

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 597, L.D. 1719)
2 (New Title)

3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 2433

9 S.P.. 905

In Senate, April 3, 1984

10 Reported by Minority Report from the Committee on Judiciary and
11 printed under Joint Rule 2.

12 Original bill presented by Senator Najarian of Cumberland and
cosponsored by Senator Trafton of Androscoggin, Senator Conley of
Cumberland and Representative Manning of Portland.

JOY J. O'BRIEN, Secretary of the Senate

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FOUR
18

19 AN ACT to Provide Guidelines for
20 Sale of Tax-acquired Property.
21

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

24 Sec. 1. 36 MRSA §§949 and 950 are enacted to
25 read:

26 §949. Disposition of surplus

27 1. Definition. For purposes of this section and
28 section 950, "record owner" means the record owner at
29 the time the municipality acquired title.

30 2. Disposition of surplus upon sale of proper-
31 ty. Any surplus upon the sale of property shall be
32 disposed of as follows.

1 A. Any municipality having acquired title to
2 real estate by failure to redeem a tax collec-
3 tor's deed or by foreclosure of a tax lien mort-
4 gage, whether for real estate taxes or for a spe-
5 cial tax authorized by law to be assessed and
6 collected in the same manner as municipal real
7 property taxes are collected, shall, upon sale of
8 the property, remit any surplus remaining after
9 the taxes, interest and any costs, including, but
10 not limited to, reasonable expenses of sale, no-
11 tice and publication costs, reasonable expenses
12 of locating the owner, and reasonable attorney
13 fees, have been deducted from the proceeds, to-
14 gether with a written account of those deductions
15 to the record owner.

16 B. The municipality shall also retain 20% of any
17 surplus, calculated after the deductions in para-
18 graph A have been taken, resulting from a sale
19 pursuant to this subsection.

20 C. If the municipality is unable to locate the
21 record owner within 18 months of the sale, having
22 made a good faith effort to locate him, the mu-
23 nicipality may retain all the surplus. It is
24 prima facie evidence of a good faith effort to
25 locate the record owner if the municipality has
26 complied with the provisions of section 950.

27 3. Determination of damages when property re-
28 tained. If any municipality determines to retain any
29 property, damages shall be determined as follows.

30 A. If any municipality, having acquired title to
31 real estate by failure to redeem a tax collec-
32 tor's deed or by foreclosure of a tax lien mort-
33 gage, whether for real estate taxes or for a spe-
34 cial tax authorized by law to be assessed and
35 collected in the same manner as municipal real
36 property taxes are collected, determines to re-
37 tain possession of that real estate by vote of
38 the legislative body or intends to retain posses-
39 sion of that real estate, the municipality shall
40 remit any damages, less the amount of delinquent
41 taxes, interest and any costs, including, but not
42 limited to, the cost of estimating damages, no-
43 tice and publication costs, reasonable expenses

1 of locating the owner, and reasonable attorney
2 fees, together with a written account of those
3 deductions to the record owner. Damages shall be
4 estimated in the same manner as provided by stat-
5 ute for land taken by municipal officers under
6 Title 23, section 3029. The municipality may
7 take into consideration the marketability of the
8 title obtained by means of a tax deed or tax lien
9 mortgage process. It is prima facie evidence
10 that a municipality intends to retain the real
11 estate if it has not made a good faith effort to
12 sell the real estate within any 18-month period
13 after foreclosure.

14 B. The municipality shall also retain 20% of the
15 damages, calculated after the deductions in para-
16 graph A have been taken.

17 C. This subsection does not apply as long as the
18 municipality allows possession of the property by
19 the record owner or his lessee or licensee. This
20 subsection applies to that property when the
21 record owner or his lessee or licensee is no
22 longer allowed possession of the property.

23 D. This subsection does not apply if the munici-
24 pality is unable to locate the record owner with-
25 in 18 months of its intent to retain possession
26 of the real estate. It is prima facie evidence
27 of a good faith effort to locate the record owner
28 if the municipality has attempted to notify the
29 record owner, by personal notice, posting and
30 publication, in the same manner as provided for
31 notice of sale in section 950.

32 4. Applicability. This section applies only to
33 foreclosures of tax liens or redemption of a tax col-
34 lector's deed placed on record after the effective
35 date of this section.

36 §950. Notice of sale

37 Any municipality offering to sell or otherwise
38 dispose of real estate acquired under this Article
39 shall provide notice of that sale as follows.

1 1. Notice to record owner. The municipality
2 shall give notice to the record owner by delivering
3 the notice in person, by leaving the notice at the
4 last and usual place of abode or by sending the no-
5 tice by certified mail, return receipt requested, to
6 his last known address not less than 10 days prior to
7 the date of the sale.

8 2. Posting. The municipality shall post notices
9 in the same manner and same places that warrants for
10 municipal meetings are required to be posted at least
11 6 weeks prior to the date of the sale.

12 3. Publication. The municipality shall cause
13 notices to be published in a newspaper published and
14 printed in the county where the real estate is lo-
15 cated, if any, or, if none, in the state paper once a
16 week for 3 successive weeks beginning at least 6
17 weeks prior to the date of the sale.

18 The notice required by this section shall state
19 the description of the real property sufficient to
20 identify it with reasonable certainty, the name or
21 names of the record owner or owners, a statement that
22 this is tax-acquired property and the date, place and
23 method of the sale.

24 Sec. 2. 36 MRSA §1283, 5th ¶, as amended by PL
25 1967, c. 271, §8, is repealed.

26 Sec. 3. 36 MRSA §1283-A is enacted to read:

27 §1283-A. Disposition of surplus

28 1. Definition. For purposes of this section and
29 Title 38, "record owner" means the record owner at
30 the time the State acquired title.

31 2. Disposition of surplus upon sale of proper-
32 ty. Upon sale of any property the surplus shall be
33 disposed of as follows.

34 A. When the State Tax Assessor has sold real es-
35 tate pursuant to section 1283, he shall remit any
36 surplus remaining after the taxes, interest and
37 any cost, including, but not limited to, reason-
38 able expenses of sale, which have been deducted

1 from the proceeds, together with a written ac-
2 count thereof to the record owner.

3 B. If the State is unable to locate the record
4 owner within 2 years of the sale, having made a
5 good faith effort to locate him, the surplus
6 shall be credited to the General Fund.

7 3. Determination of damages when property is re-
8 tained. The State, having acquired title to property
9 pursuant to this subchapter, shall remit any damages,
10 less the amount of delinquent taxes, interests and any
11 costs, including, but not limited to, the cost of es-
12 timating damages, to the record owner at the time the
13 State acquired title. Damages shall be estimated in
14 the same manner as provided by statute for land taken
15 by municipal officers under Title 23, section 3029.
16 The State may take into consideration the marketabil-
17 ity of titles obtained by means of a tax lien pro-
18 cess. It is prima facie evidence that the State in-
19 tends to retain the real estate, if it has not made a
20 good faith effort to sell the real estate within any
21 18-month period after foreclosure.

22 4. Applicability. This section shall apply only
23 to foreclosure of a state mortgage, as provided in
24 section 1282, placed on record on or after the effec-
25 tive date of this section.

26 Sec. 4. 38 MRSA §§1208-A and 1208-B are enacted
27 to read:

28 §1208-A. Disposition of proceeds of foreclosure by
29 sewer districts or sanitary districts

30 1. Definition. For purposes of this section,
31 "record owner" means the record owner at the time the
32 sewer district or sanitary district acquired title.

33 2. Disposition of surplus upon sale of real
34 property. Upon sale of real property, any surplus
35 shall be disposed of as follows.

36 A. Any sewer district or sanitary district hav-
37 ing foreclosed on any property pursuant to this
38 subchapter shall be required to remit any surplus
39 remaining after the amount of delinquent rates,

1 toll, rents or other charges and any costs asso-
2 ciated with the foreclosure of the property have
3 been deducted from the proceeds of the foreclo-
4 sure sale to the record owner.

5 B. The sewer district or sanitary district shall
6 also retain 20% of any surplus, calculated after
7 the deductions in paragraph A have been taken,
8 resulting from a sale pursuant to this subsec-
9 tion.

10 C. If the district is unable to locate the
11 record owner within 18 months of the sale, having
12 made a good faith effort to locate him, the dis-
13 trict may retain all the surplus. It is prima
14 facie evidence of a good faith effort to locate
15 the record owner if the district has complied
16 with the provision of section 1208-B.

17 3. Determination of damages when property re-
18 tained. When any property is retained, damages shall
19 be determined as follows.

20 A. If any sewer district or sanitary district,
21 having acquired title to property pursuant to
22 this subchapter, determines to retain possession
23 of that property by vote of the district or in-
24 tends to retain possession of that property, the
25 district shall remit any damages, less the amount
26 of delinquent rates, tolls, rents or other
27 charges and any costs, including, but not limited
28 to, the cost of estimating damages, to the record
29 owner. Damages shall be estimated in the same
30 manner as provided by statute for land taken by
31 municipal officers under Title 23, section 3029.
32 The sewer district or sanitary district may take
33 into consideration the marketability of title ob-
34 tained by means of a tax deed or tax lien mort-
35 gage process. It is prima facie evidence that a
36 municipality intends to retain the real estate if
37 it has not made a good faith effort to sell the
38 real estate within any 18-month period after
39 foreclosure.

40 B. The sewer district or sanitary district shall
41 also retain 20% of the damages, calculated after
42 the deductions in paragraph A have been taken.

1 C. This subsection shall not apply as long as
2 the sewer district or sanitary district allows
3 possession of the property by the record owner or
4 his lessee or licensee. This subsection shall
5 apply to that property when the record owner or
6 his lessee or licensee is no longer allowed pos-
7 session of the property.

8 D. This subsection shall not apply if the dis-
9 trict is unable to locate the record owner within
10 18 months of its intent to retain possession of
11 the property. It is prima facie evidence of a
12 good faith effort to locate the record owner if
13 the district has attempted to notify the record
14 owner, by personal notice, posting and publica-
15 tion, in the same manner as provided notice of
16 sale in section 1208-B.

17 4. Applicability. This section shall apply only
18 to foreclosures of sewer district and sanitary dis-
19 trict liens placed on record after the effective date
20 of this section.

21 §1208-B. Notice of sale

22 Any sewer district or sanitary district offering
23 to sell or otherwise dispose of real estate acquired
24 under this subchapter, shall provide for notice of
25 that sale as follows.

26 1. Notice to record owner. The district shall
27 give notice to the record owner by delivering the no-
28 tice in person, by leaving the notice at his last and
29 usual place of abode, or by sending the notice by
30 certified mail, return receipt requested, to his last
31 known address, not less than 10 days prior to the
32 date of the sale.

33 2. Posting. The district shall post notices in
34 the municipality where the property lies in the same
35 manner and same places that warrants for municipal
36 meetings in that municipality are required to be
37 posted at least 6 weeks prior to the date of the
38 sale.

39 3. Publication. The district shall cause notice
40 to be published in a newspaper published and printed

1 in the county where the real estate is located, if
2 any, or, if none, in the state paper, once a week for
3 3 successive weeks beginning at least 6 weeks prior
4 to the date of the sale.

5 The notice required by this section shall state
6 the description of the real property sufficient to
7 identify it with reasonable certainty, the name or
8 names of the record owner or owners, a statement that
9 this is tax-acquired property acquired for delinquent
10 payment of rates, tolls, rents or other charges.

11 STATEMENT OF FACT

12 The purpose of this new draft is to require that
13 the State, any municipality or any sewer or sanitary
14 district that forecloses on real estate for delin-
15 quent taxes or sewer fees be required to remit to the
16 previous property owner any surplus proceeds from
17 sale after taxes, costs or fees and costs plus any
18 other costs, including cost of sale have been de-
19 ducted.

20 The municipality, or the district may also retain
21 20% of the surplus from the sale. Current law al-
22 ready requires banks or other mortgages who foreclose
23 to remit any excess proceeds from a foreclosure sale
24 for the mortgagor after the underlying mortgage and
25 cost of foreclosure have been paid.

26 In case the State, municipality, sewer or sani-
27 tary district decides to retain the property, the
28 value of the property is determined in the same man-
29 ner as eminent domain by a municipality. Any surplus
30 from these damages, after taxes, costs or fees and
31 costs, is remitted to the previous property owner.
32 In addition, the municipality or the district may re-
33 tain 20% of the surplus.

34 The new draft also provides notice provisions for
35 the previous owner for the sale or if the municipali-
36 ty decides to retain the property.

37 If a municipality or district allows the owner to
38 retain possession, the new draft does not apply and
39 no remittance of the surplus is necessary until the

1 municipality or district actually obtains possession
2 of the property.

3 Finally, this new draft only affects foreclosures
4 after the effective date of this Act.

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