

# HOUSE BILL No. 4219

February 21, 2019, Introduced by Reps. Howell, Eisen, Maddock, Wakeman, LaGrand, Hammoud, Camilleri, Hoadley, Pohutsky, Koleszar, Steven Johnson and Green and referred to the Committee on Local Government and Municipal 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) 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

1 within that city, village, or township set forth in the judgment  
2 and subject to sale under this section by payment to the  
3 foreclosing governmental unit of the minimum bid. If a city,  
4 village, or township does not purchase that property, the county in  
5 which that property is located may purchase that property under  
6 this section by payment to the foreclosing governmental unit of the  
7 minimum bid. If property is purchased by a city, village, township,  
8 or county under this subsection, the foreclosing governmental unit  
9 shall convey the property to the purchasing city, village,  
10 township, or county within 30 days. If property purchased by a  
11 city, village, township, or county under this subsection is  
12 subsequently sold for an amount in excess of the minimum bid and  
13 all costs incurred relating to demolition, renovation,  
14 improvements, or infrastructure development, the excess amount  
15 shall be returned to the delinquent tax property sales proceeds  
16 account for the year in which the property was purchased by the  
17 city, village, township, or county or, if this state is the  
18 foreclosing governmental unit within a county, to the land  
19 reutilization fund created under section 78n. Upon the request of  
20 the foreclosing governmental unit, a city, village, township, or  
21 county that purchased property under this subsection shall provide  
22 to the foreclosing governmental unit without cost information  
23 regarding any subsequent sale or transfer of the property. This  
24 subsection applies to the purchase of property by this state, a  
25 city, village, or township, or a county ~~prior to~~ **BEFORE** a sale held  
26 under subsection (2).

27 (2) Subject to subsection (1), beginning on the third Tuesday

1 in July immediately succeeding the entry of the judgment under  
2 section 78k vesting absolute title to tax delinquent property in  
3 the foreclosing governmental unit and ending on the immediately  
4 succeeding first Tuesday in November, the foreclosing governmental  
5 unit, or its authorized agent, at the option of the foreclosing  
6 governmental unit, shall hold 1 or more property sales at 1 or more  
7 convenient locations at which property foreclosed by the judgment  
8 entered under section 78k shall be sold by auction sale, which may  
9 include an auction sale conducted via an internet website. Notice  
10 of the time and location of a sale shall be published not less than  
11 30 days before a sale in a newspaper published and circulated in  
12 the county in which the property is located, if there is one. If no  
13 newspaper is published in that county, publication shall be made in  
14 a newspaper published and circulated in an adjoining county. Each  
15 sale shall be completed before the first Tuesday in November  
16 immediately succeeding the entry of judgment under section 78k  
17 vesting absolute title to the tax delinquent property in the  
18 foreclosing governmental unit. Except as provided in this  
19 subsection and subsection (5), property shall be sold 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. The foreclosing  
22 governmental unit may sell parcels individually or may offer 2 or  
23 more parcels for sale as a group. The minimum bid for a group of  
24 parcels shall equal the sum of the minimum bid for each parcel  
25 included in the group. The foreclosing governmental unit may adopt  
26 procedures governing the conduct of the sale and the conveyance of  
27 parcels under this section and may cancel the sale ~~prior to~~ **BEFORE**

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

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

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

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

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

1 this section by payment to the foreclosing governmental unit of the  
2 minimum bid.

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

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

26 (6) On or before December 1 immediately succeeding the entry  
27 of judgment under section 78k, a list of all property not

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

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

24 (8) ~~A~~ **IF THE PROCEEDS FROM THE SALE OF A PARCEL OF PROPERTY**  
25 **UNDER THIS SECTION EXCEED THE MINIMUM BID ESTABLISHED FOR THAT**  
26 **PARCEL OF PROPERTY, THE FORECLOSING GOVERNMENTAL UNIT SHALL REMIT**  
27 **AN AMOUNT EQUAL TO THAT EXCESS TO AN INDIVIDUAL IF THAT INDIVIDUAL**

1 OWNED AND OCCUPIED THE PARCEL OF PROPERTY AS A PRINCIPAL RESIDENCE  
2 EXEMPT UNDER SECTION 7CC IMMEDIATELY BEFORE THE ENTRY OF JUDGMENT  
3 UNDER SECTION 78K VESTING ABSOLUTE TITLE TO THE PARCEL OF PROPERTY  
4 IN THE FORECLOSING GOVERNMENTAL UNIT. THE foreclosing governmental  
5 unit shall deposit ~~the~~ **ALL OTHER** proceeds from the sale of property  
6 under this section into a restricted account designated as the  
7 "delinquent tax property sales proceeds for the year \_\_\_\_\_". The  
8 foreclosing governmental unit shall direct the investment of the  
9 account. The foreclosing governmental unit shall credit to the  
10 account interest and earnings from account investments. Proceeds in  
11 that account shall only be used by the foreclosing governmental  
12 unit for the following purposes in the following order of priority:

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

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

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

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

25 (e) Any costs incurred by the foreclosing governmental unit in  
26 maintaining property foreclosed under section 78k before the sale  
27 under this section shall be paid, including costs of any



1 environmental remediation.

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

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

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

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

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

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

26 (9) Two or more county treasurers of adjacent counties may  
27 elect to hold a joint sale of property as provided in this section.

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

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

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

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

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

7 (a) Upon reasonable written notice from the department of  
8 environmental quality, the foreclosing governmental unit shall  
9 provide access to the department of environmental quality, its  
10 employees, contractors, and any other person expressly authorized  
11 by the department of environmental quality to conduct response  
12 activities at the foreclosed property. Reasonable written notice  
13 under this subdivision may include, but is not limited to, notice  
14 by electronic mail or facsimile, if the foreclosing governmental  
15 unit consents to notice by electronic mail or facsimile ~~prior to~~  
16 **BEFORE** the provision of notice by the department of environmental  
17 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 ARTICLE II** of the natural resources  
23 and 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 ARTICLE II** of the natural resources and environmental  
3 protection act, 1994 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 **BEFORE** 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 (5) shall be prohibited from bidding for a property or  
4 purchasing a property at any sale under this section.

5 (16) As used in this section:

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

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

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

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

21 Enacting section 1. This amendatory act takes effect 90 days  
22 after the date it is enacted into law.