

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

(After Deadline)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1479

S.P. 486

In Senate, April 14, 1983

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

Presented by Senator Najarian of Cumberland.

JOY J. O'BRIEN, Secretary of the Senate

Cosponsors: Senator Trafton of Androscoggin, Senator Conley of Cumberland and Representative Manning of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Prevent Unjust Enrichment by  
Retention of Surplus Upon Foreclosure of  
Municipalities and Sewer Districts.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §949 is enacted to read:

§949. Disposition of proceeds of foreclosure by municipalities

Any municipality having foreclosed on any property, pursuant to this Article, shall be required to remit to the record owner any surplus remaining after the amount of delinquent taxes and any costs associated with the foreclosure of the property have been deducted from the proceeds of the foreclosure sale. For purposes of this section, proceeds from the sale of foreclosed property are not public funds until the

1 requirements of this section have been complied with.

2 1. Procedure for sale. Within 12 months of the  
3 date of foreclosure, the municipality shall attempt  
4 to sell the property after having first given the  
5 former record owner the opportunity to repurchase the  
6 property for no more than the amount of delinquent  
7 taxes, plus interest and costs of foreclosure. The  
8 municipality shall advertise that the property is for  
9 sale and shall take sealed bids from prospective pur-  
10 chasers. Bid procedures shall be established by the  
11 municipality. If the property is not sold within 18  
12 months, the municipality shall proceed as provided in  
13 subsection 2.

14 2. Appraisal. If the foreclosed property is not  
15 sold within 18 months of the date of foreclosure, the  
16 municipality shall cause an independent appraisal to  
17 be made of the value of the property by an appraiser  
18 mutually acceptable to the municipality and the  
19 record owner. After subtraction of the amount of  
20 delinquent taxes and any costs associated with the  
21 foreclosure of the property, including the cost of  
22 appraisal, from the property's appraised value, the  
23 difference shall be remitted to the record owner.

24 3. Property to be taken for public purpose.  
25 Notwithstanding the provisions of subsection 1, if  
26 the foreclosed property, on the date of foreclosure  
27 or within 6 months of that date, was identified as a  
28 property that would be subject to condemnation pur-  
29 suant to a public purpose represented by an approved  
30 municipal plan, then the municipality shall proceed  
31 in accordance with the provisions of subsection 2.

32 Sec. 2. 38 MRS.A §1208-A is enacted to read:

33 §1208-A. Disposition of proceeds of foreclosure by  
34 sewer districts

35 Any sewer district having foreclosed on any prop-  
36 erty pursuant to this subchapter shall be required to  
37 remit to the record owner any surplus remaining after  
38 the amount of delinquent rates, tolls, rents or other  
39 charges and any costs associated with the foreclosure  
40 of the property have been deducted from the proceeds  
41 of the foreclosure sale.

1           1. Procedure for sale. Within 12 months of the  
2 date of foreclosure, the sewer district shall attempt  
3 to sell the property after having first given the  
4 former record owner the opportunity to repurchase the  
5 property for no more than the amount of delinquent  
6 rates, tolls, rents or other charges, plus interest  
7 and costs of foreclosure. The sewer district shall  
8 advertise that the property is for sale and shall  
9 take sealed bids from prospective purchasers. Bid  
10 procedures shall be established by the sewer dis-  
11 trict. If the property is not sold within 18 months,  
12 the sewer district shall proceed as provided in sub-  
13 section 2.

14           2. Appraisal. If the foreclosed property is not  
15 sold within 18 months of the date of foreclosure, the  
16 sewer district shall cause an independent appraisal  
17 to be made of the value of the property by an  
18 appraiser mutually acceptable to the sewer district  
19 and the record owner. After subtraction of the  
20 amount of delinquent rates, tolls, rents or other  
21 charges, and any costs associated with the foreclo-  
22 sure of the property, including the cost of  
23 appraisal, from the property's appraised value, the  
24 difference shall be remitted to the record owner.

25   STATEMENT OF FACT

26           The purpose of this bill is to require that any  
27 municipality or sewer district that forecloses on  
28 real estate for delinquent taxes or sewer fees be re-  
29 quired to remit to the property owner any surplus  
30 proceeds from sale after taxes and costs or fees and  
31 costs have been deducted. Under current law, this is  
32 not required.

33           Under Title 14, section 6204-A, banks or other  
34 mortgagees who foreclose are required to remit any  
35 excess proceeds from a foreclosure sale to the mort-  
36 gator after the underlying mortgage and cost of fore-  
37 closure have been paid. This bill merely requires  
38 municipalities and sewer districts to follow similar  
39 standards to those imposed on banks and other credi-  
40 tors.

1           This bill requires the foreclosing authority to  
2 attempt to sell the property within 12 months. The  
3 record owner must first be given one last chance to  
4 repurchase, however. The property is to be adver-  
5 tised as being for sale and the municipality or sewer  
6 district, as the case may be, is to accept sealed  
7 bids on the property. If the property is sold, the  
8 record owner receives any surplus of sale less taxes  
9 or sewer fees, and costs, owing. If the property is  
10 not sold within 18 months, the municipality or sewer  
11 district is required to have the property appraised  
12 and any surplus after taxes or fees, costs of fore-  
13 closure and appraisal costs are deducted is to be  
14 remitted to the record owner.

15           In the case of property foreclosed upon by a  
16 municipality, if that property would otherwise have  
17 been condemned by the municipality within 6 months of  
18 the date of foreclosure because a legitimate public  
19 purpose, such as road widening, called for its con-  
20 demnation, then the property will be subject to  
21 appraisal only and the proceeds, if any, distributed,  
22 as described above.

23 2826032883