

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 764

H.P. 571

House of Representatives, March 1, 2011

**An Act To Ensure That Municipalities Refund Amounts Collected  
in Excess of Tax Liens**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative McCLELLAN of Raymond.  
Cosponsored by Representatives: BLACK of Wilton, DOW of Waldoboro, DUNPHY of  
Embden, HARMON of Palermo.

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

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

3 **§949. Disbursement of excess funds**

4 A municipality that obtains title to residential real estate under the operation of this  
5 article shall disburse to the former owner the excess of any funds as provided in this  
6 section.

7 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
8 following terms have the following meanings.

9 **A. "Excess of any funds"** means the amount obtained for the disposition of  
10 residential real estate less:

11 (1) All tax liens imposed on the residential real estate by the municipality,  
12 including interest;

13 (2) Fees for recordation and discharge of the lien, as established by Title 33,  
14 section 751, plus \$13;

15 (3) The fee established in section 943 for sending a notice if the notice is actually  
16 sent, including certified mail, return receipt requested fees;

17 (4) Any court costs;

18 (5) All expenses incurred in disposing of the residential real estate; and

19 (6) Any property taxes that would have been assessed on the property while the  
20 property was held by the municipality within 180 days of foreclosure.

21 **B. "Former owner"** means a party named on a tax lien mortgage at the time of the  
22 levy of a tax lien or that party's successors, heirs or assigns.

23 **2. Time and form of return; notice.** Within 30 days of the disposition of  
24 residential real estate or 180 days of foreclosure, whichever is earlier, a municipality shall  
25 mail by certified mail, return receipt requested, to the former owner's last known address,  
26 notice of the excess of any funds. The notice must include an itemized statement  
27 showing the amount for which the real estate was sold and all deductions made from that  
28 amount. The notice also must include directions for the redemption of the excess of any  
29 funds, including the hours of operation of the clerk of the municipality.

30 **3. Escrow; failure to redeem.** A municipality shall hold the excess of any funds in  
31 escrow for 36 months for the benefit of the former owner. The municipality shall pay  
32 immediately the excess of any funds upon the personal appearance of the former owner or  
33 a legal representative of the former owner. If the former owner or a legal representative  
34 of the former owner fails to appear personally within 36 months of the date notice is  
35 provided under subsection 2, the excess of any funds must be paid to the Treasurer of  
36 State to be credited to the General Fund.

37 **4. Failure to dispose of residential real estate.** If a municipality does not dispose  
38 of residential real estate within 180 days of foreclosure, the excess of any funds is

1 determined by subtracting from the fair market value of the real estate at the time of  
2 foreclosure, as determined by an independent appraisal, the costs specified in subsection  
3 1, paragraph A and the cost of the appraisal performed pursuant to this subsection.

4 **5. Unorganized territory.** The obligations of a municipality under this section  
5 apply to the State with regard to property in the unorganized territory.

## 6 **SUMMARY**

7 Under current law, if a municipality forecloses on a parcel of real estate for failure to  
8 pay taxes owed on that real estate, the municipality is under no obligation to return any  
9 funds that exceed the amount owed in taxes after the sale of the property.

10 This bill requires a municipality that forecloses on residential real estate to return the  
11 excess funds, after subtracting the tax lien, interest, fees for recording the lien, costs of  
12 mailing notice, court costs, taxes that would have been assessed while the property was  
13 held by the municipality and any other expenses incurred in disposing of the real estate.  
14 Notice of the availability of the excess funds must be provided to the former owner  
15 within 30 days of sale of the real estate or 180 days of the foreclosure, whichever is  
16 sooner. If the former owner fails to claim the excess funds within 36 months after notice  
17 of the availability of excess funds, the municipality must remit the excess funds to the  
18 Treasurer of State for credit to the General Fund.