

**SUBSTITUTE FOR  
SENATE BILL NO. 868**

A bill to amend 1893 PA 206, entitled  
"The general property tax act,"  
by amending sections 78 and 78m (MCL 211.78 and 211.78m), section  
78 as added by 1999 PA 123 and section 78m as amended by 2003 PA  
263.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 78. (1) The legislature finds that there exists in this  
2 state a continuing need to strengthen and revitalize the economy of  
3 this state and its municipalities by encouraging the efficient and  
4 expeditious return to productive use of property returned for  
5 delinquent taxes. Therefore, the powers granted in this act  
6 relating to the return of property for delinquent taxes constitute  
7 the performance by this state or a political subdivision of this

1 state of essential public purposes and functions.

2 (2) It is the intent of the legislature that the provisions of  
3 this act relating to the return, forfeiture, and foreclosure of  
4 property for delinquent taxes satisfy the minimum requirements of  
5 due process required under the constitution of this state and the  
6 constitution of the United States but that those provisions do not  
7 create new rights beyond those required under the state  
8 constitution of 1963 or the constitution of the United States. The  
9 failure of this state or a political subdivision of this state to  
10 follow a requirement of this act relating to the return,  
11 forfeiture, or foreclosure of property for delinquent taxes shall  
12 not be construed to create a claim or cause of action against this  
13 state or a political subdivision of this state unless the minimum  
14 requirements of due process accorded under the state constitution  
15 of 1963 or the constitution of the United States are violated.

16 (3) Not later than December 1, 1999, the county board of  
17 commissioners of a county, by a resolution adopted at a meeting  
18 held pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to  
19 15.275, and with the written concurrence of the county treasurer  
20 and the county executive, if any, may elect to have this state  
21 foreclose property under this act forfeited to the county treasurer  
22 under section 78g. At any time during December 2004, **AND AT ANY**  
23 **TIME DURING DECEMBER 2007 AND EVERY FOURTH YEAR AFTER 2007,** the  
24 county board of commissioners of a county, by a resolution adopted  
25 at a meeting held pursuant to the open meetings act, 1976 PA 267,  
26 MCL 15.261 to 15.275, and with the written concurrence of the  
27 county treasurer and county executive, if any, may do either of the

1 following:

2 (a) Elect to have this state foreclose property under this act  
3 forfeited to the county treasurer under section 78g.

4 (b) Rescind its prior resolution by which it elected to have  
5 this state foreclose property under this act forfeited to the  
6 county treasurer under section 78g.

7 (4) The foreclosure of forfeited property by a county is  
8 voluntary and is not an activity or service required of units of  
9 local government for purposes of section 29 of article IX of the  
10 state constitution of 1963.

11 (5) A county and a local governmental unit within that county  
12 may enter into an agreement for the collection of property taxes or  
13 the enforcement and consolidation of tax liens within that local  
14 governmental unit. A local governmental unit shall not establish a  
15 delinquent tax revolving fund under section 87b.

16 (6) As used in this section and sections 78a through 157 for  
17 purposes of the collection of taxes returned as delinquent:

18 (a) "Foreclosing governmental unit" means 1 of the following:

19 (i) The treasurer of a county.

20 (ii) This state if the county has elected under subsection (3)  
21 to have this state foreclose property under this act forfeited to  
22 the county treasurer under section 78g.

23 (b) "Forfeited" or "forfeiture" means a foreclosing  
24 governmental unit may seek a judgment of foreclosure under section  
25 78k if the property is not redeemed as provided under this act, but  
26 does not acquire a right to possession or any other interest in the  
27 property.

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  
11 within that city, village, or township set forth in the judgment  
12 and subject to sale under this section by payment to the  
13 foreclosing governmental unit of the minimum bid. If a city,  
14 village, or township does not purchase that property, the county in  
15 which that property is located may purchase that property under  
16 this section by payment to the foreclosing governmental unit of the  
17 minimum bid. If property is purchased by a city, village, township,  
18 or county under this subsection, the foreclosing governmental unit  
19 shall convey the property to the purchasing city, village,  
20 township, or county within 30 days. If property purchased by a  
21 city, village, township, or county under this subsection is  
22 subsequently sold for an amount in excess of the minimum bid and  
23 all costs incurred relating to demolition, renovation,  
24 improvements, or infrastructure development, the excess amount  
25 shall be returned to the delinquent tax property sales proceeds  
26 account for the year in which the property was purchased by the  
27 city, village, township, or county or, if this state is the

1 foreclosing governmental unit within a county, to the land  
2 reutilization fund created under section 78n. Upon the request of  
3 the foreclosing governmental unit, a city, village, township, or  
4 county that purchased property under this subsection shall provide  
5 to the foreclosing governmental unit without cost information  
6 regarding any subsequent sale or transfer of the property. This  
7 subsection applies to the purchase of property by this state, a  
8 city, village, or township, or a county prior to a sale held under  
9 subsection (2).

10 (2) Subject to subsection (1), beginning on the third Tuesday  
11 in July immediately succeeding the entry of the judgment under  
12 section 78k vesting absolute title to tax delinquent property in  
13 the foreclosing governmental unit and ending on the immediately  
14 succeeding first Tuesday in November, the foreclosing governmental  
15 unit, or its authorized agent, at the option of the foreclosing  
16 governmental unit, shall hold at least 2 property sales at 1 or  
17 more convenient locations at which property foreclosed by the  
18 judgment entered under section 78k shall be sold by auction sale,  
19 which may include an auction sale conducted via an internet  
20 website. Notice of the time and location of the sales shall be  
21 published not less than 30 days before each sale in a newspaper  
22 published and circulated in the county in which the property is  
23 located, if there is one. If no newspaper is published in that  
24 county, publication shall be made in a newspaper published and  
25 circulated in an adjoining county. Each sale shall be completed  
26 before the first Tuesday in November immediately succeeding the  
27 entry of judgment under section 78k vesting absolute title to the

1 tax delinquent property in the foreclosing governmental unit.  
2 Except as provided in subsection (5), property shall be sold to the  
3 person bidding the highest amount above the minimum bid. The  
4 foreclosing governmental unit may sell parcels individually or may  
5 offer 2 or more parcels for sale as a group. The minimum bid for a  
6 group of parcels shall equal the sum of the minimum bid for each  
7 parcel included in the group. The foreclosing governmental unit may  
8 adopt procedures governing the conduct of the sale and may cancel  
9 the sale prior to the issuance of a deed under this subsection if  
10 authorized under the procedures. The foreclosing governmental unit  
11 may require full payment by cash, certified check, or money order  
12 at the close of each day's bidding. Not more than 30 days after the  
13 date of a sale under this subsection, the foreclosing governmental  
14 unit shall convey the property by deed to the person bidding the  
15 highest amount above the minimum bid. The deed shall vest fee  
16 simple title to the property in the person bidding the highest  
17 amount above the minimum bid, unless the foreclosing governmental  
18 unit discovers a defect in the foreclosure of the property under  
19 sections 78 to 78/. If this state is the foreclosing governmental  
20 unit within a county, the department of natural resources shall  
21 conduct the sale of property under this subsection and subsections  
22 (4) and (5) on behalf of this state.

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

1 village, or township does not purchase that property, the county in  
2 which that property is located may purchase that property under  
3 this section by payment to the foreclosing governmental unit of the  
4 minimum bid.

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

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

18 (6) On or before December 1 immediately succeeding the date of  
19 the sale under subsection (5), a list of all property not  
20 previously sold by the foreclosing governmental unit under this  
21 section shall be transferred to the clerk of the city, village, or  
22 township in which the property is located. The city, village, or  
23 township may object in writing to the transfer of 1 or more parcels  
24 of property set forth on that list. On or before December 30  
25 immediately succeeding the date of the sale under subsection (5),  
26 all property not previously sold by the foreclosing governmental  
27 unit under this section shall be transferred to the city, village,

1 or township in which the property is located, except those parcels  
2 of property to which the city, village, or township has objected.  
3 Property located in both a village and a township may be  
4 transferred under this subsection only to a village. The city,  
5 village, or township may make the property available under the  
6 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for  
7 any other lawful purpose.

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

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

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



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

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

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

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

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

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

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

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

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

1           (H) IN 2007 AND EACH YEAR AFTER 2007, 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 DESCRIBED IN SUBDIVISIONS (A) THROUGH (F). ALL OR A PORTION  
7 OF ANY REMAINING BALANCE MAY SUBSEQUENTLY BE TRANSFERRED INTO THE  
8 GENERAL FUND OF THE COUNTY.

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

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

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

26           (a) All delinquent taxes, interest, penalties, and fees due on  
27 the property. If a city, village, or township purchases the

1 property, the minimum bid shall not include any taxes levied by  
2 that city, village, or township and any interest, penalties, or  
3 fees due on those taxes.

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

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

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

26 (14) If property foreclosed under section 78k and held by or  
27 under the control of a foreclosing governmental unit is a facility

1 as defined under section 20101(1) (o) of the natural resources and  
2 environmental protection act, 1994 PA 451, MCL 324.20101, prior to  
3 the sale or transfer of the property under this section, the  
4 property is subject to all of the following:

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

15 (b) If requested by the department of environmental quality to  
16 protect public health, safety, and welfare or the environment, the  
17 foreclosing governmental unit shall grant an easement for access to  
18 conduct response activities on the foreclosed property as  
19 authorized under chapter 7 of the natural resources and  
20 environmental protection act, 1994 PA 451, MCL 324.20101 to  
21 ~~324.20302~~ **324.20519**.

22 (c) If requested by the department of environmental quality to  
23 protect public health, safety, and welfare or the environment, the  
24 foreclosing governmental unit shall place and record deed  
25 restrictions on the foreclosed property as authorized under chapter  
26 7 of the natural resources and environmental protection act, 1994  
27 PA 451, MCL 324.20101 to ~~324.20302~~ **324.20519**.

1 (d) The department of environmental quality may place an  
2 environmental lien on the foreclosed property as authorized under  
3 section 20138 of the natural resources and environmental protection  
4 act, 1994 PA 451, MCL 324.20138.

5 (15) If property foreclosed under section 78k and held by or  
6 under the control of a foreclosing governmental unit is a facility  
7 as defined under section 20101(1)(o) of the natural resources and  
8 environmental protection act, 1994 PA 451, MCL 324.20101, prior to  
9 the sale or transfer of the property under this section, the  
10 department of environmental quality shall request and the  
11 foreclosing governmental unit shall transfer the property to the  
12 state land bank fast track authority created under section 15 of  
13 the land bank fast track act, **2003 PA 258, MCL 124.765**, if all of  
14 the following apply:

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

19 (b) The department of environmental quality proposes to  
20 undertake or is undertaking state-funded response activities at the  
21 property.

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