

# HOUSE BILL No. 5398

February 14, 2012, Introduced by Reps. Cavanagh, LeBlanc, Geiss, Constan, Stallworth, Durhal, Lipton, Irwin, Ananich, Crawford, Gilbert, Dillon, Rogers, Bledsoe, Brunner, Smiley, Stapleton, Heise, Ouimet and Walsh and referred to the Committee on Tax Policy.

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.

23 (4) If property is purchased by a city, village, township, or  
24 county under subsection (3), the foreclosing governmental unit  
25 shall convey the property to the purchasing city, village, or  
26 township within 30 days.

27 (5) All property subject to sale under subsection (2) shall be

1 offered for sale at not less than 2 sales conducted as required by  
2 subsection (2). The final sale held under subsection (2) shall be  
3 held not less than 28 days after the previous sale under subsection  
4 (2). At the final sale held under subsection (2), the sale is  
5 subject to the requirements of subsection (2), except that the  
6 minimum bid shall not be required. However, the foreclosing  
7 governmental unit may establish a reasonable opening bid at the  
8 sale to recover the cost of the sale of the parcel or parcels.

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

26 (7) If property not previously sold is not transferred to the  
27 city, village, or township in which the property is located under

1 subsection (6), the foreclosing governmental unit shall retain  
2 possession of that property. If the foreclosing governmental unit  
3 retains possession of the property and the foreclosing governmental  
4 unit is this state, title to the property shall vest in the land  
5 bank fast track authority created under section 15 of the land bank  
6 fast track act, 2003 PA 258, MCL 124.765.

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

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

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

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

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

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

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

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

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

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

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

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

1 the general fund of the county by the board of commissioners.

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

10 (10) The foreclosing governmental unit shall record a deed for  
11 any property transferred under this section with the county  
12 register of deeds. **THE DEED SHALL CONTAIN A REVERTER, WHICH SHALL**  
13 **PROVIDE THAT THE PROPERTY TRANSFERRED SHALL REVERT TO THE**  
14 **FORECLOSING GOVERNMENTAL UNIT IF TAXES ARE RETURNED AS DELINQUENT**  
15 **WITHIN 3 YEARS AFTER THE PROPERTY'S TRANSFER UNDER THIS SECTION.**  
16 **THE REVERTER SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF**  
17 **TREASURY.** The foreclosing governmental unit may charge a fee in  
18 excess of the minimum bid and any sale proceeds for the cost of  
19 recording a deed under this subsection.

20 (11) As used in this section, "minimum bid" is the minimum  
21 amount established by the foreclosing governmental unit for which  
22 property may be sold under this section. The minimum bid shall  
23 include all of the following:

24 (a) All delinquent taxes, interest, penalties, and fees due on  
25 the property. If a city, village, or township purchases the  
26 property, the minimum bid shall not include any taxes levied by  
27 that city, village, or township and any interest, penalties, or



1 fees due on those taxes.

2 (b) The expenses of administering the sale, including all  
3 preparations for the sale. The foreclosing governmental unit shall  
4 estimate the cost of preparing for and administering the annual  
5 sale for purposes of prorating the cost for each property included  
6 in the sale.

7 (12) For property transferred to this state under subsection  
8 (1), a city, village, or township under subsection (6) or retained  
9 by a foreclosing governmental unit under subsection (7), all taxes  
10 due on the property as of the December 31 following the transfer or  
11 retention of the property are canceled effective on that December  
12 31.

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

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

1 property is subject to all of the following:

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

12 (b) If requested by the department of environmental quality to  
13 protect public health, safety, and welfare or the environment, the  
14 foreclosing governmental unit shall grant an easement for access to  
15 conduct response activities on the foreclosed property as  
16 authorized under chapter 7 of the natural resources and  
17 environmental protection act, 1994 PA 451, MCL 324.20101 to  
18 ~~324.20519-324.20302~~.

19 (c) If requested by the department of environmental quality to  
20 protect public health, safety, and welfare or the environment, the  
21 foreclosing governmental unit shall place and record deed  
22 restrictions on the foreclosed property as authorized under chapter  
23 7 of the natural resources and environmental protection act, 1994  
24 PA 451, MCL 324.20101 to ~~324.20519-324.20302~~.

25 (d) The department of environmental quality may place an  
26 environmental lien on the foreclosed property as authorized under  
27 section 20138 of the natural resources and environmental protection

1 act, 1994 PA 451, MCL 324.20138.

2 (15) 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(1)(o) 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 department of environmental quality shall request and the  
8 foreclosing governmental unit shall transfer the property to the  
9 state land bank fast track authority created under section 15 of  
10 the land bank fast track act, 2003 PA 258, MCL 124.765, if all of  
11 the following apply:

12 (a) The department of environmental quality determines that  
13 conditions at a foreclosed property are an acute threat to the  
14 public health, safety, and welfare, to the environment, or to other  
15 property.

16 (b) The department of environmental quality proposes to  
17 undertake or is undertaking state-funded response activities at the  
18 property.

19 (c) The department of environmental quality determines that  
20 the sale, retention, or transfer of the property other than under  
21 this subsection would interfere with response activities by the  
22 department of environmental quality.