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STATE OF MICHIGAN

**JENNIFER M. GRANHOLM, ATTORNEY GENERAL**

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INSURANCE:

REAL ESTATE:

TAX COLLECTION:

Qualifications of person or entity contracting to perform title search for foreclosing governmental unit

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Under the General Property Tax Act, if a foreclosing governmental unit elects to contract for title searches, it may do so only with entities or persons licensed in Michigan as title insurance companies or title insurance agents.

Opinion No. 7065

October 30, 2000

Honorable Mike Pumford  
State Representative  
The Capitol  
Lansing, Michigan 48913

You have asked whether, under the General Property Tax Act, a foreclosing governmental unit that elects to contract for title searches may do so only with entities or persons licensed in Michigan as title insurance companies or title insurance agents.

The General Property Tax Act (GPTA), 1893 PA 206, MCL 211.1 *et seq*; MSA 7.1 *et seq*, provides for, among other things, the levy and collection of taxes on property, including the sale or forfeiture and conveyance of tax-delinquent property. The GPTA was amended by 1999 PA 123, which rewrote the procedures for foreclosing and selling tax-delinquent property. This amendatory act was adopted to address legislative concerns arising from the application of section 131e of the GPTA. The implementation of section 131e resulted in delays in clearing the state's title to lands that it acquired through tax foreclosure proceedings. Section 131e made obtaining title insurance burdensome for local governmental units and private parties that acquired tax-reverted lands from the Michigan Department of Natural Resources. This burden impeded redevelopment of tax-reverted lands. Title insurance companies were reluctant to insure title because of concerns regarding (i) the adequacy of title searches performed to identify parties having interests in tax-reverted lands and (ii) the adequacy of the state's efforts to give proper notice to those parties of their opportunity to redeem affected lands under section 131e. House Legislative Analysis, HB 4489, July 23, 1999. (HB 4489 was enacted as 1999 PA 123 on July 22, 1999.)

Section 78(i) of the GPTA, as added by 1999 PA 123, requires title searches by foreclosing governmental units and specifies who may be retained to perform title searches.

(1) Not later than May 1 immediately succeeding the forfeiture of property to the county treasurer under section 78g, the foreclosing governmental unit shall conduct a title search to identify the owners of a property interest in the property who are 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 title insurance companies or agents licensed to conduct business in this state to perform the title search required under this subsection and to perform the other functions set forth in this section.*

(Emphasis added.)

The term "foreclosing governmental unit" is defined to include the county treasurer or the state if the county elects to have the state foreclose property for delinquent property taxes forfeited to the county treasurer. Section 78(g).

Title insurance companies and agents doing business in Michigan must be licensed under the Insurance Code of 1956, 1956 PA 218, MCL 500.100 *et seq*; MSA 24.1100 *et seq*. See sections 7302, 7303 and 7317.

Legislative intent is ascertained by first reading the words employed by the Legislature in the statute being analyzed. *In re MCI Telecommunications Complaint*, 460 Mich 396, 413; 596 NW2d 164 (1999). In subsection (1) of section 78i of the GPTA, as added by 1999 PA 123, the Legislature imposed a duty on the county or the state, as the foreclosing governmental unit, to conduct a title search to identify the owners of a property interest entitled to notice of the show cause hearing under section 78j and the foreclosure hearing under section 78k. Alternatively, the Legislature has permitted the foreclosing governmental unit to contract with a third party to conduct the title search, but only if the third party is a Michigan-licensed title insurance company or title insurance agent. Had the Legislature intended to permit foreclosing governmental units to contract for this work with persons not licensed by Michigan as title insurance companies or agents, it would have said so. The express requirement that title searches be performed only by *state-licensed* title insurance companies or agents implies the exclusion of others not so qualified. See *Jennings v Southwood*, 446 Mich 125, 142; 521 NW2d 230 (1994).

It is my opinion, therefore, that under the General Property Tax Act, if a foreclosing governmental unit elects to contract for title searches, it may do so only with entities or persons licensed in Michigan as title insurance companies or title insurance agents.

JENNIFER M. GRANHOLM  
Attorney General

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