

SENATE BILL No. 295

April 10, 2013, Introduced by Senators HUNTER, SMITH and JANSEN and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78m (MCL 211.78m), as amended by 2006 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78m. (1) Not later than the first Tuesday in July,
2 immediately succeeding the entry of judgment under section 78k
3 vesting absolute title to tax delinquent property in the
4 foreclosing governmental unit, this state is granted the right of
5 first refusal to purchase property at the greater of the minimum
6 bid or its fair market value by paying that amount to the
7 foreclosing governmental unit if the foreclosing governmental unit
8 is not this state. If this state elects not to purchase the
9 property under its right of first refusal, a city, village, or
10 township may purchase for a public purpose any property located

1 within that city, village, or township set forth in the judgment
2 and subject to sale under this section by payment to the
3 foreclosing governmental unit of the minimum bid. If a city,
4 village, or township does not purchase that property, the county in
5 which that property is located may purchase that property under
6 this section by payment to the foreclosing governmental unit of the
7 minimum bid. If property is purchased by a city, village, township,
8 or county under this subsection, the foreclosing governmental unit
9 shall convey the property to the purchasing city, village,
10 township, or county within 30 days. If property purchased by a
11 city, village, township, or county under this subsection is
12 subsequently sold for an amount in excess of the minimum bid and
13 all costs incurred relating to demolition, renovation,
14 improvements, or infrastructure development, the excess amount
15 shall be returned to the delinquent tax property sales proceeds
16 account for the year in which the property was purchased by the
17 city, village, township, or county or, if this state is the
18 foreclosing governmental unit within a county, to the land
19 reutilization fund created under section 78n. Upon the request of
20 the foreclosing governmental unit, a city, village, township, or
21 county that purchased property under this subsection shall provide
22 to the foreclosing governmental unit without cost information
23 regarding any subsequent sale or transfer of the property. This
24 subsection applies to the purchase of property by this state, a
25 city, village, or township, or a county prior to a sale held under
26 subsection (2).

27 (2) Subject to subsection (1), beginning on the third Tuesday

1 in July immediately succeeding the entry of the judgment under
2 section 78k vesting absolute title to tax delinquent property in
3 the foreclosing governmental unit and ending on the immediately
4 succeeding first Tuesday in November, the foreclosing governmental
5 unit, or its authorized agent, at the option of the foreclosing
6 governmental unit, shall hold at least 2 property sales at 1 or
7 more convenient locations at which property foreclosed by the
8 judgment entered under section 78k shall be sold by auction sale,
9 which may include an auction sale conducted via an internet
10 website. Notice of the time and location of the sales shall be
11 published not less than 30 days before each sale in a newspaper
12 published and circulated in the county in which the property is
13 located, if there is one. If no newspaper is published in that
14 county, publication shall be made in a newspaper published and
15 circulated in an adjoining county. Each sale shall be completed
16 before the first Tuesday in November immediately succeeding the
17 entry of judgment under section 78k vesting absolute title to the
18 tax delinquent property in the foreclosing governmental unit.
19 Except as provided in subsection (5), property shall be sold to the
20 person bidding the highest amount above the minimum bid. The
21 foreclosing governmental unit may sell parcels individually or may
22 offer 2 or more parcels for sale as a group. The minimum bid for a
23 group of parcels shall equal the sum of the minimum bid for each
24 parcel included in the group. The foreclosing governmental unit may
25 adopt procedures governing the conduct of the sale and may cancel
26 the sale prior to the issuance of a deed under this subsection if
27 authorized under the procedures. The foreclosing governmental unit

1 may require full payment by cash, certified check, or money order
2 at the close of each day's bidding. Not more than 30 days after the
3 date of a sale under this subsection, the foreclosing governmental
4 unit shall convey the property by deed to the person bidding the
5 highest amount above the minimum bid. The deed shall vest fee
6 simple title to the property in the person bidding the highest
7 amount above the minimum bid, unless the foreclosing governmental
8 unit discovers a defect in the foreclosure of the property under
9 sections 78 to 78/. If this state is the foreclosing governmental
10 unit within a county, the department of natural resources shall
11 conduct the sale of property under this subsection and subsections
12 (4) and (5) on behalf of this state. **BEGINNING JANUARY 1, 2014, A**
13 **PROSPECTIVE BIDDER, OR ANY OTHER PERSON OR ENTITY ACTING AS AN**
14 **AGENT FOR OR IN CONCERT WITH THAT PROSPECTIVE BIDDER, IS NOT**
15 **ELIGIBLE TO BID ON PROPERTY SOLD UNDER THIS SECTION IF THAT**
16 **PROSPECTIVE BIDDER, OR ANY PROPERTY OWNED BY THAT PROSPECTIVE**
17 **BIDDER, HAS ANY UNPAID FINES FOR THE VIOLATION OF AN ORDINANCE OF A**
18 **LOCAL TAX COLLECTING UNIT IN WHICH THE PROPERTY IS LOCATED, WHICH**
19 **ORDINANCE HAS AS ITS PURPOSE THE ELIMINATION OF BLIGHT OR THE**
20 **CESSATION OF A NUISANCE IN THE LOCAL TAX COLLECTING UNIT.**

21 (3) For sales held under subsection (2), after the conclusion
22 of that sale, and prior to any additional sale held under
23 subsection (2), a city, village, or township may purchase any
24 property not previously sold under subsection (1) or (2) by paying
25 the minimum bid to the foreclosing governmental unit. If a city,
26 village, or township does not purchase that property, the county in
27 which that property is located may purchase that property under

1 this section by payment to the foreclosing governmental unit of the
2 minimum bid.

3 (4) If property is purchased by a city, village, township, or
4 county under subsection (3), the foreclosing governmental unit
5 shall convey the property to the purchasing city, village, or
6 township within 30 days.

7 (5) All property subject to sale under subsection (2) shall be
8 offered for sale at not less than 2 sales conducted as required by
9 subsection (2). The final sale held under subsection (2) shall be
10 held not less than 28 days after the previous sale under subsection
11 (2). At the final sale held under subsection (2), the sale is
12 subject to the requirements of subsection (2), except ~~that the~~ **FOR**
13 **THE FOLLOWING:**

14 (A) **THE** minimum bid shall not be required. However, the
15 foreclosing governmental unit may establish a reasonable opening
16 bid at the sale to recover the cost of the sale of the parcel or
17 parcels.

18 (B) **PROSPECTIVE BIDDERS SHALL REGISTER WITH THE FORECLOSING**
19 **GOVERNMENTAL UNIT NOT LESS THAN 14 DAYS BEFORE THE START OF THE**
20 **SALE. PROSPECTIVE BIDDERS SHALL CERTIFY UNDER PENALTY OR PERJURY**
21 **THAT THEY ARE NOT A PERSON, ARE NOT ACTING ON BEHALF OF A PERSON,**
22 **OR ARE NOT UNDER THE DIRECTION OR CONTROL OF A PERSON WHO MEETS ANY**
23 **OF THE FOLLOWING CONDITIONS:**

24 (i) **HELD TITLE TO ANY PROPERTY OR CLAIMED TO HOLD TITLE TO ANY**
25 **PROPERTY WHEN THE PROPERTY BECAME SUBJECT TO A JUDGMENT ENTERED**
26 **UNDER SECTION 78K VESTING ABSOLUTE TITLE TO THAT PROPERTY IN THE**
27 **FORECLOSING GOVERNMENTAL UNIT IN THE PRIOR 3 TAX YEARS.**

1 (ii) HOLDS TITLE TO ANY PROPERTY OR CLAIMS TO HOLD TITLE TO ANY
2 PROPERTY THAT HAS BEEN INCLUDED IN A PETITION FOR FORECLOSURE FILED
3 UNDER SECTION 78H IN THE TAX YEAR IN WHICH THE SALE IS HELD UNDER
4 THIS SECTION.

5 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THE
6 FORECLOSING GOVERNMENTAL UNIT SHALL NOT ACCEPT BIDS FROM ANY PERSON
7 WHO DID NOT REGISTER WITH THE FORECLOSING GOVERNMENTAL UNIT AS
8 REQUIRED IN SUBDIVISION (B) OR WHO MEETS 1 OR MORE OF THE
9 CONDITIONS SET FORTH IN SUBDIVISION (B). HOWEVER, NOTHING IN THIS
10 SUBSECTION PREVENTS THE FORECLOSING GOVERNMENTAL UNIT FROM SELLING
11 PROPERTY TO A PERSON AS OTHERWISE ALLOWED BY LAW AFTER THE PROPERTY
12 VESTS IN THE FORECLOSING GOVERNMENTAL UNIT UNDER SUBSECTION (7).

13 (6) On or before December 1 immediately succeeding the date of
14 the sale under subsection (5), a list of all property not
15 previously sold by the foreclosing governmental unit under this
16 section shall be transferred to the clerk of the city, village, or
17 township in which the property is located. The city, village, or
18 township may object in writing to the transfer of 1 or more parcels
19 of property set forth on that list. On or before December 30
20 immediately succeeding the date of the sale under subsection (5),
21 all property not previously sold by the foreclosing governmental
22 unit under this section shall be transferred to the city, village,
23 or township in which the property is located, except those parcels
24 of property to which the city, village, or township has objected.
25 Property located in both a village and a township may be
26 transferred under this subsection only to a village. The city,
27 village, or township may make the property available under the

1 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
2 any other lawful purpose.

3 (7) If property not previously sold is not transferred to the
4 city, village, or township in which the property is located under
5 subsection (6), the foreclosing governmental unit shall retain
6 possession of that property. If the foreclosing governmental unit
7 retains possession of the property and the foreclosing governmental
8 unit is this state, title to the property shall vest in the land
9 bank fast track authority created under section 15 of the land bank
10 fast track act, 2003 PA 258, MCL 124.765.

11 (8) A foreclosing governmental unit shall deposit the proceeds
12 from the sale of property under this section into a restricted
13 account designated as the "delinquent tax property sales proceeds
14 for the year ____". The foreclosing governmental unit shall
15 direct the investment of the account. The foreclosing governmental
16 unit shall credit to the account interest and earnings from account
17 investments. Proceeds in that account shall only be used by the
18 foreclosing governmental unit for the following purposes in the
19 following order of priority:

20 (a) The delinquent tax revolving fund shall be reimbursed for
21 all taxes, interest, and fees on all of the property, whether or
22 not all of the property was sold.

23 (b) All costs of the sale of property for the year shall be
24 paid.

25 (c) Any costs of the foreclosure proceedings for the year,
26 including, but not limited to, costs of mailing, publication,
27 personal service, and outside contractors shall be paid.

1 (d) Any costs for the sale of property or foreclosure
2 proceedings for any prior year that have not been paid or
3 reimbursed from that prior year's delinquent tax property sales
4 proceeds shall be paid.

5 (e) Any costs incurred by the foreclosing governmental unit in
6 maintaining property foreclosed under section 78k before the sale
7 under this section shall be paid, including costs of any
8 environmental remediation.

9 (f) If the foreclosing governmental unit is not this state,
10 any of the following:

11 (i) Any costs for the sale of property or foreclosure
12 proceedings for any subsequent year that are not paid or reimbursed
13 from that subsequent year's delinquent tax property sales proceeds
14 shall be paid from any remaining balance in any prior year's
15 delinquent tax property sales proceeds account.

16 (ii) Any costs for the defense of title actions.

17 (iii) Any costs incurred in administering the foreclosure and
18 disposition of property forfeited for delinquent taxes under this
19 act.

20 (g) If the foreclosing governmental unit is this state, any
21 remaining balance shall be transferred to the land reutilization
22 fund created under section 78n.

23 (h) In 2008 and each year after 2008, if the foreclosing
24 governmental unit is not this state, not later than June 30 of the
25 second calendar year after foreclosure, the foreclosing
26 governmental unit shall submit a written report to its board of
27 commissioners identifying any remaining balance and any contingent

1 costs of title or other legal claims described in subdivisions (a)
2 through (f). All or a portion of any remaining balance, less any
3 contingent costs of title or other legal claims described in
4 subdivisions (a) through (f), may subsequently be transferred into
5 the general fund of the county by the board of commissioners.

6 (9) Two or more county treasurers of adjacent counties may
7 elect to hold a joint sale of property as provided in this section.
8 If 2 or more county treasurers elect to hold a joint sale, property
9 may be sold under this section at a location outside of the county
10 in which the property is located. The sale may be conducted by any
11 county treasurer participating in the joint sale. A joint sale held
12 under this subsection may include or be an auction sale conducted
13 via an internet website.

14 (10) The foreclosing governmental unit shall record a deed for
15 any property transferred under this section with the county
16 register of deeds. **THE DEED SHALL CONTAIN A REVERTER CLAUSE THAT**
17 **PROVIDES THAT IF, WITHIN 5 YEARS AFTER THE DATE OF THE SALE UNDER**
18 **THIS SECTION, THE PROPERTY IS SOLD, CONVEYED, OR OTHERWISE**
19 **TRANSFERRED TO A PERSON WHO HELD TITLE TO THE PROPERTY AT THE TIME**
20 **JUDGMENT WAS ENTERED UNDER SECTION 78K, TITLE TO THE PROPERTY SHALL**
21 **REVERT TO THE FORECLOSING GOVERNMENTAL UNIT. THE REVERTER CLAUSE**
22 **SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF TREASURY.** The
23 foreclosing governmental unit may charge a fee in excess of the
24 minimum bid and any sale proceeds for the cost of recording a deed
25 under this subsection.

26 (11) As used in this section, "minimum bid" is the minimum
27 amount established by the foreclosing governmental unit for which

1 property may be sold under this section. The minimum bid shall
2 include all of the following:

3 (a) All delinquent taxes, interest, penalties, and fees due on
4 the property. If a city, village, or township purchases the
5 property, the minimum bid shall not include any taxes levied by
6 that city, village, or township and any interest, penalties, or
7 fees due on those taxes.

8 (b) The expenses of administering the sale, including all
9 preparations for the sale. The foreclosing governmental unit shall
10 estimate the cost of preparing for and administering the annual
11 sale for purposes of prorating the cost for each property included
12 in the sale.

13 (12) For property transferred to this state under subsection
14 (1), a city, village, or township under subsection (6) or retained
15 by a foreclosing governmental unit under subsection (7), all taxes
16 due on the property as of the December 31 following the transfer or
17 retention of the property are canceled effective on that December
18 31.

19 (13) For property sold under this section, transferred to this
20 state under subsection (1), a city, village, or township under
21 subsection (6), or retained by a foreclosing governmental unit
22 under subsection (7), all liens for costs of demolition, safety
23 repairs, debris removal, or sewer or water charges due on the
24 property as of the December 31 immediately succeeding the sale,
25 transfer, or retention of the property are canceled effective on
26 that December 31. This subsection does not apply to liens recorded
27 by the department of environmental quality under this act or the

1 land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

2 (14) If property foreclosed under section 78k and held by or
3 under the control of a foreclosing governmental unit is a facility
4 as defined under section ~~20101(1)(e)~~**20101** of the natural resources
5 and environmental protection act, 1994 PA 451, MCL 324.20101, prior
6 to the sale or transfer of the property under this section, the
7 property is subject to all of the following:

8 (a) Upon reasonable written notice from the department of
9 environmental quality, the foreclosing governmental unit shall
10 provide access to the department of environmental quality, its
11 employees, contractors, and any other person expressly authorized
12 by the department of environmental quality to conduct response
13 activities at the foreclosed property. Reasonable written notice
14 under this subdivision may include, but is not limited to, notice
15 by electronic mail or facsimile, if the foreclosing governmental
16 unit consents to notice by electronic mail or facsimile prior to
17 the provision of notice by the department of environmental quality.

18 (b) If requested by the department of environmental quality to
19 protect public health, safety, and welfare or the environment, the
20 foreclosing governmental unit shall grant an easement for access to
21 conduct response activities on the foreclosed property as
22 authorized under chapter 7 of the natural resources and
23 environmental protection act, 1994 PA 451, MCL 324.20101 to
24 ~~324.20519~~**324.20302**.

25 (c) If requested by the department of environmental quality to
26 protect public health, safety, and welfare or the environment, the
27 foreclosing governmental unit shall place and record deed

1 restrictions on the foreclosed property as authorized under chapter
2 7 of the natural resources and environmental protection act, 1994
3 PA 451, MCL 324.20101 to ~~324.20519~~**324.20302**.

4 (d) The department of environmental quality may place an
5 environmental lien on the foreclosed property as authorized under
6 section 20138 of the natural resources and environmental protection
7 act, 1994 PA 451, MCL 324.20138.

8 (15) If property foreclosed under section 78k and held by or
9 under the control of a foreclosing governmental unit is a facility
10 as defined under section ~~20101(1)(e)~~**20101** of the natural resources
11 and environmental protection act, 1994 PA 451, MCL 324.20101, prior
12 to the sale or transfer of the property under this section, the
13 department of environmental quality shall request and the
14 foreclosing governmental unit shall transfer the property to the
15 state land bank fast track authority created under section 15 of
16 the land bank fast track act, 2003 PA 258, MCL 124.765, if all of
17 the following apply:

18 (a) The department of environmental quality determines that
19 conditions at a foreclosed property are an acute threat to the
20 public health, safety, and welfare, to the environment, or to other
21 property.

22 (b) The department of environmental quality proposes to
23 undertake or is undertaking state-funded response activities at the
24 property.

25 (c) The department of environmental quality determines that
26 the sale, retention, or transfer of the property other than under
27 this subsection would interfere with response activities by the

1 department of environmental quality.