

HOUSE BILL No. 5375

February 16, 2016, Introduced by Rep. Chatfield 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 2014 PA 501.

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 property is purchased by a city, village, township,
7 or county under this subsection, the foreclosing governmental unit
8 shall convey the property to the purchasing city, village,
9 township, or county within 30 days. **A CITY, VILLAGE, TOWNSHIP, OR**
10 **COUNTY THAT PURCHASES PROPERTY UNDER THIS SUBSECTION SHALL NOT**
11 **TRANSFER THAT PROPERTY, OR PARTICIPATE IN ANY TRANSACTION OR SERIES**
12 **OF TRANSACTIONS THAT RESULTS IN A TRANSFER OF THAT PROPERTY, TO ANY**
13 **AUTHORITY, AS THAT TERM IS DEFINED IN SECTION 3(A) OF THE LAND BANK**
14 **FAST TRACK ACT, 2003 PA 258, MCL 124.753, UNLESS THAT CITY,**
15 **VILLAGE, TOWNSHIP, OR COUNTY PREVIOUSLY MADE THAT PROPERTY**
16 **AVAILABLE FOR PURCHASE AT A SALE CONDUCTED UNDER SUBSECTION (2),**
17 **OTHER THAN A FINAL SALE AS DESCRIBED IN SUBSECTION (5).** If property
18 purchased by a city, village, township, or county under this
19 subsection is subsequently sold for an amount in excess of the
20 minimum bid and all costs incurred relating to demolition,
21 renovation, improvements, or infrastructure development, the excess
22 amount shall be returned to the delinquent tax property sales
23 proceeds account for the year in which the property was purchased
24 by the city, village, township, or county or, if this state is the
25 foreclosing governmental unit within a county, to the land
26 reutilization fund created under section 78n. Upon the request of
27 the foreclosing governmental unit, a city, village, township, or

1 county that purchased property under this subsection shall provide
2 to the foreclosing governmental unit without cost information
3 regarding any subsequent sale or transfer of the property. This
4 subsection applies to the purchase of property by this state, a
5 city, village, or township, or a county prior to a sale held under
6 subsection (2).

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

1 bid, the highest amount above the minimum bid. The foreclosing
2 governmental unit may sell parcels individually or may offer 2 or
3 more parcels for sale as a group. The minimum bid for a group of
4 parcels shall equal the sum of the minimum bid for each parcel
5 included in the group. The foreclosing governmental unit may adopt
6 procedures governing the conduct of the sale and the conveyance of
7 parcels under this section and may cancel the sale prior to the
8 issuance of a deed under this subsection if authorized under the
9 procedures. The foreclosing governmental unit shall require full
10 payment at the close of each day's bidding or by a date not more
11 than 21 days after the sale. Before the foreclosing governmental
12 unit conveys a parcel sold at a sale, the purchaser shall provide
13 the foreclosing governmental unit with proof of payment to the
14 local tax collecting unit in which the property is located of any
15 property taxes owed on the parcel at the time of the sale. A
16 foreclosing governmental unit shall cancel a sale if unpaid
17 property taxes owed on a parcel or parcels at the time of a sale
18 are not paid within 21 days of the sale. If a sale is canceled
19 under this subsection, the foreclosing governmental unit may offer
20 the property to the next highest bidder and convey the property to
21 that bidder under this subsection, subject to the requirements of
22 this subsection for the highest bidder. Not more than 14 days after
23 payment to the foreclosing governmental unit of all amounts
24 required by the highest bidder or the next highest bidder under
25 this subsection, the foreclosing governmental unit shall convey the
26 property by deed to the person bidding the minimum bid, or if a bid
27 is greater than the minimum bid, the highest amount above the

1 minimum bid, or the next highest bidder if the sale to the highest
2 bidder is canceled and the next highest bidder pays the amount
3 required under this section to purchase the property. The deed
4 shall vest fee simple title to the property in the person bidding
5 the highest amount above the minimum bid, unless the foreclosing
6 governmental unit discovers a defect in the foreclosure of the
7 property under sections 78 to 78/ or the sale is canceled under
8 this subsection or subsection (5). If this state is the foreclosing
9 governmental unit within a county, the department of treasury shall
10 be responsible for conducting the sale of property under this
11 subsection and subsections (4) and (5) on behalf of this state.
12 Before issuing a deed to a person purchasing property under this
13 subsection or subsection (5), the foreclosing governmental unit
14 shall require the person to execute and file with the foreclosing
15 governmental unit an affidavit under penalty of perjury. If the
16 person fails to execute and file the affidavit required by this
17 subsection by the date payment for the property is required under
18 this section, the foreclosing governmental unit shall cancel the
19 sale. An affidavit under this section shall indicate that the
20 person meets all of the following conditions:

21 (a) The person does not directly or indirectly hold more than
22 a de minimis legal interest in any property with delinquent
23 property taxes located in the same county as the property.

24 (b) The person is not directly or indirectly responsible for
25 any unpaid civil fines for a violation of an ordinance authorized
26 by section 4/ of the home rule city act, 1909 PA 279, MCL 117.4/,
27 in the local tax ~~collection~~-**COLLECTING** unit in which the property

1 is located.

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

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

15 (5) All property subject to sale under subsection (2) shall be
16 offered for sale at 1 or more sales conducted as required by
17 subsection (2). If the foreclosing governmental unit elects to hold
18 more than 1 sale under subsection (2), the final sale held under
19 subsection (2) shall be held not less than 28 days after the
20 immediately preceding sale under subsection (2). At the final sale
21 held under subsection (2), the sale is subject to the requirements
22 of subsection (2), except that the minimum bid shall not be
23 required. However, the foreclosing governmental unit may establish
24 a reasonable opening bid at the sale to recover the cost of the
25 sale of the parcel or parcels, and the foreclosing governmental
26 unit shall require a person who held an interest in property sold
27 under this subsection at the time a judgment of foreclosure was

1 entered against the property under section 78k to pay the minimum
2 bid for the property before issuing a deed to the person under
3 subsection (2). If the person fails to pay the minimum bid for the
4 property and other amounts by the date required under this section,
5 the foreclosing governmental unit shall cancel the sale of the
6 property.

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

24 (7) If property not previously sold is not transferred to the
25 city, village, or township in which the property is located under
26 subsection (6), the foreclosing governmental unit shall retain
27 possession of that property. If the foreclosing governmental unit

1 retains possession of the property and the foreclosing governmental
2 unit is this state, title to the property shall vest in the land
3 bank fast track authority created under section 15 of the land bank
4 fast track act, 2003 PA 258, MCL 124.765.

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

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

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

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

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

26 (e) Any costs incurred by the foreclosing governmental unit in
27 maintaining property foreclosed under section 78k before the sale

1 under this section shall be paid, including costs of any
2 environmental remediation.

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

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

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

11 (iii) Any costs incurred in administering the foreclosure and
12 disposition of property forfeited for delinquent taxes under this
13 act.

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

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

27 (9) Two or more county treasurers of adjacent counties may

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

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

13 (11) For property transferred to this state under subsection
14 (1), a city, village, or township under subsection (6) or retained
15 by a foreclosing governmental unit under subsection (7), all taxes
16 due on the property as of the December 31 following the transfer or
17 retention of the property are canceled effective on that December
18 31.

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

1 land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

2 (13) If property foreclosed under section 78k and held by or
3 under the control of a foreclosing governmental unit is a facility
4 as defined under section 20101 of the natural resources and
5 environmental protection act, 1994 PA 451, MCL 324.20101, prior to
6 the sale or transfer of the property under this section, the
7 property is subject to all of the following:

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

18 (b) If requested by the department of environmental quality to
19 protect public health, safety, and welfare or the environment, the
20 foreclosing governmental unit shall grant an easement for access to
21 conduct response activities on the foreclosed property as
22 authorized under chapter 7 of the natural resources and
23 environmental protection act, 1994 PA 451, MCL 324.20101 to
24 324.20302.

25 (c) If requested by the department of environmental quality to
26 protect public health, safety, and welfare or the environment, the
27 foreclosing governmental unit shall place and record deed

1 restrictions on the foreclosed property as authorized under chapter
2 7 of the natural resources and environmental protection act, 1994
3 PA 451, MCL 324.20101 to 324.20302.

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

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

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

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

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

1 department of environmental quality.

2 (15) A person convicted for executing a false affidavit under
3 subsection (2) **FOR A PURCHASE UNDER SUBSECTION (2) OR** (5) shall be
4 prohibited from bidding for a property or purchasing a property at
5 any sale under this section.

6 (16) As used in this section:

7 (a) "Minimum bid" is the minimum amount established by the
8 foreclosing governmental unit for which property may be sold under
9 this section. The minimum bid shall include all of the following:

10 (i) All delinquent taxes, interest, penalties, and fees due on
11 the property. If a city, village, or township purchases the
12 property, the minimum bid shall not include any taxes levied by
13 that city, village, or township and any interest, penalties, or
14 fees due on those taxes.

15 (ii) The expenses of administering the sale, including all
16 preparations for the sale. The foreclosing governmental unit shall
17 estimate the cost of preparing for and administering the annual
18 sale for purposes of prorating the cost for each property included
19 in the sale.

20 (b) "Person" means an individual, partnership, corporation,
21 association, or other legal entity.