

SENATE BILL No. 640

October 23, 2013, Introduced by Senators BOOHER and HUNTER and referred to the Committee on Finance.

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
11 within that city, village, or township set forth in the judgment

1 and subject to sale under this section by payment to the
2 foreclosing governmental unit of the minimum bid. If a city,
3 village, or township does not purchase that property, the county in
4 which that property is located may purchase that property under
5 this section by payment to the foreclosing governmental unit of the
6 minimum bid. **IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY DOES NOT**
7 **PURCHASE THAT PROPERTY, THAT PROPERTY MAY BE PURCHASED BY A LAND**
8 **BANK FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND**
9 **BANK FAST TRACK ACT, 2003 PA 258, MCL 124.773, BY PAYING THE**
10 **MINIMUM BID TO THE FORECLOSING GOVERNMENTAL UNIT. IF A LAND BANK**
11 **FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND BANK**
12 **FAST TRACK ACT, 2003 PA 258, MCL 124.773, DOES NOT PURCHASE THAT**
13 **PROPERTY, THAT PROPERTY MAY BE PURCHASED BY A LAND BANK FAST TRACK**
14 **AUTHORITY CREATED UNDER SECTION 23(4) OF THE LAND BANK FAST TRACK**
15 **ACT, 2003 PA 258, MCL 124.773, BY PAYING THE MINIMUM BID TO THE**
16 **FORECLOSING GOVERNMENTAL UNIT. IF A LAND BANK FAST TRACK AUTHORITY**
17 **CREATED UNDER SECTION 23(4) OF THE LAND BANK FAST TRACK ACT, 2003**
18 **PA 258, MCL 124.773, DOES NOT PURCHASE THAT PROPERTY, THAT PROPERTY**
19 **MAY BE PURCHASED BY A LAND BANK FAST TRACK AUTHORITY CREATED UNDER**
20 **SECTION 15 OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL**
21 **124.765, BY PAYING THE MINIMUM BID TO THE FORECLOSING GOVERNMENTAL**
22 **UNIT.** If property is purchased by a city, village, township, ~~or~~
23 county, **OR LAND BANK FAST TRACK AUTHORITY** under this subsection,
24 the foreclosing governmental unit shall convey the property to the
25 purchasing city, village, township, ~~or~~ county, **OR LAND BANK FAST**
26 **TRACK AUTHORITY** within 30 days. If property purchased by a city,
27 village, township, ~~or~~ county, **OR LAND BANK FAST TRACK AUTHORITY**

1 under this subsection is subsequently sold for an amount in excess
 2 of the minimum bid and all costs incurred relating to demolition,
 3 renovation, improvements, or infrastructure development, the excess
 4 amount shall be returned to the delinquent tax property sales
 5 proceeds account for the year in which the property was purchased
 6 by the city, village, township, ~~or~~-county, **OR LAND BANK FAST TRACK**
 7 **AUTHORITY** or, if this state is the foreclosing governmental unit
 8 within a county, to the land reutilization fund created under
 9 section 78n. Upon the request of the foreclosing governmental unit,
 10 a city, village, township, ~~or~~-county, **OR LAND BANK FAST TRACK**
 11 **AUTHORITY** that purchased property under this subsection shall
 12 provide to the foreclosing governmental unit without cost
 13 information regarding any subsequent sale or transfer of the
 14 property. This subsection applies to the purchase of property by
 15 this state, a city, village, ~~or~~-township, ~~or~~-a-county, **OR LAND BANK**
 16 **FAST TRACK AUTHORITY** prior to a sale held under subsection (2).

17 (2) Subject to subsection (1), beginning on the third Tuesday
 18 in July immediately succeeding the entry of the judgment under
 19 section 78k vesting absolute title to tax delinquent property in
 20 the foreclosing governmental unit and ending on the immediately
 21 succeeding first Tuesday in November, the foreclosing governmental
 22 unit, or its authorized agent, at the option of the foreclosing
 23 governmental unit, shall hold ~~at least 2-1~~ **OR MORE** property sales
 24 at 1 or more convenient locations at which property foreclosed by
 25 the judgment entered under section 78k shall be sold by auction
 26 sale, which may include an auction sale conducted via an internet
 27 website. Notice of the time and location of the sales shall be

1 published not less than 30 days before each sale in a newspaper
2 published and circulated in the county in which the property is
3 located, if there is one. If no newspaper is published in that
4 county, publication shall be made in a newspaper published and
5 circulated in an adjoining county. Each sale shall be completed
6 before the first Tuesday in November immediately succeeding the
7 entry of judgment under section 78k vesting absolute title to the
8 tax delinquent property in the foreclosing governmental unit.
9 Except as provided in subsection (5), property shall be sold to the
10 person bidding the highest amount above the minimum bid. The
11 foreclosing governmental unit may sell parcels individually or may
12 offer 2 or more parcels for sale as a group. The minimum bid for a
13 group of parcels shall equal the sum of the minimum bid for each
14 parcel included in the group. The foreclosing governmental unit may
15 adopt procedures governing the conduct of the sale and may cancel
16 the sale prior to the issuance of a deed under this subsection if
17 authorized under the procedures. The foreclosing governmental unit
18 may require full payment by cash, certified check, or money order
19 at the close of each day's bidding. Not more than 30 days after the
20 date of a sale under this subsection, the foreclosing governmental
21 unit shall convey the property by deed to the person bidding the
22 highest amount above the minimum bid. The deed shall vest fee
23 simple title to the property in the person bidding the highest
24 amount above the minimum bid, unless the foreclosing governmental
25 unit discovers a defect in the foreclosure of the property under
26 sections 78 to 78l. If this state is the foreclosing governmental
27 unit within a county, the department of natural resources shall

1 conduct the sale of property under this subsection and subsections
2 (4) and (5) on behalf of this state.

3 (3) For sales held under subsection (2), after the conclusion
4 of that sale, and prior to any additional sale held under
5 subsection (2), a city, village, or township may purchase any
6 property not previously sold under subsection (1) or (2) by paying
7 the minimum bid to the foreclosing governmental unit. If a city,
8 village, or township does not purchase that property, the county in
9 which that property is located may purchase that property under
10 this section by payment to the foreclosing governmental unit of the
11 minimum bid.

12 (4) If property is purchased by a city, village, township, or
13 county under subsection (3), the foreclosing governmental unit
14 shall convey the property to the purchasing city, village, or
15 township within 30 days.

16 (5) All property subject to sale under subsection (2) shall be
17 offered for sale at ~~not less than 2-1~~ **OR MORE** sales conducted as
18 required by subsection (2). ~~The~~ **IF THE FORECLOSING GOVERNMENTAL**
19 **UNIT ELECTS TO HOLD MORE THAN 1 SALE UNDER SUBSECTION (2), THE**
20 final sale held under subsection (2) shall be held not less than 28
21 days after the ~~previous~~ **IMMEDIATELY PRECEDING** sale under subsection
22 (2). ~~At~~ **IF THE FORECLOSING GOVERNMENTAL UNIT ELECTS TO HOLD MORE**
23 **THAN 1 SALE UNDER SUBSECTION (2), AT** the final sale held under
24 subsection (2), the sale is subject to the requirements of
25 subsection (2), except that the minimum bid shall not be required.
26 However, the foreclosing governmental unit may establish a
27 reasonable opening bid at the sale to recover the cost of the sale

1 of the parcel or parcels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 county treasurer participating in the joint sale. A joint sale held
 2 under this subsection may include or be an auction sale conducted
 3 via an internet website.

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

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

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

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

23 (11) ~~(12)~~ For property transferred to this state under
 24 subsection (1), **A LAND BANK FAST TRACK AUTHORITY UNDER SUBSECTION**
 25 **(1), OR** a city, village, or township under subsection (6) or
 26 retained by a foreclosing governmental unit under subsection (7),
 27 all taxes due on the property as of the December 31 following the

1 transfer or retention of the property are canceled effective on
2 that December 31.

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

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~~, **NATURAL RESOURCES**, the foreclosing
23 governmental unit shall provide access to the department of
24 ~~environmental quality~~, **NATURAL RESOURCES**, its employees,
25 contractors, and any other person expressly authorized by the
26 department of ~~environmental quality~~ **NATURAL RESOURCES** to conduct
27 response activities at the foreclosed property. Reasonable written

1 notice under this subdivision may include, but is not limited to,
 2 notice by electronic mail or facsimile, if the foreclosing
 3 governmental unit consents to notice by electronic mail or
 4 facsimile prior to the provision of notice by the department of
 5 ~~environmental quality~~. **NATURAL RESOURCES.**

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

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

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

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

1 section, the department of ~~environmental quality~~ **NATURAL RESOURCES**
2 shall request and the foreclosing governmental unit shall transfer
3 the property to the state land bank fast track authority created
4 under section 15 of the land bank fast track act, 2003 PA 258, MCL
5 124.765, if all of the following apply:

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

10 (b) The department of ~~environmental quality~~ **NATURAL RESOURCES**
11 proposes to undertake or is undertaking state-funded response
12 activities at the property.

13 (c) The department of ~~environmental quality~~ **NATURAL RESOURCES**
14 determines that the sale, retention, or transfer of the property
15 other than under this subsection would interfere with response
16 activities by the department of ~~environmental quality~~ **NATURAL**
17 **RESOURCES.**

18 (15) AS USED IN THIS SECTION:

19 (A) "LAND BANK FAST TRACK AUTHORITY" MEANS A LAND BANK FAST
20 TRACK AUTHORITY CREATED UNDER THE LAND BANK FAST TRACK ACT, 2003 PA
21 258, MCL 124.751 TO 124.774.

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

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

1 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
2 FEES DUE ON THOSE TAXES.

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

8 Enacting section 1. This amendatory act does not take effect
9 unless Senate Bill No. 295 of the 97th Legislature is enacted into
10 law.