MEMORANDUM

TO: Real Property Law Section Council

FROM: Gregory J. Gamalski

DATE: December 12, 2019

SUBJECT: Legislative Report

1. Monthly Call. The Committee held a conference call on December 9, 2019.

- 2. Marketable Title Act Amendment; HB 5260. A focused bill to address perceived issues related to the Marketable Title Act and condominium master deeds and amendments has introduced. http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2019-HIB-5260.pdf. The committee discussed it some detail. The collective conclusion was while it address the specific problem it did not necessarily remediate other perceived shortcomings resulting from the Public Act 572 of effective March 29, 2019 http://www.legislature.mi.gov/documents/2017-2018/publicact/pdf/2018-PA-0572.pdf. Council should probably consider taking a position perhaps based on the notion that the specific correction while useful does not address all prior concerns. However since a detailed article will be published on Marketable Title Act issues in the next Michigan Real Property Review, which is set for release in early January, the Committee suggests that perhaps review of that article might suggest appropriate positions and/or actions. The Committee has a sense from discussions with our lobbyist that there is not an appetite for further substantial revisions at this time however.
- 3. Homeowner associations. Some members of the Condominium, Cooperative and Planned Unit Development Committee have put the finishing touches on a proposed bill related to homeowner associations in traditional subdivisions, as opposed to condominium associations. A sponsor is being sought. The Section is not a formal proponent nor has it taken a position related to this effort but the Legislative Committee is monitoring it. It appears that the Community Association Institute is one of the parties interested in such legislation. It is not been formally introduced.
- 4. Pending Legislation; Positions. Bills on which we recently took positions remain in committee and have not advanced.
 - a. HB 4123 and 4699. These bills essentially authorize a lien against all real estate throughout the state owned by an owner of even a single blighted property subject to blight citations.





- b. HB 4676 and HB 4677. The bills essentially attempt to bar certain noisome restrictions related to race, religion and sexual orientation, etc. which is a laudable goal.
- 5. Emotional Support Animals. SB609 and SB 610 about emotional support animals and residential landlord tenant issues with the apparent object being a perception that the right to an emotional support animal may be used in bad faith by some tenants have not advanced. The Legislative Analysis is available. http://www.legislature.mi.gov/documents/2019-2020/billanalysis/Senate/pdf/2019-SFA-0608-G.pdf. Due to competing interests, landlords and tenants, the committee has not suggested a position be taken.
- 6. Tree Liability; HB4915. While the Committee suggests a position could be taken on HB 4915, the tree liability bill in its current form has not advanced so we think no active position should be taken. The Committee will discuss this further with our lobbyist to see what its prospects are and report back.
- 7. Assignment of Rents Statutes. The bills related to a new assignment and rents statute, HB 5086 and HB 5092 remain in the Judiciary Committee.
- 8. Rafaeli L.L.C. v. Oakland County, Supreme Court Case No. 156849 was heard on November 7, 2019. The Legislature is considering a bill, HB 4219, to address this issue and the Senate has also introduced a bill recently SB 0676. http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2019-SIB-0676.pdf

HOUSE BILL NO. 5260

November 13, 2019, Introduced by Rep. Paquette and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1945 PA 200, entitled

"An act to define a marketable record title to an interest in land; to require the filing of notices of claim of interest in such land in certain cases within a definite period of time and to require the recording thereof; to make invalid and of no force or effect all claims with respect to the land affected thereby where no such notices of claim of interest are filed within the required period; to provide for certain penalties for filing slanderous notices of claim of interest, and to provide certain exceptions to the applicability and operation thereof,"

by amending section 4 (MCL 565.104), as amended by 2018 PA 572.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:





- 1 Sec. 4. (1) This act must not be applied to do any of the following:
- 3 (a) Bar a lessor or his or her successor as reversioner of his
 4 or her right to possession on the expiration of a lease or a lessee
 5 or his or her successor of his or her rights in and to a lease.
- 6 (b) Bar any interest of a mortgagor or a mortgagee or interest
 7 in the nature of that of a mortgagor or mortgagee until after the
 8 instrument under which the interest is claimed has become due and
 9 payable, except if the instrument has no due date expressed, if the
 10 instrument has been executed by a railroad, railroad bridge,
 11 tunnel, or union depot company, or a public utility or public
 12 service company.
- (c) Bar or extinguish an easement or interest in the nature of
 an easement, the existence of which is clearly observable by
 physical evidences of its use.
 - (d) Bar or extinguish an easement or interest in the nature of an easement, or any rights appurtenant to the easement or interest granted, excepted, or reserved by a recorded instrument creating that creates the easement or interest, including any rights for future use, if the existence of the easement or interest is evidenced by the location beneath, on, or above any part of the land described in the instrument of a pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility and whether or not the existence of the facility is observable, by reason of failure to file the notice required by this act.
- 27 (e) Bar the enforcement of any provision contained in or 28 referred to in a recorded master deed for a condominium and its 29 recorded amendments.



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- (2) This act does not affect any right, title, or interest in
 land owned by the United States, or any right, title, or interest
 in any land owned by this state, or by any department, commission,
 or political subdivision. thereof.
- 5 (3) This act does not affect any oil and gas lease, or other 6 interest in oil or gas, owned by a person other than the owner of 7 the surface, or any storage agreement or other interest in 8 subsurface storage formations owned by a person other than the 9 owner of the surface.

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Telephone: (517) 373-5383

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Senate Bills 608, 609, and 610 (as introduced 10-24-19)

Sponsor: Senator Dale W. Zorn Committee: Local Government

Date Completed: 10-30-19

CONTENT

<u>Senate Bill 610</u> would enact the "Misrepresentation of Emotional Support Animals Act" to do the following:

- -- Prohibit an individual from falsely representing to a housing provider that he or she was disabled or was in possession of an emotional support animal.
- -- Allow a housing provider to request reliable documentation from an individual's health care provider to confirm an individual's disability.
- -- Prohibit a health provider that prescribed an emotional support animal from falsely representing that an individual had been diagnosed with a disability and required the use of an emotional support animal.
- -- Establish certain requirements for health providers that prescribed an emotional support animal.
- -- Specify that an individual who knowingly violated the proposed Act would be guilty of a misdemeanor, and prescribe penalties for a violation.
- -- Allow a housing provider to terminate the tenancy of an individual who falsely represented that an animal kept on the premises was an emotional support animal and to recover the premises through summary proceedings.

<u>Senate Bill 608</u> would amend Chapter 57 (Summary Proceedings to Recover Possession of Premises) of the Revised Judicature Act to allow a housing provider to recover possession of a premises by summary proceedings after termination of a lease under the proposed Misrepresentation of Emotional Support Animals Act.

<u>Senate Bill 609</u> would amend the Michigan Penal Code to modify the definition of "service animal".

Senate Bills 608 and 610 are tie-barred.

Senate Bill 610

Definitions

"Emotional support animal" means a common domestic animal that is prescribed to a person with a disability, by a health care provider that has determined that the animal's presence and the animal's provision of emotional support, well-being, comfort, or companionship is necessary to alleviate the disabling effect of a mental emotional, psychological, or psychiatric condition or illness that otherwise would prevent the person with a disability from having the

Page 1 of 4 sb608-610/1920

same housing opportunities as a nondisabled person. The term does not include a service animal as defined in Section 502c of the Penal Code.

"Housing provider" means a person, including a private or public business, that is subject to fair housing laws that offers, provides, or regulates the use of a dwelling. "Dwelling' means a building or structure, or any portion of a building or structure, that is occupied as or designed or intended for occupancy as a residence, including, but not limited to, a building or structure that is part of an apartment, nursing home, or condominium community, a group home or nursing home, or a seasonal residential facility.

Prohibit Misrepresentation of Disability & Need for Support Animal

The proposed Misrepresentation of Emotional Support Animals Act would prohibit an individual from falsely representing to a housing provider that he or she was a person with a disability or was in possession of an emotional support animal.

Unless a disability and a disability-related need for an emotional support animal were apparent, a housing provider could request reliable documentation from an individual's health care provider to confirm the individual's disability and to indicate the relationship between the disability and the need for an emotional support animal. ("Health care provider" would mean any of the following: a) a health professional licensed or registered under Article 15 (Occupations) of the Public Health Code; b) a health facility or agency licensed under Article 17 (Facilities and Agencies) of the Public Health Code; or c) a local health department.)

The Act would prohibit a health care provider that prescribed an emotional support animal from falsely representing that an individual had been diagnosed with a disabling mental, emotional, psychological, or psychiatric condition or illness and would require the use of an emotional support animal.

Health Care Provider Requirements

A health care provider that prescribed an emotional support animal would have to meet all of the following conditions:

- -- The health care provider would have to be licensed in Michigan or in the state in which the individual resided or had resided during the previous 180 days.
- -- The health care provider would have to maintain a physical office space where patients were regularly treated and where the individual for whom the emotional support animal was prescribed had received treatment during the previous 180 days.

Upon request by a housing provider, a health care provider would have to provide documentation establishing the following:

- -- That the health care provider had treated the individual for a period of at least six months immediately before the date on which the housing provider requested the documentation.
- -- That the individual had a disability.
- -- The disabling effects of the condition or illness.
- -- The relationship between the disabling effects of the condition or illness and the need for an emotional support animal.
- -- The manner in which the emotional support animal provided the disabled individual with the same opportunity to use the dwelling as would a nondisabled person.

The documentation would have to be in the form of a notarized letter or a completed and notarized questionnaire. If requested by the housing provider, the health care provider would

Page 2 of 4 sb608-610/1920

have to provide the documentation on an annual basis. An emotional support animal registration of any kind, including an identification card, patch, or certificate, or a similar registration that was obtained for a service animal would not satisfy the documentation requirements of the Act.

<u>Penalties</u>

An individual or health care provider that knowingly violated the Act would be guilty of a misdemeanor punishable by one or more of the following: a) imprisonment for up to 90 days; b) a fine of up to \$500; or c) community service for no more than 30 days.

If an individual who resided in a dwelling leased or otherwise provided or regulated by a housing provider falsely represented that an animal was an emotional support animal, the housing provider could terminate the lease or otherwise terminate the tenancy of the individual, and could recover possession of the premises under Sections 5714 or 5775 of the Revised Judicature Act (which allow for recovery of a premises through summary proceedings, and termination of a tenancy in a mobile home park, respectively).

<u>Telephone Hotline</u>

The Department of Civil Rights would have to use a telephone complaint hotline, either currently existing or specifically created for the purposes of the proposed Act, to receive reports of an individual who was falsely representing that he or she was in possession of an emotional support animal, or of a health care provider that was falsely representing that an individual needed an emotional support animal.

The Department could refer an alleged violation of the Act to the appropriate law enforcement agency for investigation.

Senate Bill 608

Chapter 57 of the Revised Judicature Act allows a person entitled to possession of premises to recover possession by summary proceedings (i.e., a civil action filed in a district court to recover the premises and obtain other relief, as appropriate) under certain circumstances, including when a person holds over premises after termination or expiration of a lease, or for failing or refusing to pay rent under a lease. The bill also would allow a person entitled to possession of premises to recover possession through summary proceedings after termination of a lease under the proposed Misrepresentation of Emotional Support Animals Act.

Chapter 57 also prohibits the tenancy of a tenant in a mobile home park from being terminated unless there is just cause for the termination. "Just cause" is defined as one or more of a list of circumstances, for example, the use of a mobile home site by the tenant for an unlawful purpose. Under the bill, "just cause" would include a violation by the tenant or a member of the tenant's household of the Misrepresentation of Emotional Support Animals Act.

Senate Bill 609

Under the Penal Code, "service animal" means the following: a) that term as defined in 28 CFR 36.104, or b) a miniature horse that has been individually trained to do work or perform tasks as described in 28 CFR 36.104 for the benefit of a person with a disability.

The bill specifies, within the definition, that an animal would not be a service animal unless it had been individually trained to do work or perform tasks for the benefit of a person with a

Page 3 of 4 sb608-610/1920

disability. The provision of emotional support, well-being, comfort, or companionship would not constitute work or tasks for the purposes of the definition.

(Under Federal regulations, "service animal" refers to any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The definition excludes other species of animals.)

MCL 600.5714 & 600.5775 (S.B. 608) 750.502c (S.B. 609) Legislative Analyst: Dana Adams

FISCAL IMPACT

Senate Bill 608

The bill would not have a fiscal impact impact on the State. The bill would have a minimal, negative impact on district courts throughout the State. The addition of a cause of action for summary proceedings matters could increase filings at the district court level, which, in turn, could have the potential to use court resources and time. However, the number of additional filings the bill would allow for likely would be minimal, and any additional costs likely would be absorbed by local units.

Senate Bill 609

The bill would have no fiscal impact on State or local government.

Senate Bill 610

The bill would have a negative fiscal impact on State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

The bill also would require the Department of Civil Rights to maintain a telephone complaint hotline. The Department has indicated that its current toll-free hotline should be sufficient to comply with the bill's requirement. Any additional costs are expected to be minimal and likely would be absorbed within current appropriations. However, should the Department be required to do more than forward the information to local law enforcement (e.g., investigations or enforcement) there could be additional costs, which would require additional funding. These potential additional costs are indeterminate and would depend on the nature of any additional responsibilities beyond reporting to local law enforcement.

Fiscal Analyst: Joe Carrasco Michael Siracuse

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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.

SENATE BILL NO. 676

December 05, 2019, Introduced by Senator LUCIDO and referred to the Committee on 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 τ
- 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

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

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

conduct of the sale and the conveyance of parcels under this 1 section and may cancel the sale prior to before the issuance of a 2 deed under this subsection if authorized under the procedures. The 3 4 foreclosing governmental unit shall require full payment at the 5 close of each day's bidding or by a date not more than 21 days 6 after the sale. Before the foreclosing governmental unit conveys a 7 parcel sold at a sale, the purchaser shall provide the foreclosing 8 governmental unit with proof of payment to the local tax collecting 9 unit in which the property is located of any property taxes owed on 10 the parcel at the time of the sale. A foreclosing governmental unit 11 shall cancel a sale if unpaid property taxes owed on a parcel or parcels at the time of a sale are not paid within 21 days of the 12 sale. If a sale is canceled under this subsection, the foreclosing 13 14 governmental unit may offer the property to the next highest bidder 15 and convey the property to that bidder under this subsection, 16 subject to the requirements of this subsection for the highest 17 bidder. Not more than 14 days after payment to the foreclosing 18 governmental unit of all amounts required by the highest bidder or 19 the next highest bidder under this subsection, the foreclosing 20 governmental unit shall convey the property by deed to the person 21 bidding the minimum bid, or if a bid is greater than the minimum bid, the highest amount above the minimum bid, or the next highest 22 23 bidder if the sale to the highest bidder is canceled and the next 24 highest bidder pays the amount required under this section to 25 purchase the property. The deed shall must vest fee simple title to 26 the property in the person bidding the highest amount above the 27 minimum bid, unless the foreclosing governmental unit discovers a 28 defect in the foreclosure of the property under sections 78 to 78l29 or the sale is canceled under this subsection or subsection (5). If

- 1 this state is the foreclosing governmental unit within a county,
- 2 the department of treasury shall be responsible for conducting the
- 3 sale of property under this subsection and subsections (4) and (5)
- 4 on behalf of this state. Before issuing a deed to a person
- 5 purchasing property under this subsection or subsection (5), the
- 6 foreclosing governmental unit shall require the person to execute
- 7 and file with the foreclosing governmental unit an affidavit under
- 8 penalty of perjury. If the person fails to execute and file the
- 9 affidavit required by this subsection by the date payment for the
- 10 property is required under this section, the foreclosing
- 11 governmental unit shall cancel the sale. An affidavit under this
- 12 section shall must indicate that the person meets all of the
- 13 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 4l of the home rule city act, 1909 PA 279, MCL 117.4l, in
- 20 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
- 28 this section by payment to the foreclosing governmental unit of the
- 29 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,
 township, or county within 30 days.
- 5 (5) All property subject to sale under subsection (2) shall 6 must be offered for sale at 1 or more sales conducted as required 7 by subsection (2). If the foreclosing governmental unit elects to 8 hold more than 1 sale under subsection (2), the final sale held 9 under subsection (2) shall must be held not less than 28 days after 10 the immediately preceding sale under subsection (2). At the final 11 sale held under subsection (2), the sale is subject to the requirements of subsection (2), except that the minimum bid shall 12 is not be-required. However, the foreclosing governmental unit may 13 14 establish a reasonable opening bid at the sale to recover the cost 15 of the sale of the parcel or parcels, and the foreclosing governmental unit shall require a person who held an interest in 16 property sold under this subsection at the time a judgment of 17 18 foreclosure was entered against the property under section 78k to pay the minimum bid for the property before issuing a deed to the 19 20 person under subsection (2). If the person fails to pay the minimum bid for the property and other amounts by the date required under 21 this section, the foreclosing governmental unit shall cancel the 22 23 sale of the property.
- 24 (6) On or before December 1 immediately succeeding the entry
 25 of judgment under section 78k, a list of all property not
 26 previously sold by the foreclosing governmental unit under this
 27 section shall must be transferred to the clerk of the city,
 28 village, or township in which the property is located. The city,
 29 village, or township may object in writing to the transfer of 1 or

- 1 more parcels of property set forth on that list. On or before
- 2 December 30 immediately succeeding the entry of judgment under
- 3 section 78k, all property not previously sold by the foreclosing
- 4 governmental unit under this section shall must be transferred to
- 5 the city, village, or township in which the property is located,
- 6 except those parcels of property to which the city, village, or
- 7 township has objected. Property located in both a village and a
- 8 township may be transferred under this subsection only to a
- 9 village. The city, village, or township may make the property
- available under the urban homestead act, 1999 PA 127, MCL 125.2701
- 11 to 125.2709, or for any other lawful purpose.
- 12 (7) If property not previously sold is not transferred to the
- 13 city, village, or township in which the property is located under
- 14 subsection (6), the foreclosing governmental unit shall retain
- 15 possession of that property. If the foreclosing governmental unit
- 16 retains possession of the property and the foreclosing governmental
- 17 unit is this state, title to the property shall will vest in the
- 18 land bank fast track authority created under section 15 of the land
- 19 bank fast track act, 2003 PA 258, MCL 124.765.
- 20 (8) A—If the proceeds from the sale of a parcel of property
- 21 under this section exceed the minimum bid established for that
- 22 parcel of property, the foreclosing governmental unit shall remit
- 23 an amount equal to that excess to an individual if that individual
- 24 owned and occupied the parcel of property as a principal residence
- 25 exempt under section 7cc immediately before the entry of judgment
- 26 under section 78k vesting absolute title to the parcel of property
- 27 in the foreclosing governmental unit. The foreclosing governmental
- 28 unit shall deposit the all other proceeds from the sale of property
- 29 under this section into a restricted account designated as the

- 1 "delinquent tax property sales proceeds for the year ". The
- 2 foreclosing governmental unit shall direct the investment of the
- 3 account. The foreclosing governmental unit shall credit to the
- 4 account interest and earnings from account investments. Proceeds
- 5 The foreclosing governmental unit shall use proceeds in that
- 6 account shall only be used by the foreclosing governmental unit for
- 7 the following purposes in the following order of priority:
- 8 (a) The delinquent tax revolving fund shall must be reimbursed
- 9 for all taxes, interest, and fees on all of the property, whether
- 10 or not all of the property was sold.
- 11 (b) All costs of the sale of property for the year shall must
- 12 be paid.
- 13 (c) Any costs of the foreclosure proceedings for the year,
- 14 including, but not limited to, costs of mailing, publication,
- 15 personal service, and outside contractors shall must be paid.
- (d) Any costs for the sale of property or foreclosure
- 17 proceedings for any prior year that have not been paid or
- 18 reimbursed from that prior year's delinquent tax property sales
- 19 proceeds shall must be paid.
- 20 (e) Any costs incurred by the foreclosing governmental unit in
- 21 maintaining property foreclosed under section 78k before the sale
- 22 under this section shall must be paid, including costs of any
- 23 environmental remediation.
- 24 (f) If the foreclosing governmental unit is not this state,
- 25 any of the following:
- 26 (i) Any costs for the sale of property or foreclosure
- 27 proceedings for any subsequent year that are not paid or reimbursed
- 28 from that subsequent year's delinquent tax property sales proceeds
- 29 shall must be paid from any remaining balance in any prior year's

1 delinquent tax property sales proceeds account.

- (ii) Any costs for the defense of title actions.
- 3 (iii) Any costs incurred in administering the foreclosure and
 4 disposition of property forfeited for delinquent taxes under this
 5 act.
- (g) If the foreclosing governmental unit is this state, any
 remaining balance shall must 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

- 1 fee in excess of the minimum bid and any sale proceeds for the cost
 2 of recording a deed under this subsection.
- 3 (11) For property transferred to this state under subsection
- 4 (1), a city, village, or township under subsection (6) or retained
- 5 by a foreclosing governmental unit under subsection (7), all taxes
- 6 due on the property as of the December 31 following the transfer or
- 7 retention of the property are canceled effective on that December
- **8** 31.
- 9 (12) For property sold under this section, transferred to this
- 10 state under subsection (1), a city, village, or township under
- 11 subsection (6), or retained by a foreclosing governmental unit
- 12 under subsection (7), all liens for costs of demolition, safety
- 13 repairs, debris removal, or sewer or water charges due on the
- 14 property as of the December 31 immediately succeeding the sale,
- 15 transfer, or retention of the property are canceled effective on
- 16 that December 31. This subsection does not apply to liens recorded
- 17 by the department of environmental quality environment, Great
- 18 Lakes, and energy under this act or the land bank fast track act,
- 19 2003 PA 258, MCL 124.751 to 124.774.
- 20 (13) If property foreclosed under section 78k and held by or
- 21 under the control of a foreclosing governmental unit is a facility
- 22 as defined under section 20101 of the natural resources and
- 23 environmental protection act, 1994 PA 451, MCL 324.20101, prior to
- 24 before the sale or transfer of the property under this section, the
- 25 property is subject to all of the following:
- (a) Upon reasonable written notice from the department of
- 27 environmental quality, environment, Great Lakes, and energy, the
- 28 foreclosing governmental unit shall provide access to the
- 29 department of environmental quality, environment, Great Lakes, and

- 1 energy, its employees, contractors, and any other person expressly
- 2 authorized by the department of environmental quality environment,
- 3 Great Lakes, and energy to conduct response activities at the
- 4 foreclosed property. Reasonable written notice under this
- 5 subdivision may include, but is not limited to, notice by
- 6 electronic mail or facsimile, if the foreclosing governmental unit
- 7 consents to notice by electronic mail or facsimile prior to before
- 8 the provision of notice by the department of environmental
- 9 quality.environment, Great Lakes, and energy.
- 10 (b) If requested by the department of environmental quality
- 11 environment, Great Lakes, and energy to protect public health,
- 12 safety, and welfare or the environment, the foreclosing
- 13 governmental unit shall grant an easement for access to conduct
- 14 response activities on the foreclosed property as authorized under
- 15 chapter 7 of article II of the natural resources and environmental
- 16 protection act, 1994 PA 451, MCL 324.20101 to 324.20302.
- 17 (c) If requested by the department of environmental quality
- 18 environment, Great Lakes, and energy to protect public health,
- 19 safety, and welfare or the environment, the foreclosing
- 20 governmental unit shall place and record deed restrictions on the
- 21 foreclosed property as authorized under chapter 7 of article II of
- 22 the natural resources and environmental protection act, 1994 PA
- 23 451, MCL 324.20101 to 324.20302.
- 24 (d) The department of environmental quality environment, Great
- 25 Lakes, and energy may place an environmental lien on the foreclosed
- 26 property as authorized under section 20138 of the natural resources
- 27 and environmental protection act, 1994 PA 451, MCL 324.20138.
- 28 (14) If property foreclosed under section 78k and held by or
- 29 under the control of a foreclosing governmental unit is a facility

- 1 as defined under section 20101 of the natural resources and
- 2 environmental protection act, 1994 PA 451, MCL 324.20101, prior to
- 3 before the sale or transfer of the property under this section, the
- 4 department of environmental quality environment, Great Lakes, and
- 5 energy shall request and the foreclosing governmental unit shall
- 6 transfer the property to the state land bank fast track authority
- 7 created under section 15 of the land bank fast track act, 2003 PA
- 8 258, MCL 124.765, if all of the following apply:
- 9 (a) The department of environmental quality environment, Great
- 10 Lakes, and energy determines that conditions at a foreclosed
- 11 property are an acute threat to the public health, safety, and
- 12 welfare, to the environment, or to other property.
- 13 (b) The department of environmental quality environment, Great
- 14 Lakes, and energy proposes to undertake or is undertaking state-
- 15 funded response activities at the property.
- 16 (c) The department of environmental quality environment, Great
- 17 Lakes, and energy determines that the sale, retention, or transfer
- 18 of the property other than under this subsection would interfere
- 19 with response activities by the department of environmental
- 20 quality.environment, Great Lakes, and energy.
- 21 (15) A person convicted for executing a false affidavit under
- 22 subsection (5) shall be prohibited from bidding for a property or
- 23 purchasing a property at any sale under this section.
- 24 (16) As used in this section:
- 25 (a) "Minimum bid" is the minimum amount established by the
- 26 foreclosing governmental unit for which property may be sold under
- 27 this section. The minimum bid shall must include all of the
- 28 following:
- 29 (i) All delinquent taxes, interest, penalties, and fees due on

- 1 the property. If a city, village, or township purchases the
- 2 property, the minimum bid shall must not include any taxes levied
- 3 by that city, village, or township and any interest, penalties, or
- 4 fees due on those taxes.
- 5 (ii) The expenses of administering the sale, including all
- 6 preparations for the sale. The foreclosing governmental unit shall
- 7 estimate the cost of preparing for and administering the annual
- 8 sale for purposes of prorating the cost for each property included
- 9 in the sale.
- 10 (b) "Person" means an individual, partnership, corporation,
- 11 association, or other legal entity.