

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)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1286

S. P. 400

In Senate, March 25, 1975

On Motion of Senator Wyman of Washington, referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Curtis of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Require the Profits Realized from the Seizure of Real Estate for Delinquent Taxes to be Returned to the Owner of the Real Estate.

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

36 MRSA c. 105, sub-c. IX, Art. 6, is enacted to read:

ARTICLE 6. PROCEEDS FROM SEIZED REAL ESTATE

§ 1101. Surplus value

Any value realized by a municipality or by the State by the sale or retention of real estate seized for failure to pay delinquent real property taxes through proceedings under this subchapter, shall be applied as follows:

1. The expense of the proceedings shall be paid;
2. The amount, if any, remaining after payment of such expenses shall be applied against the delinquent tax levy;
3. Any surplus value remaining shall, upon application to the municipality or State and satisfactory proof of ownership, be refunded to the person or persons currently owning the real estate.

§ 1102. Notice of surplus value

Persons entitled to a refund under section 1101 shall be given timely notice of any surplus value:

1. By mailing a registered letter describing the real estate involved and the amount of the surplus value to the last known address of the record owner

of the real estate or, if known, the address of the actual owner of the real estate; and

2. By publication of a description of the real estate involved, the amount of the surplus value and the name and address of the record owner of the real estate or, if known, the actual owner of the real estate in a newspaper published in whole or in part in the county where the real estate is situated or if the county is without a newspaper, in a newspaper of county-wide or state-wide circulation once a week for 3 successive weeks.

Two years from the date of the last notice any unclaimed value will become the sole property of the municipality or State.

§ 1103. Measure of realized value

Realized value shall be measured by the real estate's sale price if sold by the municipality or State at public auction or by the real estate's current market value if the property is retained by the municipality or State.

STATEMENT OF FACT

The Supreme Judicial Court of Maine in the case of **Auburn v Mandarelli**, 320 A. 2d 22, 32 (1974) stated that:

“In the absence of contrary provision by statute or constitution, a municipality's title to property acquired under the tax-lien-mortgage-foreclosure statute is absolute, and the city or town has no power to part with, nor duty to account for, any surplus value on any theory of ‘equity and good conscience’”.

This bill recognizes this demand of “equity and good conscience” and prevents the State or municipality from realizing profits when seizing real estate for delinquent taxes. Instead, this bill requires that the State or municipality refund to the delinquent taxpayer any surplus proceeds that remain after the delinquent tax levy and State or municipality expenses have been satisfied.