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Senate Bill 295 (as introduced 4-10-13)
Senate Bill 640 (as introduced 10-23-13)
Sponsor: Senator Tupac A. Hunter (S.B. 295)
Senator Darwin L. Booher (S.B. 640)
Committee: Banking and Financial Institutions

Date Completed: 2-24-14

CONTENT

Senate Bill 295 would amend Section 78m of the General Property Tax Act (which provides for the sale of foreclosed tax-delinquent property) to do the following:

- Preclude a prospective bidder from bidding on foreclosed property if the person had any unpaid fines for the violation of a local blight or nuisance ordinance.
- Require prospective bidders to register with the foreclosing governmental unit at least 14 days before a sale.
- Require prospective bidders to certify that they did not own property that was subject to a foreclosure judgment in the previous three tax years, or that had been included in a foreclosure petition in the tax year in which the sale was held.
- Require the deed for transferred property to provide for the title to revert to the foreclosing governmental unit if, within five years after the sale, the property were transferred to the person who owned it when the foreclosure judgment was entered.

Senate Bill 640 would amend Section 78m of the General Property Tax Act to:

- Allow a land bank fast track authority to purchase foreclosed tax-delinquent property, if the State and the city, village, township, or county in which the property was located declined to purchase it.
- Require a foreclosing governmental unit to hold at least one sale, rather than a minimum of two sales, of foreclosed tax-delinquent property.
- Require unsold foreclosed property to be transferred to the applicable city, village, or township by December 30 after the foreclosure judgment was entered, rather than by December 30 following the date of sale.

Senate Bill 640 is tie-barred to Senate Bill 295.

Senate Bill 295

Under Section 78m, after judgment in a proceeding for foreclosure of tax-delinquent property is entered vesting absolute title to the property in the foreclosing governmental unit, the State is granted the right of first refusal to purchase the property at the greater of the minimum bid or its fair market value. If the State elects not to purchase the property, a city, village, or township may purchase it for a public purpose by paying the minimum bid to

the foreclosing unit. If the city, village, or township declines to purchase the property, the county in which the property is located may purchase it by paying the minimum bid.

Subject to these provisions, the foreclosing governmental unit must hold at least two sales at which the foreclosed property is to be sold by auction sale. The property must be sold to the person bidding the highest amount above the minimum bid.

Under the bill, a prospective bidder, or any other person or entity acting as an agent for or in concert with the prospective bidder, would not be eligible to bid on the property if the prospective bidder, or any property the prospective bidder owned, had any unpaid fines for the violation of an blight elimination ordinance or a nuisance cessation ordinance of a local tax collecting unit in which the property was located.

The bill would require prospective bidders to register with the foreclosing governmental unit at least 14 days before the start of the sale. Prospective bidders would have to certify under penalty of perjury that they were not a person, were not acting on behalf of a person, or were not under the direction or control of a person who met either of the following conditions:

- Held title to any property or claimed to hold title to any property when the property became subject to a judgment vesting absolute title to that property in the foreclosing governmental unit in the prior three tax years.
- Held title to any property or claimed to hold title to any property that had been included in a foreclosure petition filed in the tax year in which the sale was held under Section 78m.

The foreclosing governmental unit could not accept bids from any person who did not register as required or who met either of the conditions described above. This prohibition, however, would not prevent the foreclosing unit from selling property to a person as otherwise allowed by law after the property vested in the foreclosing unit, as described below.

(By December 1 after the date of the sale, a list of all property not sold by a foreclosing governmental unit must be transferred to the clerk of the city, village, or township where the property is located. By December 30 after the date of the sale, all unsold property must be transferred to the city, village, or township where it is located, except parcels to which the local unit has objected. The city, village, or township may make the property available under the Urban Homestead Act or for any other legal purpose. If the property is not transferred to the city, village, or township, the foreclosing governmental unit must retain possession. If the foreclosing governmental unit is the State, title to the property must vest in the Land Bank Fast Track Authority.)

The Act requires the foreclosing governmental unit to record a deed for any property transferred under Section 78m with the county register of deeds. Under the bill, the deed would have to contain a reverter clause providing that if, within five years after the date of the sale, the property were sold, conveyed, or otherwise transferred to a person who held title to it when the foreclosure judgment was entered, title to the property would revert to the foreclosing governmental unit. The reverter clause would have to be in a form prescribed by the Department of Treasury.

Senate Bill 640

Under the bill, if the State elected not to purchase foreclosed tax-delinquent property under its right of first refusal, and the applicable city, village, township, or county did not purchase the property, a land bank fast track authority created under Section 23(5) of the Land Bank Fast Track Act could purchase the property by paying the minimum bid to the foreclosing

governmental unit. (Under Section 23(5), a qualified city may enter into an intergovernmental agreement with the State Land Bank Fast Track Authority to provide for the exercise of the powers, duties, functions, and responsibilities of a land bank fast track authority.) If the city land bank fast track authority did not purchase the property, it could be purchased by a county land bank fast track authority created under Section 23(4) of that Act. (That section is similar to Section 23(5), but pertains to a county foreclosing governmental unit, rather than a qualified city.) If the county authority did not purchase the property, the State Land Bank Fast Track Authority could purchase it. The bill would include references to foreclosed property purchased by a land bank fast track authority in several provisions regarding the transfer and any subsequent sale of the property.

Section 78m defines "minimum bid" as the minimum amount established by the foreclosing governmental unit for which property may be sold. The minimum bid must include all of the following: all delinquent taxes, interest, penalties, and fees due on the property; and the expenses of administering the sale, including all preparations. The bill would require the foreclosing governmental unit to estimate the cost of preparing for and administering the annual sale for purposes of prorating the cost for each property included in the sale.

As discussed above, if tax-delinquent foreclosed property is not purchased by the State or a city, village, township, or county, the foreclosing governmental unit must hold at least two auction sales. The bill would require the foreclosing governmental unit to hold one or more sales, rather than at least two.

Currently, the final sale must be held at least 28 days after the previous one. At the final sale, a minimum bid may not be required, although the foreclosing unit may establish a reasonable opening bid to recover the cost of the sale of the parcel or parcels. Under the bill, the provisions concerning the final sale would apply only if the foreclosing unit elected to hold more than one sale.

In the provisions regarding the transfer of property not sold by a foreclosing governmental unit, the bill would refer to the December 1 or December 30 following the entry of judgment, rather following the date of the sale.

MCL 211.78m

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would potentially increase local unit revenue by an unknown and likely minimal amount and would reduce the local and State costs of selling tax-delinquent property by an unknown amount.

To the extent that Senate Bill 295 would reduce instances in which taxpayers fail to pay taxes and then repurchase the delinquent properties after they have been foreclosed, and other similar situations, the bill would likely generate additional revenue. To the extent that sale prices were reduced and/or taxes remained unpaid after a foreclosure sale, the impact of the bill would be less.

Senate Bill 640 would tend to reduce the costs of the sale of tax-delinquent property by adding the State Land Bank Fast Track Authority and local land banks to the governmental units that have the opportunity to purchase tax-delinquent property before the public sale. The bill also would reduce the number of required public sales of tax-delinquent property from two to one.

These savings would accrue to counties that are foreclosing governmental units, and in some cases to the State, which serves as the foreclosing governmental unit for 12 counties that did not elect to serve as foreclosing governmental units. The Department of Treasury

carries out the State's functions regarding sale of tax-delinquent property. Also, facilitating the acquisition of property by land banks would have the potential to assist redevelopment projects.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.