

SENATE BILL No. 882

December 14, 2011, Introduced by Senator HUNTER and referred to the Committee on Economic Development.

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

1 township may purchase for a public purpose any property located
 2 within that city, village, or township set forth in the judgment
 3 and subject to sale under this section by payment to the
 4 foreclosing governmental unit of the minimum bid. If a city,
 5 village, or township does not purchase that property, the county in
 6 which that property is located may purchase that property under
 7 this section by payment to the foreclosing governmental unit of the
 8 minimum bid. **IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY DOES NOT**
 9 **PURCHASE THAT PROPERTY, THAT PROPERTY MAY BE PURCHASED BY A LAND**
 10 **BANK FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND**
 11 **BANK FAST TRACK ACT, 2003 PA 258, MCL 124.773, BY PAYING THE**
 12 **MINIMUM BID TO THE FORECLOSING GOVERNMENTAL UNIT. IF A LAND BANK**
 13 **FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND BANK**
 14 **FAST TRACK ACT, 2003 PA 258, MCL 124.773, DOES NOT PURCHASE THAT**
 15 **PROPERTY, THAT PROPERTY MAY BE PURCHASED BY A LAND BANK FAST TRACK**
 16 **AUTHORITY CREATED UNDER SECTION 23(4) OF THE LAND BANK FAST TRACK**
 17 **ACT, 2003 PA 258, MCL 124.773, BY PAYING THE MINIMUM BID TO THE**
 18 **FORECLOSING GOVERNMENTAL UNIT. IF A LAND BANK FAST TRACK AUTHORITY**
 19 **CREATED UNDER SECTION 23(4) OF THE LAND BANK FAST TRACK ACT, 2003**
 20 **PA 258, MCL 124.773, DOES NOT PURCHASE THAT PROPERTY, THAT PROPERTY**
 21 **MAY BE PURCHASED BY A LAND BANK FAST TRACK AUTHORITY CREATED UNDER**
 22 **SECTION 15 OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL**
 23 **124.765, BY PAYING THE MINIMUM BID TO THE FORECLOSING GOVERNMENTAL**
 24 **UNIT.** If property is purchased by a city, village, township, ~~or~~
 25 county, **OR LAND BANK FAST TRACK AUTHORITY** under this subsection,
 26 the foreclosing governmental unit shall convey the property to the
 27 purchasing city, village, township, ~~or~~ county, **OR LAND BANK FAST**

1 **TRACK AUTHORITY** within 30 days. If property purchased by a city,
2 village, township, ~~or~~ county, **OR LAND BANK FAST TRACK AUTHORITY**
3 under this subsection is subsequently sold for an amount in excess
4 of the minimum bid and all costs incurred relating to demolition,
5 renovation, improvements, or infrastructure development, the excess
6 amount shall be returned to the delinquent tax property sales
7 proceeds account for the year in which the property was purchased
8 by the city, village, township, ~~or~~ county, **OR LAND BANK FAST TRACK**
9 **AUTHORITY** or, if this state is the foreclosing governmental unit
10 within a county, to the land reutilization fund created under
11 section 78n. Upon the request of the foreclosing governmental unit,
12 a city, village, township, ~~or~~ county, **OR LAND BANK FAST TRACK**
13 **AUTHORITY** that purchased property under this subsection shall
14 provide to the foreclosing governmental unit without cost
15 information regarding any subsequent sale or transfer of the
16 property. This subsection applies to the purchase of property by
17 this state, a city, village, ~~or~~ township, ~~or~~ a county, **OR LAND BANK**
18 **FAST TRACK AUTHORITY** prior to a sale held under subsection (2).

19 (2) Subject to subsection (1), beginning on the third Tuesday
20 in July immediately succeeding the entry of the judgment under
21 section 78k vesting absolute title to tax delinquent property in
22 the foreclosing governmental unit and ending on the immediately
23 succeeding first Tuesday in November, the foreclosing governmental
24 unit, or its authorized agent, at the option of the foreclosing
25 governmental unit, shall hold at least 2 property sales at 1 or
26 more convenient locations at which property foreclosed by the
27 judgment entered under section 78k shall be sold by auction sale,

1 which may include an auction sale conducted via an internet
2 website. Notice of the time and location of the sales shall be
3 published not less than 30 days before each sale in a newspaper
4 published and circulated in the county in which the property is
5 located, if there is one. If no newspaper is published in that
6 county, publication shall be made in a newspaper published and
7 circulated in an adjoining county. Each sale shall be completed
8 before the first Tuesday in November immediately succeeding the
9 entry of judgment under section 78k vesting absolute title to the
10 tax delinquent property in the foreclosing governmental unit.
11 Except as provided in subsection (5), property shall be sold to the
12 person bidding the highest amount above the minimum bid. The
13 foreclosing governmental unit may sell parcels individually or may
14 offer 2 or more parcels for sale as a group. The minimum bid for a
15 group of parcels shall equal the sum of the minimum bid for each
16 parcel included in the group. The foreclosing governmental unit may
17 adopt procedures governing the conduct of the sale and may cancel
18 the sale prior to the issuance of a deed under this subsection if
19 authorized under the procedures. The foreclosing governmental unit
20 may require full payment by cash, certified check, or money order
21 at the close of each day's bidding. Not more than 30 days after the
22 date of a sale under this subsection, the foreclosing governmental
23 unit shall convey the property by deed to the person bidding the
24 highest amount above the minimum bid. The deed shall vest fee
25 simple title to the property in the person bidding the highest
26 amount above the minimum bid, unless the foreclosing governmental
27 unit discovers a defect in the foreclosure of the property under

1 sections 78 to 78/. If this state is the foreclosing governmental
2 unit within a county, the department of natural resources shall
3 conduct the sale of property under this subsection and subsections
4 (4) and (5) on behalf of this state.

5 (3) For sales held under subsection (2), after the conclusion
6 of that sale, and prior to any additional sale held under
7 subsection (2), a city, village, or township may purchase any
8 property not previously sold under subsection (1) or (2) by paying
9 the minimum bid to the foreclosing governmental unit. If a city,
10 village, or township does not purchase that property, the county in
11 which that property is located may purchase that property under
12 this section by payment to the foreclosing governmental unit of the
13 minimum bid.

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

18 (5) All property subject to sale under subsection (2) shall be
19 offered for sale at not less than 2 sales conducted as required by
20 subsection (2). The final sale held under subsection (2) shall be
21 held not less than 28 days after the ~~previous~~**IMMEDIATELY PRECEDING**
22 sale under subsection (2). At the final sale held under subsection
23 (2), the sale is subject to the requirements of subsection (2),
24 except that the minimum bid shall not be required. However, the
25 foreclosing governmental unit may establish a reasonable opening
26 bid at the sale to recover the cost of the sale of the parcel or
27 parcels.

1 (6) On or before December 1 immediately succeeding the date of
2 the sale under subsection (5), a list of all property not
3 previously sold by the foreclosing governmental unit under this
4 section shall be transferred to the clerk of the city, village, or
5 township in which the property is located. The city, village, or
6 township may object in writing to the transfer of 1 or more parcels
7 of property set forth on that list. On or before December 30
8 immediately succeeding the date of the sale under subsection (5),
9 all property not previously sold by the foreclosing governmental
10 unit under this section shall be transferred to the city, village,
11 or township in which the property is located, except those parcels
12 of property to which the city, village, or township has objected.
13 Property located in both a village and a township may be
14 transferred under this subsection only to a village. The city,
15 village, or township may make the property available under the
16 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
17 any other lawful purpose.

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

26 (8) A foreclosing governmental unit shall deposit the proceeds
27 from the sale of property under this section into a restricted

1 account designated as the "delinquent tax property sales proceeds
2 for the year ____". The foreclosing governmental unit shall
3 direct the investment of the account. The foreclosing governmental
4 unit shall credit to the account interest and earnings from account
5 investments. Proceeds in that account shall only be used by the
6 foreclosing governmental unit for the following purposes in the
7 following order of priority:

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

11 (b) All costs of the sale of property for the year shall be
12 paid.

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

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

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

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

26 (i) Any costs for the sale of property or foreclosure
27 proceedings for any subsequent year that are not paid or reimbursed

1 from that subsequent year's delinquent tax property sales proceeds
2 shall be paid from any remaining balance in any prior year's
3 delinquent tax property sales proceeds account.

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

5 (iii) Any costs incurred in administering the foreclosure and
6 disposition of property forfeited for delinquent taxes under this
7 act.

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

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

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

1 via an internet website.

2 (10) The foreclosing governmental unit shall record a deed for
3 any property transferred under this section with the county
4 register of deeds. The foreclosing governmental unit may charge a
5 fee in excess of the minimum bid and any sale proceeds for the cost
6 of recording a deed under this subsection.

7 ~~—— (11) As used in this section, "minimum bid" is the minimum~~
8 ~~amount established by the foreclosing governmental unit for which~~
9 ~~property may be sold under this section. The minimum bid shall~~
10 ~~include all of the following:~~

11 ~~—— (a) All delinquent taxes, interest, penalties, and fees due on~~
12 ~~the property. If a city, village, or township purchases the~~
13 ~~property, the minimum bid shall not include any taxes levied by~~
14 ~~that city, village, or township and any interest, penalties, or~~
15 ~~fees due on those taxes.~~

16 ~~—— (b) The expenses of administering the sale, including all~~
17 ~~preparations for the sale. The foreclosing governmental unit shall~~
18 ~~estimate the cost of preparing for and administering the annual~~
19 ~~sale for purposes of prorating the cost for each property included~~
20 ~~in the sale.~~

21 (11) ~~(12)~~ For property transferred to this state under
22 subsection (1), **A LAND BANK FAST TRACK AUTHORITY UNDER SUBSECTION**
23 **(1), OR** a city, village, or township under subsection (6) or
24 retained by a foreclosing governmental unit under subsection (7),
25 all taxes due on the property as of the December 31 following the
26 transfer or retention of the property are canceled effective on
27 that December 31.

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

13 (13) ~~(14)~~ If property foreclosed under section 78k and held by
 14 or under the control of a foreclosing governmental unit is a
 15 facility as defined under section ~~20101(1)(e)~~ **20101(1)(R)** of the
 16 natural resources and environmental protection act, 1994 PA 451,
 17 MCL 324.20101, prior to the sale or transfer of the property under
 18 this section, the property is subject to all of the following:

19 (a) Upon reasonable written notice from the department of
 20 ~~environmental quality~~ **NATURAL RESOURCES**, the foreclosing
 21 governmental unit shall provide access to the department of
 22 ~~environmental quality~~ **NATURAL RESOURCES**, its employees,
 23 contractors, and any other person expressly authorized by the
 24 department of ~~environmental quality~~ **NATURAL RESOURCES** to conduct
 25 response activities at the foreclosed property. Reasonable written
 26 notice under this subdivision may include, but is not limited to,
 27 notice by electronic mail or facsimile, if the foreclosing

1 governmental unit consents to notice by electronic mail or
2 facsimile prior to the provision of notice by the department of
3 ~~environmental quality~~ **NATURAL RESOURCES**.

4 (b) If requested by the department of ~~environmental quality~~
5 **NATURAL RESOURCES** to protect public health, safety, and welfare or
6 the environment, the foreclosing governmental unit shall grant an
7 easement for access to conduct response activities on the
8 foreclosed property as authorized under chapter 7 of the natural
9 resources and environmental protection act, 1994 PA 451, MCL
10 324.20101 to ~~324.20519~~ **324.20302**.

11 (c) If requested by the department of ~~environmental quality~~
12 **NATURAL RESOURCES** to protect public health, safety, and welfare or
13 the environment, the foreclosing governmental unit shall place and
14 record deed restrictions on the foreclosed property as authorized
15 under chapter 7 of the natural resources and environmental
16 protection act, 1994 PA 451, MCL 324.20101 to ~~324.20519~~ **324.20302**.

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

21 **(14)** ~~(15)~~ If property foreclosed under section 78k and held by
22 or under the control of a foreclosing governmental unit is a
23 facility as defined under section ~~20101(1)(e)~~ **20101(1)(R)** of the
24 natural resources and environmental protection act, 1994 PA 451,
25 MCL 324.20101, prior to the sale or transfer of the property under
26 this section, the department of ~~environmental quality~~ **NATURAL**
27 **RESOURCES** shall request and the foreclosing governmental unit shall

1 transfer the property to the state land bank fast track authority
2 created under section 15 of the land bank fast track act, 2003 PA
3 258, MCL 124.765, if all of the following apply:

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

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

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

16 (15) AS USED IN THIS SECTION:

17 (A) "LAND BANK FAST TRACK AUTHORITY" MEANS A LAND BANK FAST
18 TRACK AUTHORITY CREATED UNDER THE LAND BANK FAST TRACK ACT, 2003 PA
19 258, MCL 124.751 TO 124.774.

20 (B) "MINIMUM BID" IS THE MINIMUM AMOUNT ESTABLISHED BY THE
21 FORECLOSING GOVERNMENTAL UNIT FOR WHICH PROPERTY MAY BE SOLD UNDER
22 THIS SECTION. THE MINIMUM BID SHALL INCLUDE ALL OF THE FOLLOWING:

23 (i) ALL DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES DUE ON
24 THE PROPERTY. IF A CITY, VILLAGE, OR TOWNSHIP PURCHASES THE
25 PROPERTY, THE MINIMUM BID SHALL NOT INCLUDE ANY TAXES LEVIED BY
26 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
27 FEES DUE ON THOSE TAXES.

1 (ii) THE EXPENSES OF ADMINISTERING THE SALE, INCLUDING ALL
2 PREPARATIONS FOR THE SALE. THE FORECLOSING GOVERNMENTAL UNIT SHALL
3 ESTIMATE THE COST OF PREPARING FOR AND ADMINISTERING THE ANNUAL
4 SALE FOR PURPOSES OF PRORATING THE COST FOR EACH PROPERTY INCLUDED
5 IN THE SALE.