

**SUBSTITUTE FOR
HOUSE BILL NO. 5960**

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 THE**
26 **CONVEYANCE OF PARCELS UNDER THIS SECTION** and may cancel the sale
27 prior to the issuance of a deed under this subsection if authorized

1 under the procedures. The foreclosing governmental unit ~~may~~ **SHALL**
2 require full payment ~~by cash, certified check, or money order at~~
3 the close of each day's bidding **OR BY A DATE NOT MORE THAN 21 DAYS**
4 **AFTER THE SALE. BEFORE THE FORECLOSING GOVERNMENTAL UNIT CONVEYS A**
5 **PARCEL SOLD AT A SALE, THE PURCHASER SHALL PROVIDE THE FORECLOSING**
6 **GOVERNMENTAL UNIT WITH PROOF OF PAYMENT TO THE LOCAL TAX COLLECTING**
7 **UNIT IN WHICH THE PROPERTY IS LOCATED OF ANY PROPERTY TAXES OWED ON**
8 **THE PARCEL AT THE TIME OF THE SALE. A FORECLOSING GOVERNMENTAL UNIT**
9 **SHALL CANCEL A SALE IF UNPAID PROPERTY TAXES OWED ON A PARCEL OR**
10 **PARCELS AT THE TIME OF A SALE ARE NOT PAID WITHIN 21 DAYS OF THE**
11 **SALE. IF A SALE IS CANCELED UNDER THIS SUBSECTION, THE FORECLOSING**
12 **GOVERNMENTAL UNIT MAY OFFER THE PROPERTY TO THE NEXT HIGHEST BIDDER**
13 **AND CONVEY THE PROPERTY TO THAT BIDDER UNDER THIS SUBSECTION,**
14 **SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION FOR THE HIGHEST**
15 **BIDDER. Not more than 30-14 days after the date of a sale PAYMENT**
16 **TO THE FORECLOSING GOVERNMENTAL UNIT OF ALL AMOUNTS REQUIRED BY THE**
17 **HIGHEST BIDDER OR THE NEXT HIGHEST BIDDER** under this subsection,
18 the foreclosing governmental unit shall convey the property by deed
19 to the person bidding the **MINIMUM BID, OR IF A BID IS GREATER THAN**
20 **THE MINIMUM BID, THE** highest amount above the minimum bid, **OR THE**
21 **NEXT HIGHEST BIDDER IF THE SALE TO THE HIGHEST BIDDER IS CANCELED**
22 **AND THE NEXT HIGHEST BIDDER PAYS THE AMOUNT REQUIRED UNDER THIS**
23 **SECTION TO PURCHASE THE PROPERTY.** The deed shall vest fee simple
24 title to the property in the person bidding the highest amount
25 above the minimum bid, unless the foreclosing governmental unit
26 discovers a defect in the foreclosure of the property under
27 sections 78 to 78/ **OR THE SALE IS CANCELED UNDER THIS SUBSECTION OR**

House Bill No. 5960 (H-2) as amended December 9, 2014

1 **SUBSECTION (5).** If this state is the foreclosing governmental unit
2 within a county, the department of natural resources shall conduct
3 the sale of property under this subsection and subsections (4) and
4 (5) on behalf of this state. **BEFORE ISSUING A DEED TO A PERSON**
5 **PURCHASING PROPERTY UNDER THIS SUBSECTION OR SUBSECTION (5), THE**
6 **FORECLOSING GOVERNMENTAL UNIT SHALL REQUIRE THE PERSON TO EXECUTE**
7 **AND FILE WITH THE FORECLOSING GOVERNMENTAL UNIT AN AFFIDAVIT UNDER**
8 **PENALTY OF PERJURY. IF THE PERSON FAILS TO EXECUTE AND FILE THE**
9 **AFFIDAVIT REQUIRED BY THIS SUBSECTION BY THE DATE PAYMENT FOR THE**
10 **PROPERTY IS REQUIRED UNDER THIS SECTION, THE FORECLOSING**
11 **GOVERNMENTAL UNIT SHALL CANCEL THE SALE. AN AFFIDAVIT UNDER THIS**
12 **SECTION SHALL INDICATE THAT THE PERSON MEETS ALL OF THE FOLLOWING**
13 **CONDITIONS:**

14 (A) THE PERSON DOES NOT DIRECTLY OR INDIRECTLY HOLD [MORE THAN]
15 A [DE MINIMIS] LEGAL

16 INTEREST IN ANY PROPERTY WITH DELINQUENT PROPERTY TAXES LOCATED IN
17 THE SAME COUNTY AS THE PROPERTY.

18 (B) THE PERSON IS NOT DIRECTLY OR INDIRECTLY RESPONSIBLE FOR
19 ANY UNPAID CIVIL FINES FOR A VIOLATION OF AN ORDINANCE AUTHORIZED
20 BY SECTION 41 OF THE HOME RULE CITY ACT, 1909 PA 279, MCL 117.41, IN
21 THE LOCAL TAX COLLECTION UNIT IN WHICH THE PROPERTY IS LOCATED.

22 (3) For sales held under subsection (2), after the conclusion
23 of that sale, and prior to any additional sale held under
24 subsection (2), a city, village, or township may purchase any
25 property not previously sold under subsection (1) or (2) by paying
26 the minimum bid to the foreclosing governmental unit. If a city,
27 village, or township does not purchase that property, the county in
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, **OR COUNTY** 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
13 minimum bid shall not be required. However, the foreclosing
14 governmental unit may establish a reasonable opening bid at the
15 sale to recover the cost of the sale of the parcel or parcels, **AND**
16 **THE FORECLOSING GOVERNMENTAL UNIT SHALL REQUIRE A PERSON WHO HELD**
17 **AN INTEREST IN PROPERTY SOLD UNDER THIS SUBSECTION AT THE TIME A**
18 **JUDGMENT OF FORECLOSURE WAS ENTERED AGAINST THE PROPERTY UNDER**
19 **SECTION 78K TO PAY THE MINIMUM BID FOR THE PROPERTY BEFORE ISSUING**
20 **A DEED TO THE PERSON UNDER SUBSECTION (2). IF THE PERSON FAILS TO**
21 **PAY THE MINIMUM BID FOR THE PROPERTY AND OTHER AMOUNTS BY THE DATE**
22 **REQUIRED UNDER THIS SECTION, THE FORECLOSING GOVERNMENTAL UNIT**
23 **SHALL CANCEL THE SALE OF THE PROPERTY.**

24 (6) On or before December 1 immediately succeeding the date of
25 the sale under subsection (5), a list of all property not
26 previously sold by the foreclosing governmental unit under this
27 section shall be transferred to the clerk of the city, village, or

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

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

22 (8) A foreclosing governmental unit shall deposit the proceeds
23 from the sale of property under this section into a restricted
24 account designated as the "delinquent tax property sales proceeds
25 for the year ____". The foreclosing governmental unit shall
26 direct the investment of the account. The foreclosing governmental
27 unit shall credit to the account interest and earnings from account

1 investments. Proceeds in that account shall only be used by the
2 foreclosing governmental unit for the following purposes in the
3 following order of priority:

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

7 (b) All costs of the sale of property for the year shall be
8 paid.

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

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

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

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

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

27 (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

1 fee in excess of the minimum bid and any sale proceeds for the cost
2 of recording a deed under this subsection.

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

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

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

17 (11) ~~(12)~~ For property transferred to this state under
18 subsection (1), a city, village, or township under subsection (6)
19 or retained by a foreclosing governmental unit under subsection
20 (7), all taxes due on the property as of the December 31 following
21 the transfer or retention of the property are canceled effective on
22 that December 31.

23 (12) ~~(13)~~ For property sold under this section, transferred to
24 this state under subsection (1), a city, village, or township under
25 subsection (6), or retained by a foreclosing governmental unit
26 under subsection (7), all liens for costs of demolition, safety
27 repairs, debris removal, or sewer or water charges due on the

1 property as of the December 31 immediately succeeding the sale,
2 transfer, or retention of the property are canceled effective on
3 that December 31. This subsection does not apply to liens recorded
4 by the department of environmental quality under this act or the
5 land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

6 (13) ~~(14)~~—If property foreclosed under section 78k and held by
7 or under the control of a foreclosing governmental unit is a
8 facility as defined under section ~~20101(1)(e)~~ **20101** of the natural
9 resources and environmental protection act, 1994 PA 451, MCL
10 324.20101, prior to the sale or transfer of the property under this
11 section, the property is subject to all of the following:

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

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

1 ~~324.20519-324.20302.~~

2 (c) If requested by the department of environmental quality to
3 protect public health, safety, and welfare or the environment, the
4 foreclosing governmental unit shall place and record deed
5 restrictions on the foreclosed property as authorized under chapter
6 7 of the natural resources and environmental protection act, 1994
7 PA 451, MCL 324.20101 to ~~324.20519-324.20302.~~

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

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

22 (a) The department of environmental quality determines that
23 conditions at a foreclosed property are an acute threat to the
24 public health, safety, and welfare, to the environment, or to other
25 property.

26 (b) The department of environmental quality proposes to
27 undertake or is undertaking state-funded response activities at the

1 property.

2 (c) The department of environmental quality determines that
3 the sale, retention, or transfer of the property other than under
4 this subsection would interfere with response activities by the
5 department of environmental quality.

6 (15) A PERSON CONVICTED FOR EXECUTING A FALSE AFFIDAVIT UNDER
7 SUBSECTION (5) SHALL BE PROHIBITED FROM BIDDING FOR A PROPERTY OR
8 PURCHASING A PROPERTY AT ANY SALE UNDER THIS SECTION.

9 (16) AS USED IN THIS SECTION:

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

13 (i) 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 (ii) 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 (B) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
24 ASSOCIATION, OR OTHER LEGAL ENTITY.