Law
<p>3. Preservation of Property Rights</p>	<p><u>At Local and County Level:</u> Property rights were insured by allowing at least 42-month redemption period for the owner.</p> <p><u>At State Level:</u> 1976 Michigan Supreme Court ruling (<i>Dow v. State of Michigan</i> 396 Mich 192) held that written, mailed notice must be provided to all “significant” interests in property before tax foreclosure. All such significant interests were not always discovered and notified before State foreclosure, due to the inferior quality of title work done by the State. Public Act 476 of 1996 mandates that only recorded interests need be advised of impending title transfer; title companies still reticent to write title insurance policies against tax reverted property because of anticipated due process challenges to Public Act 476 of 1996.</p>	<p><u>County Responsibilities</u> Property rights insured by three separate notices of delinquency sent to taxpayer of record in the first year of delinquency; third notice sent by certified mail if taxes remain unredeemed.</p> <p><u>FGU Responsibilities</u> Property rights also insured by an administrative show cause hearing at the county 23 months after delinquency, and a circuit court judicial foreclosure hearing 24 months after delinquency. Thorough title work (now financed by a \$175 fee that attaches to the delinquency) insures the identification of significant property interests that are owed proper notice of impending foreclosure. Personal inspection of property by FGU now mandated by Public Act 123 also assures protection of property rights. County Treasurer may exercise discretion and withhold the property from tax foreclosure if sufficient cause shown at county hearing. Hardship cases considered for owners deemed to be minor heirs, incompetent, or without means of support. The court may extend the redemption period as it deems appropriate.</p>
<p>4. Tax Lien Sales</p>	<p>Liens were sold against property for delinquent taxes after 26 months of delinquency at annual county tax sale held on the first Tuesday in May. Liens sold for overdue tax, fees, penalties, and interest. Competitive bidding process predicated on purchaser willing to accept the smallest ownership interest if lien is perfected. Lienholder entitled to any subsequent tax redemption payments (including additional cumulative penalties and interest) for corresponding tax year. Lienholder could perfect the lien and take title (consistent with ownership interest) to the property if taxes not redeemed within approximately 19 months. If lienholder was able to perfect a 100 percent ownership interest lien, then previous owner is not entitled to recovery of residual equity in property lost for taxes. Liens valid for up to five years.</p>	<p>Tax lien sales eliminated for 1999 taxes and beyond. Upon judicial foreclosure in circuit court, FGU sponsors a series of land sales the following July (optional at discretion of FGU), September, and November. At July and September land sales, opening bid is the amount of overdue tax, fees, penalties, and interest, with bidding progressing upward. If no purchaser interest at minimum bid, FGU may offer the property at the November land sale for a predetermined price, lower than the overdue tax, fees, penalties, and interest. No residual equity payable to delinquent owner.</p> <p>If county does not have any outstanding notes, it may cancel the 1997 and 1998 tax sales, scheduled for May 2000 and 2001, respectively. If tax sales are cancelled, property delinquent for 1997 and 1998 taxes will be included in the same foreclosure process as delinquent taxes for 1999 and 2000, respectively.</p>

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Issue	Previous Law	Current Law
5. Urban and Rural Impact	Preliminary data suggest that the old system was less efficient in urbanized areas of the state, primarily because of low property values. Such properties became upside down more quickly (tax debt greater than property value), and were not attractive to lien purchasers. Consequently, properties in urban counties proceeded to state reversion at a greater rate than properties in rural counties, further complicating urban redevelopment.	Unknown at this time, although the current system allows for the outright sale of tax-delinquent property, instead of the sale of a tax lien on the property. In addition, the new system allows for the sale of the property at a price below the delinquent taxes, interest, penalties, and fees, which, under the old law, was the minimum acceptable bid for a tax lien. The problem of upside down properties is remedied by the bid terms of the final land sale, with a minimum bid that may be set by the FGU, which may be significantly lower than the tax arrearage.
6. Indistinct Procedures for Differing Classes of Property	Delinquent tax collection processes were the same for all land use classes with the exception of Certified Special Residential Property, which allowed local units to acquire tax delinquent property on an accelerated basis. However, the program had a major disincentive if used by local units, namely that local units were not reimbursed delinquent taxes by the county.	Certified Special Residential Property statute repealed; replaced with Certified Abandoned Property provision, which permits local units to certify tax-delinquent, abandoned property and subject it to accelerated foreclosure. The Certified Abandoned Property provision may apply to any abandoned property, as defined in Public Act 132, irrespective of land use type. The Certified Abandoned Property provision does not include undeveloped property, which is more readily amenable to development than abandoned structures. However, the Certified Abandoned Property provision does not penalize local units that wish to use it insofar as delinquent tax payments from the county are not withheld, as they were under the Certified Special Residential Property provision under the previous law.
7. Securing Marketable Title	In most cases, tax-reverted properties were not returned with marketable title to local unit; local units therefore unable to market property to developers until thorough title work is complete. Title insurers reluctant to insure tax-reverted properties against title challenges, as title insurers generally are not confident that all significant interests were provided adequate notice at the State Dow hearing. Gaining absolute title was also complicated by outstanding tax liens that expire five years after issuance, often past the time when the property had been given back to the local unit after reversion to the State.	FGU now responsible for thorough title work to identify all significant interests for provision of notice; costs offset by \$175.00 fee that attaches to tax bill after two years of delinquency. FGU may contract out necessary title work. Upon discovery of all significant interests by title work, FGU responsible for personal service of notice to all such interests.

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Issue	Previous Law	Current Law
8. Lack of Incentive for Local Units to Compel Tax Payment from Property Owner	Local unit delinquencies reimbursed by county out of the Tax Delinquent Revolving Fund, county then becomes collection agent, on behalf of the State, for delinquent property taxes.	Same as previous law for delinquent tax collection process, although new law allows local unit to unilaterally accelerate the foreclosure process for abandoned property.
9. Backlog of Tax Reverted Properties in Local Units	Tens of thousands of properties that were returned to the local unit from the State after going through the tax reversion process have insufficient title work, and are therefore virtually unmarketable. To make them marketable, local unit must initiate quiet title actions in circuit court, on a parcel by parcel basis, which is relatively time consuming and expensive.	Public Act 134 allows “en masse” title clearances through the declaration of an emergency backlog problem in the local unit. Upon passing an “Emergency Backlog” resolution, local units of government are now enabled to clear title for groups of tax-reverted properties. Local units must pursue an action in circuit court to quiet title to tax-reverted properties.
10. Redemption Terms of Tax Delinquent Properties	After <i>Dow</i> hearing, which was the last step before entry of foreclosure judgment by the State, all delinquent taxes had to be paid to avoid foreclosure and subsequent loss of property. This included all taxes that were delinquent, but would not have otherwise reached the state foreclosure proceeding.	After circuit court foreclosure hearing, the last step before entry of foreclosure judgment, property can be redeemed for payment of delinquent taxes that necessitated foreclosure, but payment of all delinquent taxes not necessary to avoid foreclosure.
11. Local Units That Retain Local Delinquencies	The cities of Detroit and Kalamazoo, which retain local tax delinquencies for local collection, further complicated the tax lien process when retaining or selling liens on local tax delinquencies. It was possible that two liens for the same tax year could be sold to different purchasers, one acquired from the county and the other from the local unit.	<p>The Michigan Tax Lien Sale and Collateralized Securities Act (Public Act 379 of 1998) allows municipalities that retain local tax liens (Detroit and Kalamazoo) to sell municipal bonds secured by said liens, with bond proceeds used to collect delinquent taxes.</p> <p>Under Public Act 123 of 1999, purchasers of local tax liens sold through the Michigan Tax Lien Sale and Collateralized Securities Act may now purchase concomitant county delinquent tax liens for 1997 and 1998 tax delinquencies, before the county lien proceeds to public sale or transfer.</p>



## B. Tax Reverted Property Emergency Disposal Act and Local Unit Procedures

Public Act 123 of 1999 shortens the tax delinquency and reversion process for real property in Michigan, and allows for property to emerge from the process with marketable title. However, it does not address the problem of properties that reverted to the State for taxes before 1999, and were subsequently deeded back to the local unit with a quitclaim deed. This was typically done with tax-reverted properties that the State was either unable to sell, or had no use for in its land inventory. Tax-reverted properties deeded back to the local unit by the State are often the most frustrating and problematic for counties and local units, as they typically are generating no tax revenues, yet are very difficult to acquire for reuse because of the inherent clouded title problems. Local units wishing to acquire absolute title must initiate a quiet title action in circuit court for each such property, at considerable time and expense to the local unit.<sup>3</sup>

### Generally

The Tax Reverted Property Emergency Disposal Act, Public Act 134 of 1999, creates a new provision of the General Property Tax Act that allows local units to obtain clear and marketable title to tax-reverted properties in a less cumbersome manner. Local units with such property may now consolidate all

<sup>3</sup> A quiet title action is a proceeding to establish the plaintiff's title to land by bringing into court an adverse claimant and there compelling him to either establish his claim or be forever after prevented from asserting it.

such parcels into one quiet title proceeding in their local circuit court. Properties that emerge from the quiet title actions should do so with clear and marketable title, and therefore amenable to development.

### Background of Issue - Adequate Notice Problems

The central problem with tax-reverted property relates to whether all "significant" interests were provided adequate and proper notice of the state foreclosure. If such interests were not provided proper notice, then any foreclosure proceeding by the State could be deemed defective in subsequent court challenges. Generally speaking, title insurers would issue an insurable title policy on a tax-reverted property only under limited circumstances, where, among other things, it could be established that all ascertainable, significant interests had been accorded requisite notice.

### Local Unit Processes for Disposition of Tax Reverted Property

Chart 2 describes the process that local units of government must employ to obtain clear title to tax-reverted properties within their jurisdictions. Public Act 134 allows local units to declare, by simple resolution, that tax-reverted properties are a problem in the unit. The resolution must state that the existing inventory of tax-reverted property within the local unit of government is too large and of uncertain title, impairing the local unit of government's ability to market

that tax-reverted property by conventional means and contributing to the spread of neighborhood blight and deterioration. Upon such declaration, the local unit can initiate process to gain a relatively speedy, clear title to properties that have been returned to the local unit after reversion to the state.<sup>4</sup>

### Circuit Court Title Clearance

The Tax Reverted Property Emergency Disposal Act allows the county circuit court, which hears actions to quiet title, to clear tax-reverted property titles "en masse." Before Public Act 134, each such property was accorded a separate hearing for any potential "significant interests" in the tax-reverted property. The "many at once" title clearance approach means that less time will be required to clear titles to tax-reverted properties. The Tax Reverted Property Emergency Disposal Act, if it passes anticipated judicial review, will introduce administrative efficiencies to local government if it is used, and will have the added effect of moving tax-reverted properties onto the tax rolls more quickly.

### Limited Causes of Action

Recorded interests who were provided notice of the quiet title hear-

<sup>4</sup> Upon a declaration of an emergency backlog of property by the local unit, any outstanding rights of redemption for tax-reverted properties in the local unit are thereby untransferable. Any such redemption rights transferred thereafter are invalid, and are not accorded the notice requirements described in the Act.

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ing are afforded the following defenses to fend off the impending loss of their property interest:

1. That no law authorizes the property tax.
2. That the person appointed to decide whether a tax shall be levied under a law of Michigan acted

without jurisdiction, or did not impose the tax in question.

3. That the person or property assessed was exempt from the tax in question, or was not legally assessed.
4. That the tax has been paid.

5. That the tax was assessed fraudulently.

It is important to note that improper notice, at any point in the tax delinquency and reversion process, is not offered as a sustainable defense.

### Chart 2

#### Local Unit Procedures Under the Tax Reverted Property Emergency Disposal Act

The Tax Reverted Property Emergency Disposal Act, Public Act 134 of 1999, allows local units of government to subject tax-reverted property from the State to quiet title actions in order to gain clear and marketable title to them. The advantage offered by PA 134 is that local units may now initiate quiet title actions against a multiple listing of properties. Local units wishing to clear title to tax-reverted properties from the State need to take the following steps:

##### **I. Identification of Tax Reverted Properties**

Local unit of government identifies a significant number of tax-reverted properties within its boundaries, the titles to which vested in the local unit of government before January 1, 2000.

##### **II. Declaration of Emergency Backlog of Tax Reverted Property**

Local unit of government passes a resolution that tax-reverted properties are impairing the local unit's ability to market them by conventional means, and that the tax-reverted property is contributing to the spread of neighborhood blight and deterioration.

##### **III. Title Work to Determine Recorded Interests and Quiet Title Hearing Notice Requirements**

Local unit contracts out for title work on tax-reverted properties, paid for by the local unit. Any recorded interests found on the property title must be provided notice of the impending quiet title action in circuit court by the local unit, said notice to include the following:

1. Date the property was deeded to the local unit.
2. Date of the impending court hearing on the action to quiet title.
3. Statement that the person stands to lose his/her interest in the property as a result of the impending action in circuit court to quiet title.
4. A legal description or parcel number of the tax-reverted property, and a street address, if available.
5. The person or persons to whom the notice is addressed.
6. The total amount of taxes, fees, penalties and interest due as of the expiration of the redemption period at the State.
7. Statement that unless the total amount of taxes, fees, penalties, and interest is paid before judgment is entered to quiet title, then absolute title shall vest in the local unit of government without any redemption rights.

If the title search fails to turn up an address for any recorded interests in the property, the local unit must review the local Treasurer's or Assessor's office, and the qualified voter file, to ascertain an address for the purpose of notice. If unable to ascertain an address, the local unit shall publish, for three successive weeks, the notice in a newspaper published and circulated in the county where the tax-reverted property is located.

## C. Certification of Abandoned Property for Accelerated Foreclosure Act

Public Act 132, entitled the Certification of Abandoned Property for Accelerated Foreclosure Act, and Public Act 133, are companion laws to Public Acts 123 and 134 that allow local units to subject

tax-delinquent, abandoned properties in their jurisdictions to accelerated foreclosure. Upon formal declaration by simple resolution, a local unit may begin a process that subjects such property, upon certifica-

tion, to a one-year period of delinquency, instead of the two years for all other uncertified property. Chart 3 summarizes the local unit certification process.

**Chart 3**

### Local Unit Certification Process for Tax Delinquent, Abandoned Property

Local unit of government determines that a quantity of tax-delinquent, abandoned property exists in its jurisdiction. Abandoned property is defined as that which is vacant or dilapidated, and open to entrance or trespass.

Local unit of government makes a declaration, by formal resolution, of accelerated forfeiture of tax-delinquent, abandoned property before October 1 of any tax year.

Upon formal declaration made by October 1, local unit proceeds toward certification of abandoned property by doing the following:

1. By February 1 succeeding the October 1 declaration, local unit must inspect all such abandoned property to officially determine it as such. At the time of the inspection, the local unit must post notice on the property that if the taxes levied on the property are returned as delinquent, that the property will be subject to accelerated forfeiture and foreclosure, and will be subject to fees as set forth under the General Property Tax Act.
2. Sending a copy of the posted notice to the owner or taxpayer of record by first-class mail.
3. Returning the taxes, if delinquent, to the county treasurer by March 1.

Owners of property (or those with a legal interest), whose properties are identified as abandoned by the local unit in the manner described above, may avert the certification as abandoned property by doing the following:

Responding, by affidavit to the local unit, to the effect that the property in question is not abandoned, before taxes have been returned as delinquent to the county, or to the county after they have been returned as delinquent.

If the affidavit is filed in the manner described above, then the property is not forfeited on the immediately preceding March 1, as would otherwise happen to property not so contested by affidavit.

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### Uniformity of Tax Delinquent Processes for Differing Property Statuses

Until the Certification of Abandoned Property for Accelerated Foreclosure Act, all property in Michigan was subject to the same tax delinquency process, irrespective of property class or status.<sup>5</sup>

<sup>5</sup> The sole exception to this was "Certified Special Residential Property," where a local unit of government of over 25,000 was allowed to subject abandoned, residential property to accelerated delinquent tax foreclosure. This statute was rarely if ever used, as local units wishing to subject such property to accelerated foreclosure were required to forego the delinquent tax reimbursement that otherwise would have been made to the local unit by the county. The Certified Special Residential provisions of the General Property Tax Act were repealed by Public Act 123 of 1999.

Thus, the five to six year cycle of tax delinquency and reversion was identical for developed, undeveloped, occupied, and abandoned property. While the long process may have effectively protected property rights for bona fide property tax-delinquent hardship cases, the fact that slumlords and abandoned property owners could use the system to their advantage underscored the need for differing delinquent processes for distinct property uses.

### Conclusion

While it remains to be seen whether the 1999 amendments to the tax delinquency and reversion process will have the desired effect of stimulating the redevelopment of tax-re-

verted properties, it is a certainty that, barring any judicial action that alters or invalidates the new system, properties that become delinquent for 1999 taxes and beyond are subject to a faster foreclosure schedule.

Also remaining to be seen is the frequency of use of the Tax Reverted Property Emergency Disposal Act, and the accelerated foreclosure provisions for certified abandoned property. These new provisions of the General Property Tax Act are enabling statutes that allow, but do not compel, local units to use them.