

SENATE BILL NO. 822

March 05, 2020, Introduced by Senator ALEXANDER 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 2014 PA 501.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 78m. (1) **Before a sale held under subsection (2), all of**
- 2 **the following apply to the purchase of tax delinquent property for**
- 3 **which absolute title has vested in the foreclosing governmental**
- 4 **unit by an entry of judgment under section 78k:**
- 5 **(a)** Not later than the first Tuesday in July ~~7~~—immediately

succeeding the entry of **the** judgment under section 78k, ~~vesting~~
~~absolute title to tax delinquent property in the foreclosing~~
~~governmental unit,~~ **1 of the following:**

(i) As to property subject to the judgment under section 78k
 that is occupied as a principal residence by an individual who had
 been renting the property from its prior owner immediately
 preceding entry of the judgment, that individual is granted a right
 of first refusal to purchase the property at the greater of the
 minimum bid or its fair market value by paying that amount to the
 foreclosing governmental unit pursuant to a negotiated purchase
 agreement with the foreclosing governmental unit. The purchase
 agreement must credit toward the purchase price all rental payments
 made by the individual to the foreclosing governmental unit after
 the entry of judgment under section 78k. Immediately succeeding the
 entry of judgment under section 78k, the foreclosing governmental
 unit shall provide written notice to an individual described in
 this subparagraph of the individual's right of first refusal under
 this subparagraph. The written notice must further explain that the
 individual is no longer obligated to pay rent to the prior owner of
 the property and that future rental payments may be made to the
 foreclosing governmental unit.

(ii) As to property subject to the judgment under section 78k
 that is not purchased under subparagraph **(i)**, this state is granted
 the right, ~~of first refusal~~ **ahead of potential purchasers under**
~~subdivisions (b) and (c)~~, to purchase **the** property at the greater
 of the minimum bid or its fair market value by paying that amount
 to the foreclosing governmental unit if the foreclosing
 governmental unit is not this state.

~~(b) If this state elects not to purchase the~~ **As to property**

subject to the judgment under section 78k that is not purchased
~~under its right of first refusal, subdivision (a),~~ a city, village,
 or township may purchase for a public purpose any property located
 within that city, village, or township ~~set forth in the judgment~~
~~and subject to sale under this section by~~ payment to the
 foreclosing governmental unit of the minimum bid.

(c) If a city, village, or township does not purchase ~~that~~
 property **as described in subdivision (b),** the county in which that
 property is located may purchase that property under this section
 by payment to the foreclosing governmental unit of the minimum bid.

(d) If property is purchased by a city, village, township, or
 county under this subsection, the foreclosing governmental unit
 shall convey the property to the purchasing city, village,
 township, or county within 30 days.

(e) If property purchased by a city, village, township, or
 county under this subsection is subsequently sold for an amount in
 excess of the minimum bid and all costs incurred relating to
 demolition, renovation, improvements, or infrastructure
 development, the excess amount ~~shall~~**must** be returned to the
 delinquent tax property sales proceeds account for the year in
 which the property was purchased by the city, village, township, or
 county or, if this state is the foreclosing governmental unit
 within a county, to the land reutilization fund created under
 section 78n. Upon the request of the foreclosing governmental unit,
 a city, village, township, or county that purchased property under
 this subsection shall provide to the foreclosing governmental unit
~~without~~ cost information regarding any subsequent sale or transfer
 of the property. ~~This subsection applies to the purchase of~~
~~property by this state, a city, village, or township, or a county~~

~~prior to a sale held under subsection (2).~~

(2) Subject to subsection (1), beginning on the third Tuesday in July immediately succeeding the entry of the judgment under section 78k vesting absolute title to tax delinquent property in the foreclosing governmental unit and ending on the immediately succeeding first Tuesday in November, the foreclosing governmental unit, or its authorized agent, at the option of the foreclosing governmental unit, shall hold 1 or more property sales at 1 or more convenient locations at which property foreclosed by the judgment entered under section 78k ~~shall~~**will** be sold by auction sale, which may include an auction sale conducted via an internet website. Notice of the time and location of a sale ~~shall~~**must** be published not less than 30 days before a sale in a newspaper published and circulated in the county in which the property is located, if there is one. If no newspaper is published in that county, publication ~~shall~~**must** be made in a newspaper published and circulated in an adjoining county. Each sale ~~shall~~**must** be completed before the first Tuesday in November immediately succeeding the entry of judgment under section 78k vesting absolute title to the tax delinquent property in the foreclosing governmental unit. Except as provided in this subsection and subsection (5), property ~~shall~~**must** be sold to the person bidding the minimum bid, or if a bid is greater than the minimum bid, the highest amount above the minimum bid. The foreclosing governmental unit may sell parcels individually or may offer 2 or more parcels for sale as a group. The minimum bid for a group of parcels ~~shall~~**must** equal the sum of the minimum bid for each parcel included in the group. The foreclosing governmental unit may adopt procedures governing the conduct of the sale and the conveyance of parcels under this

1 section and may cancel the sale ~~prior to~~ **before** the issuance of a
2 deed under this subsection if authorized under the procedures. The
3 foreclosing governmental unit shall require full payment at the
4 close of each day's bidding or by a date not more than 21 days
5 after the sale. Before the foreclosing governmental unit conveys a
6 parcel sold at a sale, the purchaser shall provide the foreclosing
7 governmental unit with proof of payment to the local tax collecting
8 unit in which the property is located of any property taxes owed on
9 the parcel at the time of the sale. A foreclosing governmental unit
10 shall cancel a sale if unpaid property taxes owed on a parcel or
11 parcels at the time of a sale are not paid within 21 days of the
12 sale. If a sale is canceled under this subsection, the foreclosing
13 governmental unit may offer the property to the next highest bidder
14 and convey the property to that bidder under this subsection,
15 subject to the requirements of this subsection for the highest
16 bidder. Not more than 14 days after payment to the foreclosing
17 governmental unit of all amounts required by the highest bidder or
18 the next highest bidder under this subsection, the foreclosing
19 governmental unit shall convey the property by deed to the person
20 bidding the minimum bid, or if a bid is greater than the minimum
21 bid, the highest amount above the minimum bid, or the next highest
22 bidder if the sale to the highest bidder is canceled and the next
23 highest bidder pays the amount required under this section to
24 purchase the property. The deed ~~shall~~ **must** vest fee simple title to
25 the property in the person bidding the highest amount above the
26 minimum bid, unless the foreclosing governmental unit discovers a
27 defect in the foreclosure of the property under sections 78 to 78/
28 or the sale is canceled under this subsection or subsection (5). If
29 this state is the foreclosing governmental unit within a county,

1 the department of treasury shall be responsible for conducting the
2 sale of property under this subsection and subsections (4) and (5)
3 on behalf of this state. Before issuing a deed to a person
4 purchasing property under this subsection or subsection (5), the
5 foreclosing governmental unit shall require the person to execute
6 and file with the foreclosing governmental unit an affidavit under
7 penalty of perjury. If the person fails to execute and file the
8 affidavit required by this subsection by the date payment for the
9 property is required under this section, the foreclosing
10 governmental unit shall cancel the sale. An affidavit under this
11 section ~~shall~~**must** indicate that the person meets all of the
12 following conditions:

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

16 (b) The person is not directly or indirectly responsible for
17 any unpaid civil fines for a violation of an ordinance authorized
18 by section 41 of the home rule city act, 1909 PA 279, MCL 117.41, in
19 the local tax collection unit in which the property is located.

20 (3) For sales held under subsection (2), after the conclusion
21 of that sale, and ~~prior to~~**before** any additional sale held under
22 subsection (2), a city, village, or township may purchase any
23 property not previously sold under subsection (1) or (2) by paying
24 the minimum bid to the foreclosing governmental unit. If a city,
25 village, or township does not purchase that property, the county in
26 which that property is located may purchase that property under
27 this section by payment to the foreclosing governmental unit of the
28 minimum bid.

29 (4) If property is purchased by a city, village, township, or

1 county under subsection (3), the foreclosing governmental unit
2 shall convey the property to the purchasing city, village,
3 township, or county within 30 days.

4 (5) All property subject to sale under subsection (2) ~~shall~~
5 **must** be offered for sale at 1 or more sales conducted as required
6 by subsection (2). If the foreclosing governmental unit elects to
7 hold more than 1 sale under subsection (2), the final sale held
8 under subsection (2) ~~shall~~**must** be held not less than 28 days after
9 the immediately preceding sale under subsection (2). At the final
10 sale held under subsection (2), the sale is subject to the
11 requirements of subsection (2), except that the minimum bid ~~shall~~
12 **must** not be required. However, the foreclosing governmental unit
13 may establish a reasonable opening bid at the sale to recover the
14 cost of the sale of the parcel or parcels, and the foreclosing
15 governmental unit shall require a person who held an interest in
16 property sold under this subsection at the time a judgment of
17 foreclosure was entered against the property under section 78k to
18 pay the minimum bid for the property before issuing a deed to the
19 person under subsection (2). If the person fails to pay the minimum
20 bid for the property and other amounts by the date required under
21 this section, the foreclosing governmental unit shall cancel the
22 sale of the property.

23 (6) On or before December 1 immediately succeeding the entry
24 of judgment under section 78k, a list of all property not
25 previously sold by the foreclosing governmental unit under this
26 section ~~shall~~**must** be transferred to the clerk of the city,
27 village, or township in which the property is located. The city,
28 village, or township may object in writing to the transfer of 1 or
29 more parcels of property set forth on that list. On or before

1 December 30 immediately succeeding the entry of judgment under
 2 section 78k, all property not previously sold by the foreclosing
 3 governmental unit under this section ~~shall~~**must** be transferred to
 4 the city, village, or township in which the property is located,
 5 except those parcels of property to which the city, village, or
 6 township has objected. Property located in both a village and a
 7 township may be transferred under this subsection only to a
 8 village. The city, village, or township may make the property
 9 available under the urban homestead act, 1999 PA 127, MCL 125.2701
 10 to 125.2709, or for any other lawful purpose.

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

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

29 (a) The delinquent tax revolving fund ~~shall~~**must** be reimbursed

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

3 (b) All costs of the sale of property for the year ~~shall~~**must**
4 be 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~~**must** 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~~**must** 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~~**must** 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~~**must** 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
28 remaining balance ~~shall~~**must** be transferred to the land
29 reutilization 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) For property transferred to this state under subsection
25 (1), a city, village, or township under subsection (6) or retained
26 by a foreclosing governmental unit under subsection (7), all taxes
27 due on the property as of the December 31 following the transfer or
28 retention of the property are canceled effective on that December
29 31.

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

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

(a) Upon reasonable written notice from the department of ~~environmental quality~~ **environment, Great Lakes, and energy**, the foreclosing governmental unit shall provide access to the department of ~~environmental quality~~ **environment, Great Lakes, and energy**, its employees, contractors, and any other person expressly authorized by the department of ~~environmental quality~~ **environment, Great Lakes, and energy** to conduct response activities at the foreclosed property. Reasonable written notice under this subdivision may include, but is not limited to, notice by electronic mail or facsimile, if the foreclosing governmental unit consents to notice by electronic mail or facsimile ~~prior to~~ **before** the provision of notice by the department of ~~environmental~~

~~quality~~**environment, Great Lakes, and energy.**

(b) If requested by the department of ~~environmental quality~~**environment, Great Lakes, and energy** to protect public health, safety, and welfare or the environment, the foreclosing governmental unit shall grant an easement for access to conduct response activities on the foreclosed property as authorized under chapter 7 **of article II** of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

(c) If requested by the department of ~~environmental quality~~**environment, Great Lakes, and energy** to protect public health, safety, and welfare or the environment, the foreclosing governmental unit shall place and record deed restrictions on the foreclosed property as authorized under chapter 7 **of article II** of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

(d) The department of ~~environmental quality~~**environment, Great Lakes, and energy** may place an environmental lien on the foreclosed property as authorized under section 20138 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20138.

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

(a) The department of ~~environmental quality~~**environment, Great Lakes, and energy** determines that conditions at a foreclosed property are an acute threat to the public health, safety, and welfare, to the environment, or to other property.

(b) The department of ~~environmental quality~~**environment, Great Lakes, and energy** proposes to undertake or is undertaking state-funded response activities at the property.

(c) The department of ~~environmental quality~~**environment, Great Lakes, and energy** determines that the sale, retention, or transfer of the property other than under this subsection would interfere with response activities by the department of ~~environmental quality~~**environment, Great Lakes, and energy**.

(15) A person convicted for executing a false affidavit under subsection (5) ~~shall be~~**is** prohibited from bidding for a property or purchasing a property at any sale under this section.

(16) As used in this section:

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

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

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

1 in the sale.

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