

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 295**

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 2-1~~ **OR MORE** property sales
7 at 1 or more convenient locations at which property foreclosed by
8 the judgment entered under section 78k shall be sold by auction
9 sale, which may include an auction sale conducted via an internet
10 website. Notice of the time and location of ~~the sales~~ **A SALE** shall
11 be published not less than 30 days before ~~each~~ **A** sale in a
12 newspaper published and circulated in the county in which the
13 property is located, if there is one. If no newspaper is published
14 in that county, publication shall be made in a newspaper published
15 and 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 **THIS SUBSECTION AND** subsection (5), property
20 shall be sold to the person bidding the **MINIMUM BID, OR IF A BID IS**
21 **GREATER THAN THE MINIMUM BID, THE** highest amount above the minimum
22 bid. The foreclosing governmental unit may sell parcels
23 individually or may offer 2 or more parcels for sale as a group.
24 The minimum bid for a group of parcels shall equal the sum of the
25 minimum bid for each parcel included in the group. The foreclosing
26 governmental unit may adopt procedures governing the conduct of the
27 sale **AND THE CONVEYANCE OF PARCELS UNDER THIS SECTION** and may

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

1 foreclosure of the property under sections 78 to 78/ **OR THE SALE IS**
 2 **CANCELED UNDER THIS SUBSECTION OR SUBSECTION (5).** If this state is
 3 the foreclosing governmental unit within a county, the department
 4 of ~~natural resources~~ **TREASURY** shall ~~conduct~~ **BE RESPONSIBLE FOR**
 5 **CONDUCTING** the sale of property under this subsection and
 6 subsections (4) and (5) on behalf of this state. **BEFORE ISSUING A**
 7 **DEED TO A PERSON PURCHASING PROPERTY UNDER THIS SUBSECTION OR**
 8 **SUBSECTION (5), THE FORECLOSING GOVERNMENTAL UNIT SHALL REQUIRE THE**
 9 **PERSON TO EXECUTE AND FILE WITH THE FORECLOSING GOVERNMENTAL UNIT**
 10 **AN AFFIDAVIT UNDER PENALTY OF PERJURY. IF THE PERSON FAILS TO**
 11 **EXECUTE AND FILE THE AFFIDAVIT REQUIRED BY THIS SUBSECTION BY THE**
 12 **DATE PAYMENT FOR THE PROPERTY IS REQUIRED UNDER THIS SECTION, THE**
 13 **FORECLOSING GOVERNMENTAL UNIT SHALL CANCEL THE SALE. AN AFFIDAVIT**
 14 **UNDER THIS SECTION SHALL INDICATE THAT THE PERSON MEETS ALL OF THE**
 15 **FOLLOWING CONDITIONS:**

16 (A) THE PERSON DOES NOT DIRECTLY OR INDIRECTLY HOLD MORE THAN
 17 A DE MINIMIS LEGAL INTEREST IN ANY PROPERTY WITH DELINQUENT
 18 PROPERTY TAXES LOCATED IN THE SAME COUNTY AS THE PROPERTY.

19 (B) THE PERSON IS NOT DIRECTLY OR INDIRECTLY RESPONSIBLE FOR
 20 ANY UNPAID CIVIL FINES FOR A VIOLATION OF AN ORDINANCE AUTHORIZED
 21 BY SECTION 4/ OF THE HOME RULE CITY ACT, 1909 PA 279, MCL 117.4/, IN
 22 THE LOCAL TAX COLLECTION UNIT IN WHICH THE PROPERTY IS LOCATED.

23 (3) For sales held under subsection (2), after the conclusion
 24 of that sale, and prior to any additional sale held under
 25 subsection (2), a city, village, or township may purchase any
 26 property not previously sold under subsection (1) or (2) by paying
 27 the minimum bid to the foreclosing governmental unit. If a city,

1 village, or township does not purchase that property, the county in
2 which that property is located may purchase that property under
3 this section by payment to the foreclosing governmental unit of the
4 minimum bid.

5 (4) If property is purchased by a city, village, township, or
6 county under subsection (3), the foreclosing governmental unit
7 shall convey the property to the purchasing city, village, ~~or~~
8 township, **OR COUNTY** within 30 days.

9 (5) All property subject to sale under subsection (2) shall be
10 offered for sale at ~~not less than 2-1~~ **OR MORE** sales conducted as
11 required by subsection (2). ~~The~~ **IF THE FORECLOSING GOVERNMENTAL**
12 **UNIT ELECTS TO HOLD MORE THAN 1 SALE UNDER SUBSECTION (2), THE**
13 final sale held under subsection (2) shall be held not less than 28
14 days after the ~~previous~~ **IMMEDIATELY PRECEDING** sale under subsection
15 (2). At the final sale held under subsection (2), the sale is
16 subject to the requirements of subsection (2), except that the
17 minimum bid shall not be required. However, the foreclosing
18 governmental unit may establish a reasonable opening bid at the
19 sale to recover the cost of the sale of the parcel or parcels, **AND**
20 **THE FORECLOSING GOVERNMENTAL UNIT SHALL REQUIRE A PERSON WHO HELD**
21 **AN INTEREST IN PROPERTY SOLD UNDER THIS SUBSECTION AT THE TIME A**
22 **JUDGMENT OF FORECLOSURE WAS ENTERED AGAINST THE PROPERTY UNDER**
23 **SECTION 78K TO PAY THE MINIMUM BID FOR THE PROPERTY BEFORE ISSUING**
24 **A DEED TO THE PERSON UNDER SUBSECTION (2). IF THE PERSON FAILS TO**
25 **PAY THE MINIMUM BID FOR THE PROPERTY AND OTHER AMOUNTS BY THE DATE**
26 **REQUIRED UNDER THIS SECTION, THE FORECLOSING GOVERNMENTAL UNIT**
27 **SHALL CANCEL THE SALE OF THE PROPERTY.**

1 (6) On or before December 1 immediately succeeding the ~~date of~~
2 ~~the sale under subsection (5),~~ **ENTRY OF JUDGMENT UNDER SECTION 78K,**
3 a list of all property not previously sold by the foreclosing
4 governmental unit under this section shall be transferred to the
5 clerk of the city, village, or township in which the property is
6 located. The city, village, or township may object in writing to
7 the transfer of 1 or more parcels of property set forth on that
8 list. On or before December 30 immediately succeeding the ~~date of~~
9 ~~the sale under subsection (5),~~ **ENTRY OF JUDGMENT UNDER SECTION 78K,**
10 all property not previously sold by the foreclosing governmental
11 unit under this section shall be transferred to the city, village,
12 or township in which the property is located, except those parcels
13 of property to which the city, village, or township has objected.
14 Property located in both a village and a township may be
15 transferred under this subsection only to a village. The city,
16 village, or township may make the property available under the
17 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
18 any other lawful purpose.

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

27 (8) A foreclosing governmental unit shall deposit the proceeds

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

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

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

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

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

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

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

27 (i) Any costs for the sale of property or foreclosure

1 proceedings for any subsequent year that are not paid or reimbursed
2 from that subsequent year's delinquent tax property sales proceeds
3 shall be paid from any remaining balance in any prior year's
4 delinquent tax property sales proceeds account.

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

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

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

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

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

1 under this subsection may include or be an auction sale conducted
2 via an internet website.

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

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

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

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

22 (11) ~~(12)~~ For property transferred to this state under
23 subsection (1), a city, village, or township under subsection (6)
24 or retained by a foreclosing governmental unit under subsection
25 (7), all taxes due on the property as of the December 31 following
26 the 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 city, village, or township under
3 subsection (6), or retained by a foreclosing governmental unit
4 under subsection (7), all liens for costs of demolition, safety
5 repairs, debris removal, or sewer or water charges due on the
6 property as of the December 31 immediately succeeding the sale,
7 transfer, or retention of the property are canceled effective on
8 that December 31. This subsection does not apply to liens recorded
9 by the department of environmental quality under this act or the
10 land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

11 (13) ~~(14)~~—If property foreclosed under section 78k and held by
12 or under the control of a foreclosing governmental unit is a
13 facility as defined under section ~~20101(1)(e)~~ **20101** of the natural
14 resources and environmental protection act, 1994 PA 451, MCL
15 324.20101, prior to the sale or transfer of the property under this
16 section, the property is subject to all of the following:

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

27 (b) If requested by the department of environmental quality to

1 protect public health, safety, and welfare or the environment, the
2 foreclosing governmental unit shall grant an easement for access to
3 conduct response activities on the foreclosed property as
4 authorized under chapter 7 of the natural resources and
5 environmental protection act, 1994 PA 451, MCL 324.20101 to
6 ~~324.20519-324.20302.~~

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

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

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

27 (a) The department of environmental quality determines that

1 conditions at a foreclosed property are an acute threat to the
2 public health, safety, and welfare, to the environment, or to other
3 property.

4 (b) The department of environmental quality proposes to
5 undertake or is undertaking state-funded response activities at the
6 property.

7 (c) The department of environmental quality determines that
8 the sale, retention, or transfer of the property other than under
9 this subsection would interfere with response activities by the
10 department of environmental quality.

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

14 (16) AS USED IN THIS SECTION:

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

18 (i) ALL DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES DUE ON
19 THE PROPERTY. IF A CITY, VILLAGE, OR TOWNSHIP PURCHASES THE
20 PROPERTY, THE MINIMUM BID SHALL NOT INCLUDE ANY TAXES LEVIED BY
21 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
22 FEES DUE ON THOSE TAXES.

23 (ii) THE EXPENSES OF ADMINISTERING THE SALE, INCLUDING ALL
24 PREPARATIONS FOR THE SALE. THE FORECLOSING GOVERNMENTAL UNIT SHALL
25 ESTIMATE THE COST OF PREPARING FOR AND ADMINISTERING THE ANNUAL
26 SALE FOR PURPOSES OF PRORATING THE COST FOR EACH PROPERTY INCLUDED
27 IN THE SALE.

1 (B) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
2 ASSOCIATION, OR OTHER LEGAL ENTITY.