

**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

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

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

1 authorized under the procedures. The foreclosing governmental unit
2 may require full payment by cash, certified check, or money order
3 at the close of each day's bidding. Not more than 30 days after the
4 date of a sale under this subsection, the foreclosing governmental
5 unit shall convey the property by deed to the person bidding the
6 highest amount above the minimum bid. The deed shall vest fee
7 simple title to the property in the person bidding the highest
8 amount above the minimum bid, unless the foreclosing governmental
9 unit discovers a defect in the foreclosure of the property under
10 sections 78 to 78/. If this state is the foreclosing governmental
11 unit within a county, the department of natural resources shall
12 conduct the sale of property under this subsection and subsections
13 (4) and (5) on behalf of this state. **BEGINNING JANUARY 1, 2014, IF**
14 **NOT INCONSISTENT WITH PROCEDURES GOVERNING THE CONDUCT OF A SALE**
15 **ADOPTED BY A FORECLOSING GOVERNMENTAL UNIT UNDER THIS SUBSECTION, A**
16 **PROSPECTIVE BIDDER OR ANY OTHER PERSON OR ENTITY ACTING AS AN AGENT**
17 **FOR OR IN CONCERT WITH THAT PROSPECTIVE BIDDER, OTHER THAN A**
18 **FINANCIAL INSTITUTION OR CREDIT UNION SERVICE ORGANIZATION, IS NOT**
19 **ELIGIBLE TO BID ON PROPERTY SOLD UNDER THIS SECTION IF THAT**
20 **PROSPECTIVE BIDDER, OR ANY PROPERTY OWNED BY THAT PROSPECTIVE**
21 **BIDDER, HAS ANY UNPAID FINES FOR THE VIOLATION OF AN ORDINANCE OF A**
22 **LOCAL TAX COLLECTING UNIT IN WHICH THE PROPERTY IS LOCATED, WHICH**
23 **ORDINANCE HAS AS ITS PURPOSE THE ELIMINATION OF BLIGHT OR THE**
24 **CESSATION OF A NUISANCE IN THE LOCAL TAX COLLECTING UNIT. FOR THE**
25 **PURPOSE OF THE PRECEDING SENTENCE, ANY PERSON OTHER THAN A**
26 **FINANCIAL INSTITUTION OR CREDIT UNION SERVICE ORGANIZATION THAT**
27 **DIRECTLY OR INDIRECTLY HOLDS AN INTEREST OF 10% OR MORE IN PROPERTY**

1 THAT HAS ANY UNPAID FINES FOR THE VIOLATION OF AN ORDINANCE OF A
2 LOCAL TAX COLLECTING UNIT IN WHICH THE PROPERTY IS LOCATED, WHICH
3 ORDINANCE HAS AS ITS PURPOSE THE ELIMINATION OF BLIGHT OR THE
4 CESSATION OF A NUISANCE IN THE LOCAL TAX COLLECTING UNIT, OR IS
5 UNDER COMMON CONTROL WITH A PERSON THAT DIRECTLY OR INDIRECTLY
6 HOLDS AN INTEREST OF 10% OR MORE IN PROPERTY THAT HAS ANY UNPAID
7 FINES FOR THE VIOLATION OF AN ORDINANCE OF A LOCAL TAX COLLECTING
8 UNIT IN WHICH THE PROPERTY IS LOCATED, WHICH ORDINANCE HAS AS ITS
9 PURPOSE THE ELIMINATION OF BLIGHT OR THE CESSATION OF A NUISANCE IN
10 THE LOCAL TAX COLLECTING UNIT, IS NOT ELIGIBLE TO BID ON PROPERTY
11 SOLD UNDER THIS SECTION.

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

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

25 (5) All property subject to sale under subsection (2) shall be
26 offered for sale at not less than 2 sales conducted as required by
27 subsection (2). The final sale held under subsection (2) shall be

1 held not less than 28 days after the previous sale under subsection
2 (2). At the final sale held under subsection (2), the sale is
3 subject to the requirements of subsection (2), except ~~that the~~ **FOR**
4 **THE FOLLOWING:**

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

9 (B) **IF NOT INCONSISTENT WITH PROCEDURES GOVERNING THE CONDUCT**
10 **OF A SALE ADOPTED BY A FORECLOSING GOVERNMENTAL UNIT UNDER**
11 **SUBSECTION (2), PROSPECTIVE BIDDERS SHALL REGISTER WITH THE**
12 **FORECLOSING GOVERNMENTAL UNIT NOT LESS THAN 14 DAYS BEFORE THE**
13 **START OF THE SALE. PROSPECTIVE BIDDERS SHALL CERTIFY UNDER PENALTY**
14 **OR PERJURY THAT THEY ARE NOT A PERSON, ARE NOT ACTING ON BEHALF OF**
15 **A PERSON, ARE NOT UNDER THE DIRECTION OR CONTROL OF A PERSON, ARE**
16 **NOT UNDER COMMON CONTROL WITH A PERSON, AND DO NOT DIRECTLY OR**
17 **INDIRECTLY HOLD AN INTEREST OF 10% OR MORE IN A PERSON WHO MEETS**
18 **ANY OF THE FOLLOWING CONDITIONS:**

19 (i) **HELD TITLE TO ANY PROPERTY OR CLAIMED TO HOLD TITLE TO ANY**
20 **PROPERTY WHEN THE PROPERTY BECAME SUBJECT TO A JUDGMENT ENTERED**
21 **UNDER SECTION 78K VESTING ABSOLUTE TITLE TO THAT PROPERTY IN THE**
22 **FORECLOSING GOVERNMENTAL UNIT IN THE PRIOR 3 TAX YEARS.**

23 (ii) **HOLDS TITLE TO ANY PROPERTY OR CLAIMS TO HOLD TITLE TO ANY**
24 **PROPERTY THAT HAS BEEN INCLUDED IN A PETITION FOR FORECLOSURE FILED**
25 **UNDER SECTION 78H IN THE TAX YEAR IN WHICH THE SALE IS HELD UNDER**
26 **THIS SECTION.**

27 (C) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION AND IF**

1 NOT INCONSISTENT WITH PROCEDURES GOVERNING THE CONDUCT OF A SALE
2 ADOPTED BY A FORECLOSING GOVERNMENTAL UNIT UNDER SUBSECTION (2),
3 THE FORECLOSING GOVERNMENTAL UNIT SHALL NOT ACCEPT BIDS FROM ANY
4 PERSON WHO DID NOT REGISTER WITH THE FORECLOSING GOVERNMENTAL UNIT
5 AS REQUIRED IN SUBDIVISION (B) OR WHO MEETS 1 OR MORE OF THE
6 CONDITIONS SET FORTH IN SUBDIVISION (B). HOWEVER, NOTHING IN THIS
7 SUBSECTION PREVENTS THE FORECLOSING GOVERNMENTAL UNIT FROM SELLING
8 PROPERTY TO A PERSON AS OTHERWISE ALLOWED BY LAW AFTER THE PROPERTY
9 VESTS IN THE FORECLOSING GOVERNMENTAL UNIT UNDER SUBSECTION (7).

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

27 (7) If property not previously sold is not transferred to the

1 city, village, or township in which the property is located under
2 subsection (6), the foreclosing governmental unit shall retain
3 possession of that property. If the foreclosing governmental unit
4 retains possession of the property and the foreclosing governmental
5 unit is this state, title to the property shall vest in the land
6 bank fast track authority created under section 15 of the land bank
7 fast track act, 2003 PA 258, MCL 124.765.

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

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

20 (b) All costs of the sale of property for the year shall be
21 paid.

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

25 (d) Any costs for the sale of property or foreclosure
26 proceedings for any prior year that have not been paid or
27 reimbursed from that prior year's delinquent tax property sales

1 proceeds shall be paid.

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

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

8 (i) Any costs for the sale of property or foreclosure
9 proceedings for any subsequent year that are not paid or reimbursed
10 from that subsequent year's delinquent tax property sales proceeds
11 shall be paid from any remaining balance in any prior year's
12 delinquent tax property sales proceeds account.

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

14 (iii) Any costs incurred in administering the foreclosure and
15 disposition of property forfeited for delinquent taxes under this
16 act.

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

20 (h) In 2008 and each year after 2008, if the foreclosing
21 governmental unit is not this state, not later than June 30 of the
22 second calendar year after foreclosure, the foreclosing
23 governmental unit shall submit a written report to its board of
24 commissioners identifying any remaining balance and any contingent
25 costs of title or other legal claims described in subdivisions (a)
26 through (f). All or a portion of any remaining balance, less any
27 contingent costs of title or other legal claims described in

1 subdivisions (a) through (f), may subsequently be transferred into
2 the general fund of the county by the board of commissioners.

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

11 (10) The foreclosing governmental unit shall record a deed for
12 any property transferred under this section with the county
13 register of deeds. The foreclosing governmental unit may charge a
14 fee in excess of the minimum bid and any sale proceeds for the cost
15 of recording a deed under this subsection.

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

20 ~~—— (a) All delinquent taxes, interest, penalties, and fees due on~~
21 ~~the property. If a city, village, or township purchases the~~
22 ~~property, the minimum bid shall not include any taxes levied by~~
23 ~~that city, village, or township and any interest, penalties, or~~
24 ~~fees due on those taxes.~~

25 ~~—— (b) The expenses of administering the sale, including all~~
26 ~~preparations for the sale. The foreclosing governmental unit shall~~
27 ~~estimate the cost of preparing for and administering the annual~~

1 ~~sale for purposes of prorating the cost for each property included~~
2 ~~in the sale.~~

3 (11) ~~(12)~~ For property transferred to this state under
4 subsection (1), a city, village, or township under subsection (6)
5 or retained by a foreclosing governmental unit under subsection
6 (7), all taxes due on the property as of the December 31 following
7 the transfer or retention of the property are canceled effective on
8 that December 31.

9 (12) ~~(13)~~ For property sold under this section, transferred to
10 this 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 under this act or the
18 land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

19 (13) ~~(14)~~ If property foreclosed under section 78k and held by
20 or under the control of a foreclosing governmental unit is a
21 facility as defined under section ~~20101(1)(e)~~ **20101** of the natural
22 resources and environmental protection act, 1994 PA 451, MCL
23 324.20101, prior to the sale or transfer of the property under this
24 section, the property is subject to all of the following:

25 (a) Upon reasonable written notice from the department of
26 environmental quality, the foreclosing governmental unit shall
27 provide access to the department of environmental quality, its

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

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

15 (c) If requested by the department of environmental quality to
 16 protect public health, safety, and welfare or the environment, the
 17 foreclosing governmental unit shall place and record deed
 18 restrictions on the foreclosed property as authorized under chapter
 19 7 of the natural resources and environmental protection act, 1994
 20 PA 451, MCL 324.20101 to ~~324.20519-324.20302.~~

21 (d) The department of environmental quality may place an
 22 environmental lien on the foreclosed property as authorized under
 23 section 20138 of the natural resources and environmental protection
 24 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)(e)-20101~~ 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 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 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 proposes to undertake or is undertaking state-funded response activities at the property.

(c) The department of environmental quality 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.

(15) AS USED IN THIS SECTION:

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

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

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

1 125.2004.

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

5 (i) ALL DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES DUE ON
6 THE PROPERTY. IF A CITY, VILLAGE, OR TOWNSHIP PURCHASES THE
7 PROPERTY, THE MINIMUM BID SHALL NOT INCLUDE ANY TAXES LEVIED BY
8 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
9 FEES DUE ON THOSE TAXES.

10 (ii) THE EXPENSES OF ADMINISTERING THE SALE, INCLUDING ALL
11 PREPARATIONS FOR THE SALE. THE FORECLOSING GOVERNMENTAL UNIT SHALL
12 ESTIMATE THE COST OF PREPARING FOR AND ADMINISTERING THE ANNUAL
13 SALE FOR PURPOSES OF PRORATING THE COST FOR EACH PROPERTY INCLUDED
14 IN THE SALE.

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