

MAINE STATE LEGISLATURE

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L.D. 1629

2 Date: 8/30/2018

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4 STATE OF MAINE

5 SENATE

6 128TH LEGISLATURE

7 SECOND SPECIAL SESSION

8 SENATE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to H.P.
9 1124, L.D. 1629, Bill, "An Act To Protect the Elderly from Tax Lien Foreclosures"

10 Amend the amendment by striking out all of sections 1 to 4 and inserting the
11 following:

12 'Sec. 1. 36 MRSA §942, as amended by PL 2009, c. 489, §§2 and 3, is further
13 amended by inserting after the 2nd paragraph a new paragraph to read:

14 For property that constitutes a homestead for which a property tax exemption is
15 claimed under subchapter 4-B, the tax collector shall include with the written notice
16 authorized under this section written notice to the person named on the tax lien mortgage
17 that that person may be eligible to file an application for tax abatement under section 841,
18 subsection 2, indicating that the municipality, upon request, will assist the person in
19 requesting an abatement and provide information regarding the procedures for making
20 such a request. The notice must also indicate that the person may seek assistance from
21 the Department of Professional and Financial Regulation, Bureau of Consumer Credit
22 Protection regarding options for finding an advisor who can help the person work with
23 the municipality to avoid tax lien foreclosure and provide information regarding ways to
24 contact the bureau. The Department of Professional and Financial Regulation, Bureau of
25 Consumer Credit Protection, by July 15th annually, shall provide to a statewide
26 organization representing municipalities information regarding assistance in avoiding tax
27 lien foreclosure to assist municipalities in providing the information required in the
28 notice.

29 Sec. 2. 36 MRSA §943-C is enacted to read:

30 **§943-C. Sale of homesteads formerly owned by persons 65 years of age or older**

31 Notwithstanding any provision of law to the contrary, after the foreclosure process
32 under sections 942 and 943 or sections 1281 and 1282 is completed and the right of
33 redemption has expired, if a municipality chooses to sell property that immediately prior
34 to foreclosure received a property tax exemption as a homestead under subchapter 4-B,
35 the municipal officers or their designee shall notify the former owner or owners of the
36 right to require the municipality to use the sale process under subsection 3 as long as the
37 former owner or owners demonstrate that the property meets the requirements of

1 subsection 1. The notice must be sent by first-class mail to the last known address of the
2 former owner or owners.

3 **1. Subject property.** Property is subject to the requirements of this section if:

4 A. Immediately prior to foreclosure the property was owned by at least one person
5 who, on the date the tax lien certificate was recorded, was 65 years of age or older
6 and occupied the property as a homestead as defined in section 681, subsection 2; and

7 B. The former owner or owners of the property demonstrate to the municipal officers
8 or their designee that:

9 (1) The income, as defined in section 5219-KK, subsection 1, paragraph D, of
10 the former owner or owners of the property was less than \$40,000, after medical
11 expenses have been deducted, for the calendar year immediately preceding the
12 calendar year in which the right of redemption expired; and

13 (2) The value of liquid assets of the former owner or owners of the property is
14 less than \$50,000 in the case of a single individual or \$75,000 in the case of 2 or
15 more individuals. For the purposes of this paragraph, "liquid assets" means
16 something of value available to an individual that can be converted to cash in 3
17 months or less and includes bank accounts, certificates of deposit, money market
18 or mutual funds, life insurance policies, stocks and bonds, lump-sum payments
19 and inheritances and funds from a home equity conversion mortgage that are in
20 the individual's possession whether they are in cash or have been converted to
21 another form.

22 The former owner or owners must provide documentation verifying the former
23 owner's or owners' income and liquid assets.

24 All applications or information submitted in support of an application under this
25 subsection, files and communications relating to the application and the determination on
26 the application are confidential records. Hearings and proceedings held pursuant to this
27 subsection must be held in executive session.

28 **2. Notification; appeal.** At least 90 days prior to listing property described in
29 subsection 1 for sale, the municipal officers or their designee shall notify the former
30 owner or owners, by first-class mail, of the former owner's or owners' right to require the
31 sale process described in subsection 3. The municipal officers or their designee shall
32 include with the notice an application form with instructions concerning application
33 procedures and submission of information necessary for the municipality to determine
34 whether the former owner or owners meet the conditions required under subsection 1.
35 The former owner or owners must be allowed at least 30 days from the date the notice is
36 mailed to submit the required application form and information. The municipal officers or
37 their designee, within 30 days after receiving the required form and information, shall
38 notify the former owner or owners whether the former owner or owners have been
39 determined to be eligible for the sale process described in subsection 3 and inform the
40 former owner or owners of the right to appeal pursuant to the Maine Rules of Civil
41 Procedure, Rule 80B. The State Tax Assessor shall prepare application forms, notices
42 and instructions that must be used by municipalities to inform former owners of their
43 right to apply for the sale process provided under subsection 3.

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1 3. Sale process requirements. If a municipality determines that the former owner
2 or owners meet the conditions specified under subsection 1, the municipal officers or
3 their designee shall:

4 A. List the property for sale with a real estate broker licensed under Title 32, chapter
5 114 who does not hold an elected or appointed office in the municipality and is not
6 employed by the municipality;

7 B. Sell the property at fair market value or the price at which the property is
8 anticipated by the real estate broker to sell within 6 months after listing; and

9 C. Pay to the former owner or owners any proceeds from the sale in excess of:

10 (1) The sum of all taxes owed on the property;

11 (2) Property taxes that would have been assessed on the property during the
12 period following foreclosure when the property is owned by the municipality;

13 (3) All accrued interest;

14 (4) Fees, including real estate broker's fees; and

15 (5) Any other expenses incurred by the municipality in selling or maintaining the
16 property, including, but not limited to, reasonable attorney's fees.

17 4. Effect of inability to contract or sell property. If a municipality is unable to
18 contract with a real estate broker for the sale of the property as described in subsection 3
19 or the broker cannot sell the property within 6 months after listing, the municipality may
20 retain, sell or dispose of the property in the same manner as other property acquired
21 through the tax lien foreclosure process.

22 5. Property in the unorganized territory. With regard to the sale of property
23 acquired by the State through tax lien foreclosure in the unorganized territory, the State
24 Tax Assessor has the obligations of a municipality under this section.

25 **Sec. 3. 36 MRSA §1281**, as amended by PL 1991, c. 846, §12, is further amended
26 to read:

27 **§1281. Payment of taxes; delinquent taxes; publication; certificate filed in registry**

28 Taxes on real estate mentioned in section 1602, including supplementary taxes
29 assessed under section 1331, are delinquent on the 15th day of January next following the
30 date of assessment. Annually, on or before February 1st, the State Tax Assessor shall
31 send by mail to the last known address of each owner of such real estate upon which
32 taxes remain unpaid a notice in writing, containing a description of the real estate
33 assessed and the amount of unpaid taxes and interest, and alleging that a lien is claimed
34 on that real estate for payment of those taxes, interests and costs, with a demand that
35 payment be made by the next February 21st. For property that constitutes a homestead
36 for which a property tax exemption is claimed under chapter 105, subchapter 4-B, the
37 State Tax Assessor shall include in the written notice written notice to the owner named
38 on the tax lien mortgage that that owner may be eligible to file an application for tax
39 abatement under section 841, subsection 2, indicating that the State Tax Assessor, upon
40 request, will assist the owner in requesting an abatement and provide information

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1 regarding the procedures for making such a request. The notice must also indicate that
 2 the owner may seek assistance from the Department of Professional and Financial
 3 Regulation, Bureau of Consumer Credit Protection regarding options for finding an
 4 advisor who can help the owner work with the State Tax Assessor to avoid tax lien
 5 foreclosure and provide information regarding ways to contact the bureau. The
 6 Department of Professional and Financial Regulation, Bureau of Consumer Credit
 7 Protection, by July 15th annually, shall provide to a statewide organization representing
 8 municipalities and to the State Tax Assessor information regarding assistance in avoiding
 9 tax lien foreclosure to assist municipalities and the State Tax Assessor in providing the
 10 information required in the notice. If the owners of any such real estate are unknown,
 11 instead of sending the notices by mail, the assessor shall cause the information required in
 12 this section on that real estate to be advertised in the state paper and in a newspaper, if
 13 any, of general circulation in the county in which the real estate lies. Such a statement or
 14 advertisement is sufficient legal notice of delinquent taxes. If those taxes and interest to
 15 date of payment and costs are not paid by February 21st, the State Tax Assessor shall
 16 record by March 15th, in the registry of deeds of the county or registry district where the
 17 real estate lies, a certificate signed by the assessor, setting forth the name or names of the
 18 owners according to the last state valuation, or the valuation established in accordance
 19 with section 1331; the description of the real estate assessed as contained in the last state
 20 valuation, or the valuation established in accordance with section 1331; the amount of
 21 unpaid taxes and interest; the amount of costs; and a statement that demand for payment
 22 of those taxes has been made, and that those taxes, interest and costs remain unpaid. The
 23 costs charged by the register of deeds for the filing may not exceed the fees established
 24 by Title 33, section 751.

25 **Sec. 4. Appropriations and allocations.** The following appropriations and
 26 allocations are made.

27 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
 28 **Revenue Services, Bureau of 0002**

29 Initiative: Provides funding to reimburse municipalities for 90% of the cost of selling
 30 property that has been acquired through tax lien foreclosure.

31	GENERAL FUND	2017-18	2018-19
32	All Other	\$0	\$2,250
33			
34	GENERAL FUND TOTAL	\$0	\$2,250
35			

36 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
 37 or section number to read consecutively.

38 **SUMMARY**

39 This amendment amends Committee Amendment "A" to:
 40 1. Change the timing of the notice required in Committee Amendment "A" regarding
 41 a property owner's right to apply for an abatement and the availability of assistance so

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- 1 that the notice need not be issued separately and instead must be included with other
2 notice to that property owner;
- 3 2. Specify that the income conditions established in Committee Amendment "A"
4 apply after medical expenses have been deducted;
- 5 3. Specify that the procedure established for the sale by municipalities of homesteads
6 acquired through tax lien foreclosure applies to properties that had previously received a
7 homestead exemption, rather than to properties that had merely been eligible for the
8 exemption;
- 9 4. Require that municipal notice to a former owner of the right to require the sale
10 procedure be sent by first-class mail to the last known address of the former owner;
- 11 5. Require documentation from the former owner verifying income and assets;
- 12 6. Designate as confidential applications for the procedure for the municipal sale of
13 homesteads acquired through tax lien foreclosure, including supporting information, files,
14 communications and determinations of such applications, and require that hearings on
15 such applications be held in executive session;
- 16 7. Specify that the real estate broker with whom the property is listed may not hold
17 an elected or appointed office in the relevant municipality and may not be employed by
18 that municipality; and
- 19 8. Specifically include reasonable attorney's fees as part of the amount retained by
20 the municipality after sale of the property.

21 **FISCAL NOTE REQUIRED**

22 (See attached)

23 SPONSORED BY: 

24 (Senator JACKSON)

25 COUNTY: Aroostook



128th MAINE LEGISLATURE

LD 1629

LR 2290(14)

An Act To Protect the Elderly from Tax Lien Foreclosures

Fiscal Note for Senate Amendment "C" to Committee Amendment "A"

Sponsor: Sen. Jackson of Aroostook

Fiscal Note Required: Yes

Fiscal Note

Reduces State Mandate Costs
Still a Funded State Mandate

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	(\$823,005)	(\$823,005)	(\$823,005)
Appropriations/Allocations				
General Fund	\$0	(\$823,005)	(\$823,005)	(\$823,005)

Fiscal Detail and Notes

This amendment removes the requirement for a notice to the taxpayer of potential eligibility to file for tax abatement. As the mandate for a separate notice is removed, the costs anticipated from increased abatement activity originating from the notification would not be considered mandated costs and the General Fund appropriation is reduced by \$823,005 beginning in fiscal year 2018-19. The mandated requirements to engage a real estate broker, sell the property at fair market value or the price anticipated by the broker and remit excess proceeds to the taxpayer remain in the bill. As amended, the bill still contains an ongoing General Fund appropriation of \$2,250 beginning in fiscal year 2018-19 to cover these costs. This amount represents 90% of the estimated net cost to municipalities not recovered through the sale of the property.