

THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.78m Granting state right of first refusal; election by state not to purchase property; purchase of property by city, village, township, or county; property sale at auction; notice of time and location; procedure; property not previously sold; disposition of sale proceeds; joint sale by 2 or more county treasurers; deed recording; "minimum bid" defined; cancellation of taxes upon transfer or retention of property; foreclosed property defined as facility.

Sec. 78m. (1) Not later than the first Tuesday in July, immediately succeeding the entry of judgment under section 78k vesting absolute title to tax delinquent property in the foreclosing governmental unit, this state is granted the right of first refusal to purchase 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. If this state elects not to purchase the property under its right of first refusal, 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. If a city, village, or township does not purchase that property, 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. 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. 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 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 at least 2 property sales at 1 or more convenient locations at which property foreclosed by the judgment entered under section 78k shall be sold by auction sale, which may include an auction sale conducted via an internet website. Notice of the time and location of the sales shall be published not less than 30 days before each 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 be made in a newspaper published and circulated in an adjoining county. Each sale shall 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 subsection (5), property shall be sold to the person bidding 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 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 may cancel the sale prior to the issuance of a deed under this subsection if authorized under the procedures. The foreclosing governmental unit may require full payment by cash, certified check, or money order at the close of each day's bidding. Not more than 30 days after the date of a sale under this subsection, the foreclosing governmental unit shall convey the property by deed to the person bidding the highest amount above the minimum bid. The deed shall vest fee simple title to the property in the person bidding the highest amount above the minimum bid, unless the foreclosing governmental unit discovers a defect in the foreclosure of the property under sections 78 to 78l. If this state is the foreclosing governmental unit within a county, the department of natural resources shall conduct the sale of property under this subsection and subsections (4) and (5) on behalf of this state.

(3) For sales held under subsection (2), after the conclusion of that sale, and prior to any additional sale held under subsection (2), a city, village, or township may purchase any property not previously sold under subsection (1) or (2) by paying the minimum bid to the foreclosing governmental unit. If a city, village, or

township does not purchase that property, 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

an auction sale conducted via an internet website.

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

(11) As used in this section, "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 all of the following:

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

(b) 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 in the sale.

(12) For property 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 taxes due on the property as of the December 31 following the transfer or retention of the property are canceled effective on that December 31.

(13) 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 under this act or the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(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(1)(o) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to 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, the foreclosing governmental unit shall provide access to the department of environmental quality, its employees, contractors, and any other person expressly authorized by the department of environmental quality 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 the provision of notice by the department of environmental quality.

(b) If requested by the department of environmental quality 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 the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20519.

(c) If requested by the department of environmental quality 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 the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20519.

(d) The department of environmental quality 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.

(15) 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(1)(o) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to the sale or transfer of the property under this section, the department of environmental quality 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 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 proposes to undertake or is undertaking state-funded response activities at the property.

(c) The department of environmental quality 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.

History: Add. 1999, Act 123, Eff. Oct. 1, 1999;—Am. 2001, Act 99, Imd. Eff. July 30, 2001;—Am. 2003, Act 263, Imd. Eff. Jan. 5,

2004;—Am. 2006, Act 498, Imd. Eff. Dec. 29, 2006.

Compiler's note: Enacting section 3 of Act 263 of 2003 provides:

"Enacting section 3. This amendatory act is not intended to and shall not be construed to modify or alter the ruling of the Michigan supreme court in Smith v Cliffs on the Bay Condominium Association, docket no. 111587."

For transfer of certain powers and duties relating to collection of delinquent taxes and forfeiture, foreclosure, and disposition of tax-delinquent or tax-reverted property from department of natural resources to department of treasury by type II transfer, see E.R.O. No. 2004-1, compiled at MCL 211.281.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.87b Delinquent tax revolving fund; creation; designation; payments; recovery of delinquent taxes and interest; validation and confirmation of resolution or agreement; segregation into separate funds; county treasurer as agent; powers and duties of county treasurer; payment to local taxing unit; interest charges, penalties, and county property tax administration fee rates; transfer of surplus; borrowing money; alternative method for paying delinquent taxes.

Sec. 87b. (1) The county board of commissioners of any county may create a delinquent tax revolving fund that, at the option of the county treasurer, may be designated as the "100% tax payment fund". Upon the establishment of the fund, all delinquent taxes, except taxes on personal property, due and payable to the taxing units in the county, except those units that collect their own delinquent taxes after March 1 by charter or otherwise, are due and payable to the county. The primary obligation to pay to the county the amount of taxes and the interest on the taxes shall rest with the local taxing units and the state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. **If the delinquent taxes that are due and payable to the county are not received by the county for any reason, the county has full right of recourse against the taxing unit** or to the state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, **to recover the amount of the delinquent taxes and interest at the rate of 1% per month or fraction of a month until repaid to the county by the taxing unit. However, if the county borrows to provide funds for those payments, the interest rate shall not exceed the highest interest rate paid on that borrowing.** A resolution or agreement previously executed or adopted to this effect is validated and confirmed. For delinquent state education taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, the county may offset uncollectible delinquent taxes against collections of the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, received by the county and owed to this state under this act. The fund shall be segregated into separate funds or accounts for each year's delinquent taxes.

(2) If a delinquent tax revolving fund is established, the county treasurer shall be the agent for the county and, without further action by the county board of commissioners, may enter into contracts with other municipalities, this state, or private persons, firms, or corporations in connection with any transaction relating to the fund or any borrowing made by the county pursuant to section 87c or 87d, including all services necessary to complete this borrowing.

(3) The county treasurer shall pay from the fund any or all delinquent taxes that are due and payable to the county and any school district, intermediate school district, community college district, city, township, special assessment district, this state, or any other political unit for which delinquent tax payments are due within 20 days after sufficient funds are deposited within the delinquent tax revolving fund or, if the county treasurer is treasurer for a county with a population greater than 1,500,000 persons, within 30 days after sufficient funds are deposited within the delinquent tax revolving fund. In a county with a delinquent tax revolving fund where the county does not borrow pursuant to section 87c or 87d, if the county treasurer does not make payment of the delinquent taxes to the local units within 10 days after the completion of county settlement with all local units under section 55, the county shall pay interest on the unpaid delinquent taxes from the date of actual county settlement at the rate of 12% per annum for the number of days involved.

(4) Except as provided in subsection (5), the county treasurer shall pay from the fund directly to a school district its share of the fund when a single school district exists within a political unit.

(5) If a local taxing unit has borrowed money in anticipation of collecting taxes for any school district or other municipality and the county treasurer has been so notified in writing, the county treasurer shall pay to the local taxing unit the shares of the fund for that school district or municipality. For purposes of this subsection, "local taxing unit" means a city, village, or township.

(6) The interest charges, penalties, and county property tax administration fee rates established under this act shall remain in effect and shall be payable to the county delinquent tax revolving fund.

(7) Any surplus in the fund may be transferred to the county general fund by appropriate action of the county board of commissioners.

(8) A county board of commissioners may borrow money to create a delinquent tax revolving fund as provided in section 87c or 87d, or both.

(9) This section shall not supersede section 87 but is an alternative method for paying delinquent taxes to local units. However, where this section is used by a county, section 87 shall not be used.

History: Add. 1968, Act 107, Imd. Eff. June 7, 1968;—Am. 1969, Act 218, Imd. Eff. Aug. 6, 1969;—Am. 1971, Act 155, Imd. Eff.

Nov. 24, 1971;—Am. 1975, Act 334, Imd. Eff. Jan. 12, 1976;—Am. 1976, Act 292, Imd. Eff. Oct. 25, 1976;—Am. 1980, Act 48, Imd. Eff. Mar. 21, 1980;—Am. 1981, Act 162, Eff. Dec. 1, 1981;—Am. 1982, Act 503, Imd. Eff. Dec. 31, 1982;—Am. 1984, Act 48, Imd. Eff. Apr. 9, 1984;—Am. 1984, Act 264, Imd. Eff. Dec. 17, 1984;—Am. 1994, Act 189, Imd. Eff. June 21, 1994;—Am. 2002, Act 198, Imd. Eff. Apr. 29, 2002.

Compiler's note: Section 2 of Act 503 of 1982 provides: “The designation, by this amendatory act, of collection fees as property tax administration fees is intended to clarify the legislative intent and cure any misinterpretation surrounding the fact that a “collection fee” is imposed to cover all costs necessary and incident to the collection of property taxes, including the costs of assessing property values and in the review and appeal processes.”

Popular name: Act 206