

HOUSE BILL NO. 4219

February 21, 2019, Introduced by Reps. Howell, Eisen, Maddock, Wakeman, LaGrand, Hammoud, Camilleri, Hoadley, Pohutsky, Koleszar, Steven Johnson and Green and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78m (MCL 211.78m), as amended by 2014 PA 501.

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



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



1 city, village, or township, or a county ~~prior to~~ **before** a sale held
2 under subsection (2).

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



1 parcels under this section and may cancel the sale ~~prior to~~ **before**
2 the issuance of a deed under this subsection if authorized under
3 the procedures. The foreclosing governmental unit shall require
4 full payment at the close of each day's bidding or by a date not
5 more than 21 days after the sale. Before the foreclosing
6 governmental unit conveys a parcel sold at a sale, the purchaser
7 shall provide the foreclosing governmental unit with proof of
8 payment to the local tax collecting unit in which the property is
9 located of any property taxes owed on the parcel at the time of the
10 sale. A foreclosing governmental unit shall cancel a sale if unpaid
11 property taxes owed on a parcel or parcels at the time of a sale
12 are not paid within 21 days of the sale. If a sale is canceled
13 under this subsection, the foreclosing governmental unit may offer
14 the property to the next highest bidder and convey the property to
15 that bidder under this subsection, subject to the requirements of
16 this subsection for the highest bidder. Not more than 14 days after
17 payment to the foreclosing governmental unit of all amounts
18 required by the highest bidder or the next highest bidder under
19 this subsection, the foreclosing governmental unit shall convey the
20 property by deed to the person bidding the minimum bid, or if a bid
21 is greater than the minimum bid, the highest amount above the
22 minimum bid, or the next highest bidder if the sale to the highest
23 bidder is canceled and the next highest bidder pays the amount
24 required under this section to purchase the property. The deed
25 shall vest fee simple title to the property in the person bidding
26 the highest amount above the minimum bid, unless the foreclosing
27 governmental unit discovers a defect in the foreclosure of the
28 property under sections 78 to 78I or the sale is canceled under this
29 subsection or subsection (5). If this state is the foreclosing



1 governmental unit within a county, the department of treasury shall
2 be responsible for conducting the sale of property under this
3 subsection and subsections (4) and (5) on behalf of this state.
4 Before issuing a deed to a person purchasing property under this
5 subsection or subsection (5), the foreclosing governmental unit
6 shall require the person to execute and file with the foreclosing
7 governmental unit an affidavit under penalty of perjury. If the
8 person fails to execute and file the affidavit required by this
9 subsection by the date payment for the property is required under
10 this section, the foreclosing governmental unit shall cancel the
11 sale. An affidavit under this section shall indicate that the
12 person meets all of the following conditions:

13 (a) The person does not directly or indirectly hold more than
14 a de minimis legal interest in any property with delinquent
15 property taxes located in the same county as the property.

16 (b) The person is not directly or indirectly responsible for
17 any unpaid civil fines for a violation of an ordinance authorized
18 by section 41 of the home rule city act, 1909 PA 279, MCL 117.41, in
19 the local tax collection unit in which the property is located.

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

29 (4) If property is purchased by a city, village, township, or



1 county under subsection (3), the foreclosing governmental unit
2 shall convey the property to the purchasing city, village,
3 township, or county within 30 days.

4 (5) All property subject to sale under subsection (2) shall be
5 offered for sale at 1 or more sales conducted as required by
6 subsection (2). If the foreclosing governmental unit elects to hold
7 more than 1 sale under subsection (2), the final sale held under
8 subsection (2) shall be held not less than 28 days after the
9 immediately preceding sale under subsection (2). At the final sale
10 held under subsection (2), the sale is subject to the requirements
11 of subsection (2), except that the minimum bid shall not be
12 required. However, the foreclosing governmental unit may establish
13 a reasonable opening bid at the sale to recover the cost of the
14 sale of the parcel or parcels, and the foreclosing governmental
15 unit shall require a person who held an interest in property sold
16 under this subsection at the time a judgment of foreclosure was
17 entered against the property under section 78k to pay the minimum
18 bid for the property before issuing a deed to the person under
19 subsection (2). If the person fails to pay the minimum bid for the
20 property and other amounts by the date required under this section,
21 the foreclosing governmental unit shall cancel the sale of the
22 property.

23 (6) On or before December 1 immediately succeeding the entry
24 of judgment under section 78k, a list of all property not
25 previously sold by the foreclosing governmental unit under this
26 section shall be transferred to the clerk of the city, village, or
27 township in which the property is located. The city, village, or
28 township may object in writing to the transfer of 1 or more parcels
29 of property set forth on that list. On or before December 30



1 immediately succeeding the entry of judgment under section 78k, all
2 property not previously sold by the foreclosing governmental unit
3 under this section shall be transferred to the city, village, or
4 township in which the property is located, except those parcels of
5 property to which the city, village, or township has objected.
6 Property located in both a village and a township may be
7 transferred under this subsection only to a village. The city,
8 village, or township may make the property available under the
9 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
10 any other lawful purpose.

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

19 (8) ~~A~~**If the proceeds from the sale of a parcel of property**
20 **under this section exceed the minimum bid established for that**
21 **parcel of property, the foreclosing governmental unit shall remit**
22 **an amount equal to that excess to an individual if that individual**
23 **owned and occupied the parcel of property as a principal residence**
24 **exempt under section 7cc immediately before the entry of judgment**
25 **under section 78k vesting absolute title to the parcel of property**
26 **in the foreclosing governmental unit. The** foreclosing governmental
27 unit shall deposit ~~the~~**all other** proceeds from the sale of property
28 under this section into a restricted account designated as the
29 "delinquent tax property sales proceeds for the year _____". The



1 foreclosing governmental unit shall direct the investment of the
2 account. The foreclosing governmental unit shall credit to the
3 account interest and earnings from account investments. Proceeds in
4 that account shall only be used by the foreclosing governmental
5 unit for the following purposes in the following order of priority:

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

9 (b) All costs of the sale of property for the year shall be
10 paid.

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

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

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

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

24 (i) Any costs for the sale of property or foreclosure
25 proceedings for any subsequent year that are not paid or reimbursed
26 from that subsequent year's delinquent tax property sales proceeds
27 shall be paid from any remaining balance in any prior year's
28 delinquent tax property sales proceeds account.

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



1 (iii) Any costs incurred in administering the foreclosure and
2 disposition of property forfeited for delinquent taxes under this
3 act.

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

7 (h) In 2008 and each year after 2008, if the foreclosing
8 governmental unit is not this state, not later than June 30 of the
9 second calendar year after foreclosure, the foreclosing
10 governmental unit shall submit a written report to its board of
11 commissioners identifying any remaining balance and any contingent
12 costs of title or other legal claims described in subdivisions (a)
13 through (f). All or a portion of any remaining balance, less any
14 contingent costs of title or other legal claims described in
15 subdivisions (a) through (f), may subsequently be transferred into
16 the general fund of the county by the board of commissioners.

17 (9) Two or more county treasurers of adjacent counties may
18 elect to hold a joint sale of property as provided in this section.
19 If 2 or more county treasurers elect to hold a joint sale, property
20 may be sold under this section at a location outside of the county
21 in which the property is located. The sale may be conducted by any
22 county treasurer participating in the joint sale. A joint sale held
23 under this subsection may include or be an auction sale conducted
24 via an internet website.

25 (10) The foreclosing governmental unit shall record a deed for
26 any property transferred under this section with the county
27 register of deeds. The foreclosing governmental unit may charge a
28 fee in excess of the minimum bid and any sale proceeds for the cost
29 of recording a deed under this subsection.



1 (11) For property transferred to this state under subsection
 2 (1), a city, village, or township under subsection (6) or retained
 3 by a foreclosing governmental unit under subsection (7), all taxes
 4 due on the property as of the December 31 following the transfer or
 5 retention of the property are canceled effective on that December
 6 31.

7 (12) For property sold under this section, transferred to this
 8 state under subsection (1), a city, village, or township under
 9 subsection (6), or retained by a foreclosing governmental unit
 10 under subsection (7), all liens for costs of demolition, safety
 11 repairs, debris removal, or sewer or water charges due on the
 12 property as of the December 31 immediately succeeding the sale,
 13 transfer, or retention of the property are canceled effective on
 14 that December 31. This subsection does not apply to liens recorded
 15 by the department of environmental quality under this act or the
 16 land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

17 (13) If property foreclosed under section 78k and held by or
 18 under the control of a foreclosing governmental unit is a facility
 19 as defined under section 20101 of the natural resources and
 20 environmental protection act, 1994 PA 451, MCL 324.20101, ~~prior to~~
 21 **before** the sale or transfer of the property under this section, the
 22 property is subject to all of the following:

23 (a) Upon reasonable written notice from the department of
 24 environmental quality, the foreclosing governmental unit shall
 25 provide access to the department of environmental quality, its
 26 employees, contractors, and any other person expressly authorized
 27 by the department of environmental quality to conduct response
 28 activities at the foreclosed property. Reasonable written notice
 29 under this subdivision may include, but is not limited to, notice



1 by electronic mail or facsimile, if the foreclosing governmental
2 unit consents to notice by electronic mail or facsimile ~~prior to~~
3 **before** the provision of notice by the department of environmental
4 quality.

5 (b) If requested by the department of environmental quality to
6 protect public health, safety, and welfare or the environment, the
7 foreclosing governmental unit shall grant an easement for access to
8 conduct response activities on the foreclosed property as
9 authorized under chapter 7 **of article II** of the natural resources
10 and environmental protection act, 1994 PA 451, MCL 324.20101 to
11 324.20302.

12 (c) If requested by the department of environmental quality to
13 protect public health, safety, and welfare or the environment, the
14 foreclosing governmental unit shall place and record deed
15 restrictions on the foreclosed property as authorized under chapter
16 7 **of article II** of the natural resources and environmental
17 protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

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

22 (14) If property foreclosed under section 78k and held by or
23 under the control of a foreclosing governmental unit is a facility
24 as defined under section 20101 of the natural resources and
25 environmental protection act, 1994 PA 451, MCL 324.20101, ~~prior to~~
26 **before** the sale or transfer of the property under this section, the
27 department of environmental quality shall request and the
28 foreclosing governmental unit shall transfer the property to the
29 state land bank fast track authority created under section 15 of



1 the land bank fast track act, 2003 PA 258, MCL 124.765, if all of
2 the following apply:

3 (a) The department of environmental quality determines that
4 conditions at a foreclosed property are an acute threat to the
5 public health, safety, and welfare, to the environment, or to other
6 property.

7 (b) The department of environmental quality proposes to
8 undertake or is undertaking state-funded response activities at the
9 property.

10 (c) The department of environmental quality determines that
11 the sale, retention, or transfer of the property other than under
12 this subsection would interfere with response activities by the
13 department of environmental quality.

14 (15) A person convicted for executing a false affidavit under
15 subsection (5) shall be prohibited from bidding for a property or
16 purchasing a property at any sale under this section.

17 (16) As used in this section:

18 (a) "Minimum bid" is the minimum amount established by the
19 foreclosing governmental unit for which property may be sold under
20 this section. The minimum bid shall include all of the following:

21 (i) All delinquent taxes, interest, penalties, and fees due on
22 the property. If a city, village, or township purchases the
23 property, the minimum bid shall not include any taxes levied by
24 that city, village, or township and any interest, penalties, or
25 fees due on those taxes.

26 (ii) The expenses of administering the sale, including all
27 preparations for the sale. The foreclosing governmental unit shall
28 estimate the cost of preparing for and administering the annual
29 sale for purposes of prorating the cost for each property included



1 in the sale.

2 (b) "Person" means an individual, partnership, corporation,
3 association, or other legal entity.

4 Enacting section 1. This amendatory act takes effect 90 days
5 after the date it is enacted into law.

