

HOUSE BILL No. 5083

October 16, 2013, Introduced by Rep. Rutledge and referred to the Committee on Local Government.

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.

14 (3) For sales held under subsection (2), after the conclusion
15 of that sale, and prior to any additional sale held under
16 subsection (2), a city, village, or township may purchase any
17 property not previously sold under subsection (1) or (2) by paying
18 the minimum bid to the foreclosing governmental unit. If a city,
19 village, or township does not purchase that property, the county in
20 which that property is located may purchase that property under
21 this section by payment to the foreclosing governmental unit of the
22 minimum bid. **IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY DOES NOT**
23 **PURCHASE THAT PROPERTY, THAT PROPERTY MAY BE TRANSFERRED TO A LAND**
24 **BANK FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND**
25 **BANK FAST TRACK ACT, 2003 PA 258, MCL 124.773, IF THAT PROPERTY IS**
26 **ELIGIBLE PROPERTY AND THAT LAND BANK FAST TRACK AUTHORITY SUBMITS A**
27 **WRITTEN REQUEST FOR THE TRANSFER OF THAT PROPERTY. IF A LAND BANK**

1 FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND BANK
2 FAST TRACK ACT, 2003 PA 258, MCL 124.773, DOES NOT SUBMIT A WRITTEN
3 REQUEST FOR THE TRANSFER OF THAT PROPERTY, THAT PROPERTY MAY BE
4 TRANSFERRED TO A LAND BANK FAST TRACK AUTHORITY CREATED UNDER
5 SECTION 23(4) OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL
6 124.773, IF THAT PROPERTY IS ELIGIBLE PROPERTY AND THAT LAND BANK
7 FAST TRACK AUTHORITY SUBMITS A WRITTEN REQUEST FOR THE TRANSFER OF
8 THAT PROPERTY. IF A LAND BANK FAST TRACK AUTHORITY CREATED UNDER
9 SECTION 23(4) OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL
10 124.773, DOES NOT SUBMIT A WRITTEN REQUEST FOR THE TRANSFER OF THAT
11 PROPERTY, THAT PROPERTY MAY BE TRANSFERRED TO A LAND BANK FAST
12 TRACK AUTHORITY CREATED UNDER SECTION 15 OF THE LAND BANK FAST
13 TRACK ACT, 2003 PA 258, MCL 124.765, IF THAT PROPERTY IS ELIGIBLE
14 PROPERTY AND THAT LAND BANK FAST TRACK AUTHORITY SUBMITS A WRITTEN
15 REQUEST FOR THE TRANSFER OF THAT PROPERTY. THE PROPERTY MAY BE
16 TRANSFERRED TO A LAND BANK FAST TRACK AUTHORITY UPON PAYMENT OF THE
17 MINIMUM BID.

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

22 (5) All property subject to sale under subsection (2) shall be
23 offered for sale at not less than 2 sales conducted as required by
24 subsection (2). The final sale held under subsection (2) shall be
25 held not less than 28 days after the previous sale under subsection
26 (2). At the final sale held under subsection (2), the sale is
27 subject to the requirements of subsection (2), except that the

1 minimum bid shall not be required. However, the foreclosing
2 governmental unit may establish a reasonable opening bid at the
3 sale to recover the cost of the sale of the parcel or parcels.

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

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

~~bank fast track act, 2003 PA 258, MCL 124.765.~~

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

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

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

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

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

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

(f) If the foreclosing governmental unit is not this state,

1 any of the following:

2 (i) Any costs for the sale of property or foreclosure
3 proceedings for any subsequent year that are not paid or reimbursed
4 from that subsequent year's delinquent tax property sales proceeds
5 shall be paid from any remaining balance in any prior year's
6 delinquent tax property sales proceeds account.

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

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

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

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

24 (9) Two or more county treasurers of adjacent counties may
25 elect to hold a joint sale of property as provided in this section.
26 If 2 or more county treasurers elect to hold a joint sale, property
27 may be sold under this section at a location outside of the county

1 in which the property is located. The sale may be conducted by any
 2 county treasurer participating in the joint sale. A joint sale held
 3 under this subsection may include or be an auction sale conducted
 4 via an internet website.

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

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

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

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

24 (11) ~~(12)~~ For property transferred to this state under
 25 subsection (1), **A LAND BANK FAST TRACK AUTHORITY UNDER SUBSECTION**
 26 **(3), OR** a city, village, or township under subsection (6) or
 27 retained by a foreclosing governmental unit under subsection (7),

1 all taxes due on the property as of the December 31 following the
 2 transfer or retention of the property are canceled effective on
 3 that December 31.

4 (12) ~~(13)~~—For property sold under this section, transferred to
 5 this state under subsection (1), **A LAND BANK FAST TRACK AUTHORITY**
 6 **UNDER SUBSECTION (3)**, a city, village, or township under subsection
 7 (6), or retained by a foreclosing governmental unit under
 8 subsection (7), all liens for costs of demolition, safety repairs,
 9 debris removal, or sewer or water charges due on the property as of
 10 the December 31 immediately succeeding the sale, transfer, or
 11 retention of the property are canceled effective on that December
 12 31. This subsection does not apply to liens recorded by the
 13 department of environmental quality under this act or the land bank
 14 fast track act, 2003 PA 258, MCL 124.751 to 124.774.

15 (13) ~~(14)~~—If property foreclosed under section 78k and held by
 16 or under the control of a foreclosing governmental unit is a
 17 facility as defined under section ~~20101(1)(e)~~ **20101** of the natural
 18 resources and environmental protection act, 1994 PA 451, MCL
 19 324.20101, prior to the sale or transfer of the property under this
 20 section, the 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 (14) ~~(15)~~ If property foreclosed under section 78k and held by
22 or under the control of a foreclosing governmental unit is a
23 facility as defined under section ~~20101(1)(e)~~ **20101** of the natural
24 resources and environmental protection act, 1994 PA 451, MCL
25 324.20101, prior to the sale or transfer of the property under this
26 section, the department of environmental quality shall request and
27 the foreclosing governmental unit shall transfer the property to

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

15 **(15) AS USED IN THIS SECTION:**

16 **(A) "BLIGHTED PROPERTY" MEANS PROPERTY THAT MEETS ANY OF THE**
17 **FOLLOWING CRITERIA:**

18 **(i) THE PROPERTY HAS BEEN DECLARED A PUBLIC NUISANCE IN**
19 **ACCORDANCE WITH A LOCAL HOUSING, BUILDING, PLUMBING, FIRE, OR OTHER**
20 **RELATED CODE OR ORDINANCE.**

21 **(ii) THE PROPERTY IS AN ATTRACTIVE NUISANCE BECAUSE OF PHYSICAL**
22 **CONDITION OR USE.**

23 **(iii) THE PROPERTY IS A FIRE HAZARD OR IS OTHERWISE DANGEROUS TO**
24 **THE SAFETY OF PERSONS OR PROPERTY.**

25 **(iv) THE PROPERTY HAS HAD THE UTILITIES, PLUMBING, HEATING, OR**
26 **SEWERAGE DISCONNECTED, DESTROYED, REMOVED, OR RENDERED INEFFECTIVE**
27 **FOR A PERIOD OF 1 YEAR OR MORE SO THAT THE PROPERTY IS UNFIT FOR**

1 ITS INTENDED USE.

2 (v) THE PROPERTY IS IMPROVED REAL PROPERTY THAT HAS REMAINED
3 VACANT FOR 5 CONSECUTIVE YEARS AND THAT IS NOT MAINTAINED IN
4 ACCORDANCE WITH APPLICABLE LOCAL HOUSING OR PROPERTY MAINTENANCE
5 CODES OR ORDINANCES.

6 (vi) THE PROPERTY HAS CODE VIOLATIONS POSING A SEVERE AND
7 IMMEDIATE HEALTH OR SAFETY THREAT AND HAS NOT BEEN SUBSTANTIALLY
8 REHABILITATED WITHIN 1 YEAR AFTER THE RECEIPT OF NOTICE TO
9 REHABILITATE FROM THE APPROPRIATE CODE ENFORCEMENT AGENCY OR FINAL
10 DETERMINATION OF ANY APPEAL, WHICHEVER IS LATER.

11 (B) "ELIGIBLE PROPERTY" MEANS PROPERTY THAT MEETS 1 OR MORE OF
12 THE FOLLOWING CONDITIONS:

13 (i) IS BLIGHTED PROPERTY.

14 (ii) HAS PREVIOUSLY BEEN SUBJECT TO FORFEITURE, FORECLOSURE,
15 AND SALE FOR DELINQUENT TAXES UNDER THIS ACT AT ANY TIME DURING THE
16 IMMEDIATELY PRECEDING 5 YEARS.

17 (C) "LAND BANK FAST TRACK AUTHORITY" MEANS A LAND BANK FAST
18 TRACK AUTHORITY CREATED UNDER THE LAND BANK FAST TRACK ACT, 2003 PA
19 258, MCL 124.751 TO 124.774.

20 (D) "MINIMUM BID" IS THE MINIMUM AMOUNT ESTABLISHED BY THE
21 FORECLOSING GOVERNMENTAL UNIT FOR WHICH PROPERTY MAY BE SOLD UNDER
22 THIS SECTION. THE MINIMUM BID SHALL INCLUDE ALL OF THE FOLLOWING:

23 (i) ALL DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES DUE ON
24 THE PROPERTY. IF A CITY, VILLAGE, OR TOWNSHIP PURCHASES THE
25 PROPERTY, THE MINIMUM BID SHALL NOT INCLUDE ANY TAXES LEVIED BY
26 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
27 FEES DUE ON THOSE TAXES.

1 (ii) THE EXPENSES OF ADMINISTERING THE SALE, INCLUDING ALL
2 PREPARATIONS FOR THE SALE. THE FORECLOSING GOVERNMENTAL UNIT SHALL
3 ESTIMATE THE COST OF PREPARING FOR AND ADMINISTERING THE ANNUAL
4 SALE FOR PURPOSES OF PRORATING THE COST FOR EACH PROPERTY INCLUDED
5 IN THE SALE.

6 (E) "PUBLIC PURPOSE" MEANS USE AS A PARK, A MUSEUM, AN OPEN
7 SPACE AVAILABLE TO THE PUBLIC, A PUBLIC UTILITY, OR PUBLIC
8 INFRASTRUCTURE.