

SENATE BILL NO. 676

December 05, 2019, Introduced by Senator LUCIDO 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 2014 PA 501.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78m. (1) Not later than the first Tuesday in July 7
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

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~~**must** be returned to the delinquent tax property sales
21 proceeds account for the year in which the property was purchased
22 by the 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~~ **will** be sold by auction sale, which
12 may include an auction sale conducted via an internet website.
13 Notice of the time and location of a sale ~~shall~~ **must** be published
14 not less than 30 days before a sale in a newspaper published and
15 circulated in the county in which the property is located, if there
16 is one. If no newspaper is published in that county, publication
17 ~~shall~~ **must** be made in a newspaper published and circulated in an
18 adjoining county. Each sale ~~shall~~ **must** be completed before the
19 first Tuesday in November immediately succeeding the entry of
20 judgment under section 78k vesting absolute title to the tax
21 delinquent property in the foreclosing governmental unit. Except as
22 provided in this subsection and subsection (5), property ~~shall~~ **must**
23 be sold to the person bidding the minimum bid, or if a bid is
24 greater than the minimum bid, the highest amount above the minimum
25 bid. The foreclosing governmental unit may sell parcels
26 individually or may offer 2 or more parcels for sale as a group.
27 The minimum bid for a group of parcels ~~shall~~ **must** equal the sum of
28 the minimum bid for each parcel included in the group. The
29 foreclosing governmental unit may adopt procedures governing the

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

1 this state is the foreclosing governmental unit within a county,
2 the department of treasury shall be responsible for conducting the
3 sale of property under this subsection and subsections (4) and (5)
4 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~~**must** indicate that the person meets all of the
13 following conditions:

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

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

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

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

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

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

1 more parcels of property set forth on that list. On or before
2 December 30 immediately succeeding the entry of judgment under
3 section 78k, all property not previously sold by the foreclosing
4 governmental unit under this section ~~shall~~**must** be transferred to
5 the city, village, or township in which the property is located,
6 except those parcels of property to which the city, village, or
7 township has objected. Property located in both a village and a
8 township may be transferred under this subsection only to a
9 village. The city, village, or township may make the property
10 available under the urban homestead act, 1999 PA 127, MCL 125.2701
11 to 125.2709, or for any other lawful purpose.

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

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

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

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

11 (b) All costs of the sale of property for the year ~~shall~~**must**
12 be 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~~**must** 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~~**must** 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~~**must** 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
28 from that subsequent year's delinquent tax property sales proceeds
29 ~~shall~~**must** be paid from any remaining balance in any prior year's

1 delinquent tax property sales proceeds account.

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

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

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

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

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

27 (10) The foreclosing governmental unit shall record a deed for
28 any property transferred under this section with the county
29 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) For property transferred to this state under subsection
4 (1), a city, village, or township under subsection (6) or retained
5 by a foreclosing governmental unit under subsection (7), all taxes
6 due on the property as of the December 31 following the transfer or
7 retention of the property are canceled effective on that December
8 31.

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

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

26 (a) Upon reasonable written notice from the department of
27 ~~environmental quality,~~ **environment, Great Lakes, and energy,** the
28 foreclosing governmental unit shall provide access to the
29 department of ~~environmental quality,~~ **environment, Great Lakes, and**

1 **energy**, its employees, contractors, and any other person expressly
2 authorized by the department of ~~environmental quality~~ **environment**,
3 **Great Lakes, and energy** to conduct response activities at the
4 foreclosed property. Reasonable written notice under this
5 subdivision may include, but is not limited to, notice by
6 electronic mail or facsimile, if the foreclosing governmental unit
7 consents to notice by electronic mail or facsimile ~~prior to~~ **before**
8 the provision of notice by the department of ~~environmental~~
9 ~~quality~~ **environment, Great Lakes, and energy**.

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

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

24 (d) The department of ~~environmental quality~~ **environment, Great**
25 **Lakes, and energy** may place an environmental lien on the foreclosed
26 property as authorized under section 20138 of the natural resources
27 and environmental protection act, 1994 PA 451, MCL 324.20138.

28 (14) If property foreclosed under section 78k and held by or
29 under the control of a foreclosing governmental unit is a facility

1 as defined under section 20101 of the natural resources and
 2 environmental protection act, 1994 PA 451, MCL 324.20101, ~~prior to~~
 3 **before** the sale or transfer of the property under this section, the
 4 department of ~~environmental quality~~**environment, Great Lakes, and**
 5 **energy** shall request and the foreclosing governmental unit shall
 6 transfer the property to the state land bank fast track authority
 7 created under section 15 of the land bank fast track act, 2003 PA
 8 258, MCL 124.765, if all of the following apply:

9 (a) The department of ~~environmental quality~~**environment, Great**
 10 **Lakes, and energy** determines that conditions at a foreclosed
 11 property are an acute threat to the public health, safety, and
 12 welfare, to the environment, or to other property.

13 (b) The department of ~~environmental quality~~**environment, Great**
 14 **Lakes, and energy** proposes to undertake or is undertaking state-
 15 funded response activities at the property.

16 (c) The department of ~~environmental quality~~**environment, Great**
 17 **Lakes, and energy** determines that the sale, retention, or transfer
 18 of the property other than under this subsection would interfere
 19 with response activities by the department of ~~environmental~~
 20 ~~quality~~**environment, Great Lakes, and energy**.

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

24 (16) As used in this section:

25 (a) "Minimum bid" is the minimum amount established by the
 26 foreclosing governmental unit for which property may be sold under
 27 this section. The minimum bid ~~shall~~**must** include all of the
 28 following:

29 (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~~**must** not include any taxes levied
3 by 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.

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