

HOUSE BILL No. 5724

December 18, 2009, Introduced by Reps. Leland, LeBlanc, Durhal, Constan, Liss, Kennedy, Lipton, Cushingberry, McDowell, Lahti, Lindberg, Nerat, Smith, Clemente and Womack and referred to the Committee on Intergovernmental and Regional Affairs.

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. **BEGINNING**
21 **JANUARY 1, 2010, A PERSON BIDDING ON PROPERTY LOCATED IN A COUNTY**
22 **WITH A POPULATION GREATER THAN 1,500,000 AS DETERMINED BY THE MOST**
23 **RECENT FEDERAL DECENNIAL CENSUS SHALL SUBMIT AN AFFIDAVIT,**
24 **ATTESTING THAT THE PERSON DOES NOT OWE ANY DELINQUENT TAXES ON ANY**
25 **PROPERTY LOCATED IN THAT COUNTY. IF IT IS DETERMINED THAT A PERSON**
26 **WHO HAS SUBMITTED AN AFFIDAVIT OWES DELINQUENT TAXES ON PROPERTY IN**
27 **THAT COUNTY, THE FORECLOSING GOVERNMENTAL UNIT MAY PLACE A LIS**

1 PENDENS ON THE PROPERTY SOLD TO THAT PERSON UNDER THIS SECTION
2 PURSUANT TO CHAPTER 27 OF THE REVISED JUDICATURE ACT OF 1961, 1961
3 PA 236, MCL 600.2701 TO 600.2735. The foreclosing governmental unit
4 may sell parcels individually or may offer 2 or more parcels for
5 sale as a group. The minimum bid for a group of parcels shall equal
6 the sum of the minimum bid for each parcel included in the group.
7 The foreclosing governmental unit may adopt procedures governing
8 the conduct of the sale and may cancel the sale prior to the
9 issuance of a deed under this subsection if authorized under the
10 procedures. The foreclosing governmental unit may require full
11 payment by cash, certified check, or money order at the close of
12 each day's bidding. Not more than 30 days after the date of a sale
13 under this subsection, the foreclosing governmental unit shall
14 convey the property by deed to the person bidding the highest
15 amount above the minimum bid. The deed shall vest fee simple title
16 to the property in the person bidding the highest amount above the
17 minimum bid, unless the foreclosing governmental unit discovers a
18 defect in the foreclosure of the property under sections 78 to 78/.
19 If this state is the foreclosing governmental unit within a county,
20 the department of natural resources shall conduct the sale of
21 property under this subsection and subsections (4) and (5) on
22 behalf of this state.

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 within 30 days.

9 (5) All property subject to sale under subsection (2) shall be
10 offered for sale at not less than 2 sales conducted as required by
11 subsection (2). The final sale held under subsection (2) shall be
12 held not less than 28 days after the previous sale under subsection
13 (2). At the final sale held under subsection (2), the sale is
14 subject to the requirements of subsection (2), except that the
15 minimum bid shall not be required. However, the foreclosing
16 governmental unit may establish a reasonable opening bid at the
17 sale to recover the cost of the sale of the parcel or parcels.

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

1 or township in which the property is located, except those parcels
2 of property to which the city, village, or township has objected.
3 Property located in both a village and a township may be
4 transferred under this subsection only to a village. The city,
5 village, or township may make the property available under the
6 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
7 any other lawful purpose.

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

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

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

1 (b) All costs of the sale of property for the year shall be
2 paid.

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

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

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

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

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

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

22 (iii) Any costs incurred in administering the foreclosure and
23 disposition of property forfeited for delinquent taxes under this
24 act.

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

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

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

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

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

1 (a) All delinquent taxes, interest, penalties, and fees due on
2 the property. If a city, village, or township purchases the
3 property, the minimum bid shall not include any taxes levied by
4 that city, village, or township and any interest, penalties, or
5 fees due on those taxes.

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

11 (12) For property transferred to this state under subsection
12 (1), a city, village, or township under subsection (6) or retained
13 by a foreclosing governmental unit under subsection (7), all taxes
14 due on the property as of the December 31 following the transfer or
15 retention of the property are canceled effective on that December
16 31.

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

27 (14) If property foreclosed under section 78k and held by or

1 under the control of a foreclosing governmental unit is a facility
2 as defined under section 20101(1)(o) of the natural resources and
3 environmental protection act, 1994 PA 451, MCL 324.20101, prior to
4 the sale or transfer of the property under this section, the
5 property is subject to all of the following:

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

16 (b) If requested by the department of environmental quality to
17 protect public health, safety, and welfare or the environment, the
18 foreclosing governmental unit shall grant an easement for access to
19 conduct response activities on the foreclosed property as
20 authorized under chapter 7 of the natural resources and
21 environmental protection act, 1994 PA 451, MCL 324.20101 to
22 324.20519.

23 (c) If requested by the department of environmental quality to
24 protect public health, safety, and welfare or the environment, the
25 foreclosing governmental unit shall place and record deed
26 restrictions on the foreclosed property as authorized under chapter
27 7 of the natural resources and environmental protection act, 1994

1 PA 451, MCL 324.20101 to 324.20519.

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

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

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

20 (b) The department of environmental quality proposes to
21 undertake or is undertaking state-funded response activities at the
22 property.

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