GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

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EXECUTIVE ORDER

No. 2020-106

Establishing deadline to redeem property for nonpayment of delinquent property taxes

Rescission of Executive Order 2020-14

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v Whitmer*. On May 21, 2020, the Court of Claims ruled that Executive Order 2020-67 is a valid exercise of authority under the Emergency Powers of the Governor

Act but that Executive Order 2020-68 is not a valid exercise of authority under the Emergency Management Act. Both of those rulings are likely to be appealed.

On May 22, 2020, I issued Executive Order 2020-99, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)–(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

The home provides a key piece of protection against the COVID-19 pandemic. In order to avoid losing their homes, homeowners whose residences are subject to tax forfeiture must make redemption payments with the county treasurer. Yet requiring county treasury employees to report to work in person would increase the risks of COVID-19 transmission. In order to limit in-person work and physical interactions, it is therefore reasonable and necessary to temporarily suspend rules and procedures to extend the deadline for redemption of property foreclosed for nonpayment of delinquent property taxes.

Executive Order 2020-14 provided this relief by extending the tax foreclosure redemption deadline to May 29, 2020. Because the risk of COVID-19 transmission via in-person work persists, it has become reasonable and necessary to further extend this deadline.

With this order, Executive Order 2020-14 is rescinded.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. The deadline by which property forfeited to a county treasurer may be redeemed is extended from March 31, 2020 to June 29, 2020. This extended deadline does not

apply to property already subject to a court order providing a deadline later than June 30, 2020.

2. A copy of this order will be transmitted to the State Court Administrative Office. The State Court Administrative Office is encouraged to urge judges of the circuit courts to amend orders of foreclosure issued in 2020 under subsection 5 of section 78k of the General Property Tax Act, MCL 211.78k(5), in a manner consistent with this order. Strict compliance with section 78k is temporarily suspended to the extent necessary to permit circuit courts to amend orders of foreclosure consistent with this order.

3. Executive Order 2020-14 is rescinded.

4. This order is effective immediately upon issuance.

Given under my hand and the Great Seal of the State of Michigan.

Date: May 28, 2020

Time: 8:11 pm

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE