

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1065

H.P. 793 House of Representatives, April 1, 1987  
Reference to the Committee on Taxation suggested and  
ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative ROLDE of York.

Cosponsored by Senator ESTES of York and Representative  
McPHERSON of Eliot.

STATE OF MAINE

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

1 AN ACT to Establish the Procedure for Notice  
2 and Foreclosure of Delinquent Real  
3 Property Taxes in Municipalities When  
4 the Property Owners are Unknown.  
5

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

8 Sec. 1. 36 MRSA §942-A is enacted to read:

9 §942-A. Tax lien by publication; unknown owners;  
10 procedure

11 If the tax collector is unable to establish the  
12 ownership of any real estate, liens on that real es-  
13 tate created by section 552 may be enforced in the  
14 following manner.

1        The tax collector, after expiration of 8 months  
2 and within one year after the date of original com-  
3 mitment of a tax, may give public notice once in each  
4 of 3 successive weeks in a daily or weekly newspaper,  
5 if any, published in the municipality where the real  
6 estate is situated or, if none, in a daily newspaper  
7 having general circulation in the municipality where  
8 the real estate is situated. The tax collector shall  
9 sign the original notice under oath and the notice  
10 shall state the amount of the tax, describe the real  
11 estate on which the tax is assessed so that a reason-  
12 able person may know, with probable certainty, what  
13 premises are subject to the lien, allege that the mu-  
14 nicipality claims a lien on the real estate to secure  
15 the payment of the tax and that the tax collector  
16 cannot ascertain the owners by a diligent search of  
17 his records and demand payment of the tax within 30  
18 days after the final publication. The tax collector  
19 may give notice of supplementally assessed taxes in  
20 the same manner.

21        After the expiration of the 30 days and within 10  
22 days thereafter, the tax collector shall record in  
23 the registry of deeds of the county or registry dis-  
24 trict where the real estate is situated a document  
25 entitled "Certificate of Publication under the Maine  
26 Revised Statutes, Title 36, section 942-A" signed by  
27 the tax collector which shall be the equivalent of  
28 the tax lien certificate for the purposes of section  
29 943. This notice shall contain a copy of the pub-  
30 lished notice, the names and dates of the newspapers  
31 in which it was published and allegations that a de-  
32 mand for payment of the tax has been made in accord-  
33 ance with this section and that the tax remains un-  
34 paid at the time of recording. The tax collector  
35 shall file, within 10 days of the recording, with the  
36 municipal treasurer, a true copy of the certificate  
37 of publication.

38        The tax collector shall add the costs of comply-  
39 ing with this section to the tax. The municipality  
40 shall pay the tax collector \$1 for the notice, \$1 for  
41 filing the certificate of publication and the amount  
42 paid for publication. The fees for recording the  
43 certificate of publication and for discharging the  
44 tax lien mortgage pursuant to section 943 shall be  
45 paid by the municipality to the registrar of deeds.

1           Sec. 2. 36 MRSA §943, 5th ¶, as amended by PL  
2           1983, c. 407, §4, is further amended to read:

3           The Unless the owner of the real estate is un-  
4           known, the municipal treasurer shall notify the party  
5           named on the tax lien mortgage and each record holder  
6           of a mortgage on the real estate not more than 45  
7           days nor less than 30 days before the foreclosing  
8           date of the tax lien mortgage, in a writing left at  
9           his last and usual place of abode or sent by certi-  
10           fied mail, return receipt requested, to his last  
11           known address of the impending automatic foreclosure  
12           and indicating the exact date of foreclosure. For  
13           sending this notice, the municipality shall be enti-  
14           tled to receive \$3 plus all certified mail, return  
15           receipt requested, fees. These costs shall be added  
16           to and become a part of the tax. If notice is not  
17           given in the time period specified in this section to  
18           the party named on the tax lien mortgage or to any  
19           record holder of a mortgage, the person not receiving  
20           timely notice shall have the right to redeem the tax  
21           lien mortgage until 30 days after the treasurer does  
22           provide notice in the manner specified in this sec-  
23           tion. If the owner is unknown and the procedure es-  
24           tablished in section 942-A has been followed, notice  
25           of the impending foreclosure is not necessary.

26           Sec. 3. 36 MRSA §943, 7th ¶ is amended to read:

27           After the expiration of the 18-month period for  
28           redemption, the mortgagee of record of said that real  
29           estate or his assignee and the owner of record if the  
30           said real estate has not been assessed to him or the  
31           person claiming under him shall, in the event the no-  
32           tice provided for said the mortgagee and said the  
33           owner has not been given as provided in section 942  
34           or 942-A, have the right to redeem the said real es-  
35           tate within 3 months after receiving actual knowledge  
36           of the recording of the tax lien certificate or "Cer-  
37           tificate of Publication under the Maine Revised Stat-  
38           utes, Title 36, section 942-A" by payment or tender  
39           of the amount of the tax lien mortgage, together with  
40           interest and costs, and the tax lien mortgage shall  
41           then be discharged by the owner thereof in the manner  
42           provided.

1 STATEMENT OF FACT

2 The purpose of this bill is to return real estate  
3 to a municipality's tax roll when the tax collector  
4 cannot ascertain the owner of the real estate after a  
5 diligent search for the records. The taxes generated  
6 by many of these parcels is too small to justify an  
7 exhaustive, time-consuming, expensive title search by  
8 the municipality, and this bill places the burden on  
9 delinquent taxpayers, consistent with City of Auburn  
10 v. Mandarelli, 320A.2d 22, 30 (Me. 1974), in which  
11 the Supreme Court noted that a taxpayer has a duty to  
12 learn what is being done to enforce payment of taxes  
13 on his property.

14 This bill provides municipalities with a method  
15 of notifying unknown owners of delinquent taxes  
16 through publication in a locally distributed daily or  
17 weekly newspaper and of foreclosing on that real es-  
18 tate in the manner described in the Maine Revised  
19 Statutes, Title 36, section 943.

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