

HOUSE BILL No. 5034

October 1, 2013, Introduced by Reps. Cavanagh, Stallworth, Heise, Nathan, Kandrevas and Kowall and referred to the Committee on Tax Policy.

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 78l. 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.

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

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

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

1 subsection (2). The final sale held under subsection (2) shall be
2 held not less than 28 days after the previous sale under subsection
3 (2). At the final sale held under subsection (2), the sale is
4 subject to the requirements of subsection (2), except that the
5 minimum bid shall not be required. However, the foreclosing
6 governmental unit may establish a reasonable opening bid at the
7 sale to recover the cost of the sale of the parcel or parcels. **IN**
8 **ADDITION, FOR PROPERTY THAT WILL NOT BE THE PRINCIPAL RESIDENCE OF**
9 **THE PURCHASER, THE PURCHASER SHALL PAY AN AMOUNT EQUAL TO THE TOTAL**
10 **ESTIMATED DOLLAR AMOUNT FOR ALL TAXES AND SPECIAL ASSESSMENTS THAT**
11 **WILL BE LEVIED ON THE PROPERTY IN THE IMMEDIATELY SUCCEEDING 3-YEAR**
12 **PERIOD. THE FORECLOSING GOVERNMENTAL UNIT SHALL DETERMINE THE**
13 **AMOUNT TO BE PAID. THE AMOUNT PAID SHALL BE DEPOSITED INTO AN**
14 **ESCROW ACCOUNT MAINTAINED BY THE FORECLOSING GOVERNMENTAL UNIT, TO**
15 **THE CREDIT OF THE PROPERTY PURCHASED. THE AMOUNT DEPOSITED INTO THE**
16 **ESCROW ACCOUNT SHALL BE USED TO PAY ANY TAX OR SPECIAL ASSESSMENT**
17 **LEVIED IN THE IMMEDIATELY SUCCEEDING 3-YEAR PERIOD AFTER THE SALE.**
18 **AS USED IN THIS SUBSECTION, "PRINCIPAL RESIDENCE" MEANS PROPERTY**
19 **EXEMPT AS A PRINCIPAL RESIDENCE UNDER SECTION 7CC.**

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

1 all property not previously sold by the foreclosing governmental
2 unit under this section shall be transferred to the city, village,
3 or township in which the property is located, except those parcels
4 of property to which the city, village, or township has objected.
5 Property located in both a village and a township may be
6 transferred under this subsection only to a village. The city,
7 village, or township may make the property available under the
8 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
9 any other lawful purpose.

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

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

27 (a) The delinquent tax revolving fund shall be reimbursed for

1 all taxes, interest, and fees on all of the property, whether or
2 not all of the property was sold.

3 (b) All costs of the sale of property for the year shall be
4 paid.

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

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

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

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

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

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

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

27 (g) If the foreclosing governmental unit is this state, any

1 remaining balance shall be transferred to the land reutilization
2 fund created under section 78n.

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

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

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

26 (11) As used in this section, "minimum bid" is the minimum
27 amount established by the foreclosing governmental unit for which

1 property may be sold under this section. The minimum bid shall
2 include all of the following:

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

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

13 (C) FOR PROPERTY THAT WILL NOT BE THE PRINCIPAL RESIDENCE OF
14 THE PURCHASER, AN AMOUNT EQUAL TO THE TOTAL ESTIMATED DOLLAR AMOUNT
15 FOR ALL TAXES AND SPECIAL ASSESSMENTS THAT WILL BE LEVIED ON THE
16 PROPERTY IN THE IMMEDIATELY SUCCEEDING 3-YEAR PERIOD. THE
17 FORECLOSING GOVERNMENTAL UNIT SHALL DETERMINE THE AMOUNT TO BE PAID
18 UNDER THIS SUBDIVISION. THE AMOUNT PAID UNDER THIS SUBDIVISION
19 SHALL BE DEPOSITED INTO AN ESCROW ACCOUNT MAINTAINED BY THE
20 FORECLOSING GOVERNMENTAL UNIT, TO THE CREDIT OF THE PROPERTY
21 PURCHASED. THE AMOUNT DEPOSITED INTO THE ESCROW ACCOUNT SHALL BE
22 USED TO PAY ANY TAX OR SPECIAL ASSESSMENT LEVIED IN THE IMMEDIATELY
23 SUCCEEDING 3-YEAR PERIOD AFTER THE SALE. AS USED IN THIS
24 SUBDIVISION, "PRINCIPAL RESIDENCE" MEANS PROPERTY EXEMPT AS A
25 PRINCIPAL RESIDENCE UNDER SECTION 7CC.

26 (12) For property transferred to this state under subsection
27 (1), a city, village, or township under subsection (6) or retained

1 by a foreclosing governmental unit under subsection (7), all taxes
2 due on the property as of the December 31 following the transfer or
3 retention of the property are canceled effective on that December
4 31.

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

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

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

1 by electronic mail or facsimile, if the foreclosing governmental
2 unit consents to notice by electronic mail or facsimile prior to
3 the provision of notice by the department of environmental quality.

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

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

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

21 (15) If property foreclosed under section 78k and held by or
22 under the control of a foreclosing governmental unit is a facility
23 as defined under section ~~20101(1)(e)-20101~~ of the natural resources
24 and environmental protection act, 1994 PA 451, MCL 324.20101, prior
25 to the sale or transfer of the property under this section, the
26 department of environmental quality shall request and the
27 foreclosing governmental unit shall transfer the property to the

1 state land bank fast track authority created under section 15 of
2 the land bank fast track act, 2003 PA 258, MCL 124.765, if all of
3 the following apply:

4 (a) The department of environmental quality determines that
5 conditions at a foreclosed property are an acute threat to the
6 public health, safety, and welfare, to the environment, or to other
7 property.

8 (b) The department of environmental quality proposes to
9 undertake or is undertaking state-funded response activities at the
10 property.

11 (c) The department of environmental quality determines that
12 the sale, retention, or transfer of the property other than under
13 this subsection would interfere with response activities by the
14 department of environmental quality.