

SENATE BILL No. 42

January 19, 2011, Introduced by Senator HUNTER 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

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

1 subsection (2).

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

1 the sale prior to the issuance of a deed under this subsection if
2 authorized under the procedures. The foreclosing governmental unit
3 may require full payment by cash, certified check, or money order
4 at the close of each day's bidding. Not more than 30 days after the
5 date of a sale under this subsection, the foreclosing governmental
6 unit shall convey the property by deed to the person bidding the
7 highest amount above the minimum bid. The deed shall vest fee
8 simple title to the property in the person bidding the highest
9 amount above the minimum bid, unless the foreclosing governmental
10 unit discovers a defect in the foreclosure of the property under
11 sections 78 to 78l. If this state is the foreclosing governmental
12 unit within a county, the department of natural resources **AND**
13 **ENVIRONMENT** shall conduct the sale of property under this
14 subsection and subsections (4) and (5) on behalf of this state.

15 (3) For sales held under subsection (2), after the conclusion
16 of that sale, and prior to any additional sale held under
17 subsection (2), a city, village, or township may purchase any
18 property not previously sold under subsection (1) or (2) by paying
19 the minimum bid to the foreclosing governmental unit. If a city,
20 village, or township does not purchase that property, the county in
21 which that property is located may purchase that property under
22 this section by payment to the foreclosing governmental unit of the
23 minimum bid. **IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY DOES NOT**
24 **PURCHASE THAT PROPERTY, THAT PROPERTY MAY BE TRANSFERRED TO A LAND**
25 **BANK FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND**
26 **BANK FAST TRACK ACT, 2003 PA 258, MCL 124.773, IF THAT LAND BANK**
27 **FAST TRACK AUTHORITY SUBMITS A WRITTEN REQUEST FOR THE TRANSFER OF**

1 THAT PROPERTY. IF A LAND BANK FAST TRACK AUTHORITY CREATED UNDER
2 SECTION 23(5) OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL
3 124.773, DOES NOT SUBMIT A WRITTEN REQUEST FOR THE TRANSFER OF THAT
4 PROPERTY, THAT PROPERTY MAY BE TRANSFERRED TO A LAND BANK FAST
5 TRACK AUTHORITY CREATED UNDER SECTION 23(4) OF THE LAND BANK FAST
6 TRACK ACT, 2003 PA 258, MCL 124.773, IF THAT LAND BANK FAST TRACK
7 AUTHORITY SUBMITS A WRITTEN REQUEST FOR THE TRANSFER OF THAT
8 PROPERTY. IF A LAND BANK FAST TRACK AUTHORITY CREATED UNDER SECTION
9 23(4) OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL 124.773,
10 DOES NOT SUBMIT A WRITTEN REQUEST FOR THE TRANSFER OF THAT
11 PROPERTY, THAT PROPERTY MAY BE TRANSFERRED TO A LAND BANK FAST
12 TRACK AUTHORITY CREATED UNDER SECTION 15 OF THE LAND BANK FAST
13 TRACK ACT, 2003 PA 258, MCL 124.765, IF THAT LAND BANK FAST TRACK
14 AUTHORITY SUBMITS A WRITTEN REQUEST FOR THE TRANSFER OF THAT
15 PROPERTY. THE PROPERTY MAY BE TRANSFERRED TO THE LAND BANK FAST
16 TRACK AUTHORITY UPON PAYMENT OF THE MINIMUM BID.

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

21 (5) All property subject to sale under subsection (2) shall be
22 offered for sale at not less than 2 sales conducted as required by
23 subsection (2). The final sale held under subsection (2) shall be
24 held not less than 28 days after the previous sale under subsection
25 (2). At the final sale held under subsection (2), the sale is
26 subject to the requirements of subsection (2), except that the
27 minimum bid shall not be required. However, the foreclosing

1 governmental unit may establish a reasonable opening bid at the
2 sale to recover the cost of the sale of the parcel or parcels.

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

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

1 (8) A foreclosing governmental unit shall deposit the proceeds
2 from the sale of property under this section into a restricted
3 account designated as the "delinquent tax property sales proceeds
4 for the year ____". The foreclosing governmental unit shall
5 direct the investment of the account. The foreclosing governmental
6 unit shall credit to the account interest and earnings from account
7 investments. Proceeds in that account shall only be used by the
8 foreclosing governmental unit for the following purposes in the
9 following order of priority:

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

13 (b) All costs of the sale of property for the year shall be
14 paid.

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

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

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

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

1 (i) Any costs for the sale of property or foreclosure
2 proceedings for any subsequent year that are not paid or reimbursed
3 from that subsequent year's delinquent tax property sales proceeds
4 shall be paid from any remaining balance in any prior year's
5 delinquent tax property sales proceeds account.

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

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

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

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

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

1 county treasurer participating in the joint sale. A joint sale held
 2 under this subsection may include or be an auction sale conducted
 3 via an internet website.

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

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

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

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

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

1 transfer or retention of the property are canceled effective on
2 that December 31.

3 (12) ~~(13)~~ For property sold under this section, transferred to
4 this state under subsection (1), **A LAND BANK FAST TRACK AUTHORITY**
5 **UNDER SUBSECTION (3)**, a city, village, or township under subsection
6 (6), or retained by a foreclosing governmental unit under
7 subsection (7), all liens for costs of demolition, safety repairs,
8 debris removal, or sewer or water charges due on the property as of
9 the December 31 immediately succeeding the sale, transfer, or
10 retention of the property are canceled effective on that December
11 31. This subsection does not apply to liens recorded by the
12 department of ~~environmental quality~~ **NATURAL RESOURCES AND**
13 **ENVIRONMENT** under this act or the land bank fast track act, 2003 PA
14 258, MCL 124.751 to 124.774.

15 (13) ~~(14)~~ If property foreclosed under section 78k and held by
16 or under the control of a foreclosing governmental unit is a
17 facility as defined under section 20101(1)(o) of the natural
18 resources and environmental protection act, 1994 PA 451, MCL
19 324.20101, prior to the sale or transfer of the property under this
20 section, the property is subject to all of the following:

21 (a) Upon reasonable written notice from the department of
22 ~~environmental quality~~ **NATURAL RESOURCES AND ENVIRONMENT**, the
23 foreclosing governmental unit shall provide access to the
24 department of ~~environmental quality~~ **NATURAL RESOURCES AND**
25 **ENVIRONMENT**, its employees, contractors, and any other person
26 expressly authorized by the department of ~~environmental quality~~
27 **NATURAL RESOURCES AND ENVIRONMENT** to conduct response activities at

1 the foreclosed property. Reasonable written notice under this
2 subdivision may include, but is not limited to, notice by
3 electronic mail or facsimile, if the foreclosing governmental unit
4 consents to notice by electronic mail or facsimile prior to the
5 provision of notice by the department of ~~environmental quality~~
6 **NATURAL RESOURCES AND ENVIRONMENT**.

7 (b) If requested by the department of ~~environmental quality~~
8 **NATURAL RESOURCES AND ENVIRONMENT** to protect public health, safety,
9 and welfare or the environment, the foreclosing governmental unit
10 shall grant an easement for access to conduct response activities
11 on the foreclosed property as authorized under chapter 7 of the
12 natural resources and environmental protection act, 1994 PA 451,
13 MCL 324.20101 to ~~324.20519~~ **324.20509**.

14 (c) If requested by the department of ~~environmental quality~~
15 **NATURAL RESOURCES AND ENVIRONMENT** to protect public health, safety,
16 and welfare or the environment, the foreclosing governmental unit
17 shall place and record deed restrictions on the foreclosed property
18 as authorized under chapter 7 of the natural resources and
19 environmental protection act, 1994 PA 451, MCL 324.20101 to
20 ~~324.20519~~ **324.20509**.

21 (d) The department of ~~environmental quality~~ **NATURAL RESOURCES**
22 **AND ENVIRONMENT** may place an environmental lien on the foreclosed
23 property as authorized under section 20138 of the natural resources
24 and environmental protection act, 1994 PA 451, MCL 324.20138.

25 **(14)** ~~(15)~~ If property foreclosed under section 78k and held by
26 or under the control of a foreclosing governmental unit is a
27 facility as defined under section 20101(1)(o) of the natural

resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to the sale or transfer of the property under this section, the department of ~~environmental quality~~ **NATURAL RESOURCES AND ENVIRONMENT** shall request and the foreclosing governmental unit shall transfer the property to the state land bank fast track authority created under section 15 of the land bank fast track act, 2003 PA 258, MCL 124.765, if all of the following apply:

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

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

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

(15) AS USED IN THIS SECTION:

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

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

(i) ALL DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES DUE ON

1 THE PROPERTY. IF A CITY, VILLAGE, OR TOWNSHIP PURCHASES THE
2 PROPERTY, THE MINIMUM BID SHALL NOT INCLUDE ANY TAXES LEVIED BY
3 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
4 FEES DUE ON THOSE TAXES.

5 (ii) THE EXPENSES OF ADMINISTERING THE SALE, INCLUDING ALL
6 PREPARATIONS FOR THE SALE. THE FORECLOSING GOVERNMENTAL UNIT SHALL
7 ESTIMATE THE COST OF PREPARING FOR AND ADMINISTERING THE ANNUAL
8 SALE FOR PURPOSES OF PRORATING THE COST FOR EACH PROPERTY INCLUDED
9 IN THE SALE.