

HOUSE BILL No. 5960

November 13, 2014, Introduced by Rep. Walsh and referred to the Committee on Detroit's Recovery and Michigan's Future.

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, 2015,**
13 **NOTWITHSTANDING ANY LOCAL ORDINANCE OR CHARTER PROVISION TO THE**
14 **CONTRARY, A PROSPECTIVE BIDDER OR ANY OTHER PERSON OR ENTITY ACTING**
15 **AS AN AGENT FOR OR IN CONCERT WITH THAT PROSPECTIVE BIDDER, OTHER**
16 **THAN A FINANCIAL INSTITUTION OR CREDIT UNION SERVICE ORGANIZATION**
17 **THAT DEMONSTRATES TO THE FORECLOSING GOVERNMENTAL UNIT THAT IT**
18 **POSSESSES A LIEN OR OTHER UNPAID FINANCIAL INTEREST IN THE**
19 **PROPERTY, IS NOT ELIGIBLE TO BID ON PROPERTY SOLD UNDER THIS**
20 **SECTION IF THAT PROSPECTIVE BIDDER, OR ANY PROPERTY OWNED BY THAT**
21 **PROSPECTIVE BIDDER, HAS ANY DELINQUENT TAXES OR SPECIAL ASSESSMENTS**
22 **FOR PROPERTY LOCATED IN THE LOCAL TAX COLLECTING UNIT IN WHICH THE**
23 **PROPERTY IS LOCATED OR ANY UNPAID FINES FOR THE VIOLATION OF AN**
24 **ORDINANCE OF THE LOCAL TAX COLLECTING UNIT IN WHICH THE PROPERTY IS**
25 **LOCATED, WHICH ORDINANCE HAS AS ITS PURPOSE THE ELIMINATION OF**
26 **BLIGHT OR THE CESSATION OF A NUISANCE IN THE LOCAL TAX COLLECTING**
27 **UNIT. FOR THE PURPOSE OF THE PRECEDING SENTENCE, ANY PERSON OTHER**

1 THAN A FINANCIAL INSTITUTION OR CREDIT UNION SERVICE ORGANIZATION
2 THAT DIRECTLY OR INDIRECTLY HOLDS AN INTEREST OF 10% OR MORE IN
3 PROPERTY THAT HAS ANY DELINQUENT TAXES OR SPECIAL ASSESSMENTS FOR
4 PROPERTY LOCATED IN THE LOCAL TAX COLLECTING UNIT IN WHICH THE
5 PROPERTY IS LOCATED OR ANY UNPAID FINES FOR THE VIOLATION OF AN
6 ORDINANCE OF THE LOCAL TAX COLLECTING UNIT IN WHICH THE PROPERTY IS
7 LOCATED, WHICH ORDINANCE HAS AS ITS PURPOSE THE ELIMINATION OF
8 BLIGHT OR THE CESSATION OF A NUISANCE IN THE LOCAL TAX COLLECTING
9 UNIT, OR IS UNDER COMMON CONTROL WITH A PERSON THAT DIRECTLY OR
10 INDIRECTLY HOLDS AN INTEREST OF 10% OR MORE IN PROPERTY THAT HAS
11 ANY DELINQUENT TAXES OR SPECIAL ASSESSMENTS FOR PROPERTY LOCATED IN
12 THE LOCAL TAX COLLECTING UNIT IN WHICH THE PROPERTY IS LOCATED OR
13 ANY UNPAID FINES FOR THE VIOLATION OF AN ORDINANCE OF THE LOCAL TAX
14 COLLECTING UNIT IN WHICH THE PROPERTY IS LOCATED, WHICH ORDINANCE
15 HAS AS ITS PURPOSE THE ELIMINATION OF BLIGHT OR THE CESSATION OF A
16 NUISANCE IN THE LOCAL TAX COLLECTING UNIT, IS NOT ELIGIBLE TO BID
17 ON PROPERTY SOLD UNDER THIS SECTION.

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

27 (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, or
3 township within 30 days.

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

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

15 (B) **NOTWITHSTANDING ANY LOCAL ORDINANCE OR CHARTER PROVISION**
16 **TO THE CONTRARY, PROSPECTIVE BIDDERS SHALL REGISTER WITH THE**
17 **FORECLOSING GOVERNMENTAL UNIT NOT LESS THAN 14 DAYS BEFORE THE**
18 **START OF THE SALE. PROSPECTIVE BIDDERS SHALL CERTIFY UNDER PENALTY**
19 **OR PERJURY THAT THEY ARE NOT A PERSON, ARE NOT ACTING ON BEHALF OF**
20 **A PERSON, ARE NOT UNDER THE DIRECTION OR CONTROL OF A PERSON, ARE**
21 **NOT UNDER COMMON CONTROL WITH A PERSON, AND DO NOT DIRECTLY OR**
22 **INDIRECTLY HOLD AN INTEREST OF 10% OR MORE IN A PERSON WHO MEETS**
23 **ANY 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 AND
6 NOTWITHSTANDING ANY LOCAL ORDINANCE OR CHARTER PROVISION TO THE
7 CONTRARY, THE FORECLOSING GOVERNMENTAL UNIT SHALL NOT ACCEPT BIDS
8 FROM ANY PERSON WHO DID NOT REGISTER WITH THE FORECLOSING
9 GOVERNMENTAL UNIT AS REQUIRED IN SUBDIVISION (B) OR WHO MEETS 1 OR
10 MORE OF THE CONDITIONS SET FORTH IN SUBDIVISION (B). HOWEVER,
11 NOTHING IN THIS SUBSECTION PREVENTS THE FORECLOSING GOVERNMENTAL
12 UNIT FROM SELLING PROPERTY TO A PERSON AS OTHERWISE ALLOWED BY LAW
13 AFTER THE PROPERTY VESTS IN THE FORECLOSING GOVERNMENTAL UNIT UNDER
14 SUBSECTION (7).

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

1 transferred under this subsection only to a village. The city,
2 village, or township may make the property available under the
3 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
4 any other lawful purpose.

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

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

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

25 (b) All costs of the sale of property for the year shall be
26 paid.

27 (c) Any costs of the foreclosure proceedings for the year,

1 including, but not limited to, costs of mailing, publication,
2 personal service, and outside contractors shall be paid.

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

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

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

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

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

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

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

25 (h) In 2008 and each year after 2008, if the foreclosing
26 governmental unit is not this state, not later than June 30 of the
27 second calendar year after foreclosure, the foreclosing

1 governmental unit shall submit a written report to its board of
2 commissioners identifying any remaining balance and any contingent
3 costs of title or other legal claims described in subdivisions (a)
4 through (f). All or a portion of any remaining balance, less any
5 contingent costs of title or other legal claims described in
6 subdivisions (a) through (f), may subsequently be transferred into
7 the general fund of the county by the board of commissioners.

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

16 (10) The foreclosing governmental unit shall record a deed for
17 any property transferred under this section with the county
18 register of deeds. The foreclosing governmental unit may charge a
19 fee in excess of the minimum bid and any sale proceeds for the cost
20 of recording a deed under this subsection.

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

25 ~~—— (a) All delinquent taxes, interest, penalties, and fees due on~~
26 ~~the property. If a city, village, or township purchases the~~
27 ~~property, the minimum bid shall not include any taxes levied by~~

1 ~~that city, village, or township and any interest, penalties, or~~
 2 ~~fees due on those taxes.~~

3 ~~—— (b) The expenses of administering the sale, including all~~
 4 ~~preparations for the sale. The foreclosing governmental unit shall~~
 5 ~~estimate the cost of preparing for and administering the annual~~
 6 ~~sale for purposes of prorating the cost for each property included~~
 7 ~~in the sale.~~

8 (11) ~~(12)~~ For property transferred to this state under
 9 subsection (1), a city, village, or township under subsection (6)
 10 or retained by a foreclosing governmental unit under subsection
 11 (7), all taxes due on the property as of the December 31 following
 12 the transfer or retention of the property are canceled effective on
 13 that December 31.

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

24 (13) ~~(14)~~ If property foreclosed under section 78k and held by
 25 or under the control of a foreclosing governmental unit is a
 26 facility as defined under section ~~20101(1)(e)~~ **20101** of the natural
 27 resources and environmental protection act, 1994 PA 451, MCL

1 324.20101, prior to the sale or transfer of the property under this
2 section, the property is subject to all of the following:

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

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

20 (c) If requested by the department of environmental quality to
21 protect public health, safety, and welfare or the environment, the
22 foreclosing governmental unit shall place and record deed
23 restrictions on the foreclosed property as authorized under chapter
24 7 of the natural resources and environmental protection act, 1994
25 PA 451, MCL 324.20101 to ~~324.20519-324.20302.~~

26 (d) The department of environmental quality may place an
27 environmental lien on the foreclosed property as authorized under

1 section 20138 of the natural resources and environmental protection
2 act, 1994 PA 451, MCL 324.20138.

3 (14) ~~(15)~~—If property foreclosed under section 78k and held by
4 or under the control of a foreclosing governmental unit is a
5 facility as defined under section ~~20101(1)(e)~~ **20101** of the natural
6 resources and environmental protection act, 1994 PA 451, MCL
7 324.20101, prior to the sale or transfer of the property under this
8 section, the department of environmental quality shall request and
9 the foreclosing governmental unit shall transfer the property to
10 the state land bank fast track authority created under section 15
11 of the land bank fast track act, 2003 PA 258, MCL 124.765, if all
12 of the following apply:

13 (a) The department of environmental quality determines that
14 conditions at a foreclosed property are an acute threat to the
15 public health, safety, and welfare, to the environment, or to other
16 property.

17 (b) The department of environmental quality proposes to
18 undertake or is undertaking state-funded response activities at the
19 property.

20 (c) The department of environmental quality determines that
21 the sale, retention, or transfer of the property other than under
22 this subsection would interfere with response activities by the
23 department of environmental quality.

24 (15) AS USED IN THIS SECTION:

25 (A) "COMMON CONTROL" MEANS THAT 2 SEPARATE PERSONS ARE
26 DIRECTLY OR INDIRECTLY SUBJECT TO THE LEGAL DIRECTION OR CONTROL OF
27 THE SAME THIRD PERSON OR AN AFFILIATE OF THAT THIRD PERSON.

1 (B) "CREDIT UNION SERVICE ORGANIZATION" MEANS THAT TERM AS
2 DEFINED IN SECTION 102 OF THE CREDIT UNION ACT, 2003 PA 215, MCL
3 490.102.

4 (C) "FINANCIAL INSTITUTION" MEANS THAT TERM AS DEFINED IN
5 SECTION 4(C) OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL
6 125.2004.

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

10 (i) ALL DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES DUE ON
11 THE PROPERTY. IF A CITY, VILLAGE, OR TOWNSHIP PURCHASES THE
12 PROPERTY, THE MINIMUM BID SHALL NOT INCLUDE ANY TAXES LEVIED BY
13 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
14 FEES DUE ON THOSE TAXES.

15 (ii) THE EXPENSES OF ADMINISTERING THE SALE, INCLUDING ALL
16 PREPARATIONS FOR THE SALE. THE FORECLOSING GOVERNMENTAL UNIT SHALL
17 ESTIMATE THE COST OF PREPARING FOR AND ADMINISTERING THE ANNUAL
18 SALE FOR PURPOSES OF PRORATING THE COST FOR EACH PROPERTY INCLUDED
19 IN THE SALE.

20 (E) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
21 ASSOCIATION, OR OTHER LEGAL ENTITY.