

# MAINE STATE LEGISLATURE

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Date: 9/13/18

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STATE OF MAINE  
SENATE  
128TH LEGISLATURE  
SECOND SPECIAL SESSION

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

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

Sec. 1. 36 MRSA §683, sub-§1, as amended by PL 2009, c. 213, Pt. YYY, §1 and affected by c. 652, Pt. A, §63, is further amended to read:

1. Exemption amount. Except for assessments for special benefits, the just value of \$10,000 of the homestead of a permanent resident of this State who has owned a homestead in this State for the preceding 12 months is exempt from taxation. Notwithstanding this subsection, a permanent resident of this State who loses ownership of a homestead in this State due to a tax lien foreclosure and subsequently regains ownership of the homestead from the municipality that foreclosed on the tax lien is deemed to have continuously owned the homestead and may not be determined ineligible for the exemption provided in this section due to the ownership of the homestead by the municipality. In determining the local assessed value of the exemption, the assessor shall multiply the amount of the exemption by the ratio of current just value upon which the assessment is based as furnished in the assessor's annual return pursuant to section 383. If the title to the homestead is held by the applicant jointly or in common with others, the exemption may not exceed \$10,000 of the just value of the homestead, but may be apportioned among the owners who reside on the property to the extent of their respective interests. A municipality responsible for administering the homestead exemption has no obligation to create separate accounts for each partial interest in a homestead owned jointly or in common.

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

For property that constitutes a homestead for which a property tax exemption is claimed under subchapter 4-B, the tax collector shall include with the written notice authorized under this section written notice to the person named on the tax lien mortgage that that person may be eligible to file an application for tax abatement under section 841, subsection 2, indicating that the municipality, upon request, will assist the person in requesting an abatement and provide information regarding the procedures for making

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1 such a request. The notice must also indicate that the person may seek assistance from  
2 the Department of Professional and Financial Regulation, Bureau of Consumer Credit  
3 Protection regarding options for finding an advisor who can help the person work with  
4 the municipality to avoid tax lien foreclosure and provide information regarding ways to  
5 contact the bureau. The Department of Professional and Financial Regulation, Bureau of  
6 Consumer Credit Protection, by July 15th annually, shall provide to a statewide  
7 organization representing municipalities information regarding assistance in avoiding tax  
8 lien foreclosure to assist municipalities in providing the information required in the  
9 notice.

10 **Sec. 3. 36 MRSA §943-C** is enacted to read:

11 **§943-C. Sale of homesteads formerly owned by persons 65 years of age or older**

12 Notwithstanding any provision of law to the contrary, after the foreclosure process  
13 under sections 942 and 943 or sections 1281 and 1282 is completed and the right of  
14 redemption has expired, if a municipality chooses to sell property that immediately prior  
15 to foreclosure received a property tax exemption as a homestead under subchapter 4-B,  
16 the municipal officers or their designee shall notify the former owner or owners of the  
17 right to require the municipality to use the sale process under subsection 3 as long as the  
18 former owner or owners demonstrate that the property meets the requirements of  
19 subsection 1. The notice must be sent by first-class mail to the last known address of the  
20 former owner or owners.

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

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

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

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

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

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

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

5 **2. Notification; appeal.** At least 90 days prior to listing property described in  
6 subsection 1 for sale, the municipal officers or their designee shall notify the former  
7 owner or owners, by first-class mail, of the former owner's or owners' right to require the  
8 sale process described in subsection 3. The municipal officers or their designee shall  
9 include with the notice an application form with instructions concerning application  
10 procedures and submission of information necessary for the municipality to determine  
11 whether the former owner or owners meet the conditions required under subsection 1.  
12 The former owner or owners must be allowed at least 30 days from the date the notice is  
13 mailed to submit the required application form and information. The municipal officers or  
14 their designee, within 30 days after receiving the required form and information, shall  
15 notify the former owner or owners whether the former owner or owners have been  
16 determined to be eligible for the sale process described in subsection 3 and inform the  
17 former owner or owners of the right to appeal pursuant to the Maine Rules of Civil  
18 Procedure, Rule 80B. The State Tax Assessor shall prepare application forms, notices  
19 and instructions that must be used by municipalities to inform former owners of their  
20 right to apply for the sale process provided under subsection 3.

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

24 A. List the property for sale with a real estate broker licensed under Title 32, chapter  
25 114 who does not hold an elected or appointed office in the municipality and is not  
26 employed by the municipality;

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

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

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

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

33 (3) All accrued interest;

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

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

37 **4. Effect of inability to contract or sell property.** If, after attempting to contract  
38 with at least 3 real estate brokers who meet the requirements of subsection 3, paragraph  
39 A, a municipality is unable to contract with a real estate broker for the sale of the property  
40 as described in subsection 3 or the broker cannot sell the property within 6 months after  
41 listing, the municipality may retain, sell or dispose of the property in the same manner as  
42 other property acquired through the tax lien foreclosure process.

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

Sec. 4. 36 MRSA §1281, as amended by PL 1991, c. 846, §12, is further amended to read:

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

Taxes on real estate mentioned in section 1602, including supplementary taxes assessed under section 1331, are delinquent on the 15th day of January next following the date of assessment. Annually, on or before February 1st, the State Tax Assessor shall send by mail to the last known address of each owner of such real estate upon which taxes remain unpaid a notice in writing, containing a description of the real estate assessed and the amount of unpaid taxes and interest, and alleging that a lien is claimed on that real estate for payment of those taxes, interests and costs, with a demand that payment be made by the next February 21st. For property that constitutes a homestead for which a property tax exemption is claimed under chapter 105, subchapter 4-B, the State Tax Assessor shall include in the written notice written notice to the owner named on the tax lien mortgage that that owner may be eligible to file an application for tax abatement under section 841, subsection 2, indicating that the State Tax Assessor, upon request, will assist the owner in requesting an abatement and provide information regarding the procedures for making such a request. The notice must also indicate that the owner may seek assistance from the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection regarding options for finding an advisor who can help the owner work with the State Tax Assessor to avoid tax lien foreclosure and provide information regarding ways to contact the bureau. The Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, by July 15th annually, shall provide to a statewide organization representing municipalities and to the State Tax Assessor information regarding assistance in avoiding tax lien foreclosure to assist municipalities and the State Tax Assessor in providing the information required in the notice. If the owners of any such real estate are unknown, instead of sending the notices by mail, the assessor shall cause the information required in this section on that real estate to be advertised in the state paper and in a newspaper, if any, of general circulation in the county in which the real estate lies. Such a statement or advertisement is sufficient legal notice of delinquent taxes. If those taxes and interest to date of payment and costs are not paid by February 21st, the State Tax Assessor shall record by March 15th, in the registry of deeds of the county or registry district where the real estate lies, a certificate signed by the assessor, setting forth the name or names of the owners according to the last state valuation, or the valuation established in accordance with section 1331; the description of the real estate assessed as contained in the last state valuation, or the valuation established in accordance with section 1331; the amount of unpaid taxes and interest; the amount of costs; and a statement that demand for payment of those taxes has been made, and that those taxes, interest and costs remain unpaid. The costs charged by the register of deeds for the filing may not exceed the fees established by Title 33, section 751.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

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1 ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF  
2 Revenue Services, Bureau of 0002

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

5	<b>GENERAL FUND</b>	<b>2017-18</b>	<b>2018-19</b>
6	All Other	\$0	\$2,250
7			
8	<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$2,250</b>
9			

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

12 **SUMMARY**

13 This amendment amends Committee Amendment "A" to:

- 14 1. Change the timing of the notice required in Committee Amendment "A" regarding  
15 a property owner's right to apply for an abatement and the availability of assistance so  
16 that the notice need not be issued separately and instead must be included with other  
17 notice to that property owner;
- 18 2. Specify that the income conditions established in Committee Amendment "A"  
19 apply after medical expenses have been deducted;
- 20 3. Specify that the procedure established for the sale by municipalities of homesteads  
21 acquired through tax lien foreclosure applies to properties that had previously received a  
22 homestead exemption, rather than to properties that had merely been eligible for the  
23 exemption;
- 24 4. Require that municipal notice to a former owner of the right to require the sale  
25 procedure be sent by first-class mail to the last known address of the former owner;
- 26 5. Require documentation from the former owner verifying income and assets;
- 27 6. Designate as confidential applications for the procedure for the municipal sale of  
28 homesteads acquired through tax lien foreclosure, including supporting information, files,  
29 communications and determinations of such applications, and require that hearings on  
30 such applications be held in executive session;
- 31 7. Specify that the real estate broker with whom the property is listed may not hold  
32 an elected or appointed office in the relevant municipality and may not be employed by  
33 that municipality;
- 34 8. Require the municipality to attempt to contract with at least 3 such real estate  
35 brokers for the sale of the property before retaining, selling or disposing of the property  
36 through the tax lien foreclosure process;
- 37 9. Specifically include reasonable attorney's fees as part of the amount retained by  
38 the municipality after sale of the property; and

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SENATE AMENDMENT "D" to COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1629

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10. Provide that a permanent resident of this State who loses ownership of a homestead in this State due to a tax lien foreclosure and subsequently regains ownership of the homestead from the municipality that foreclosed on the tax lien continues to remain eligible for the homestead property tax exemption.

**FISCAL NOTE REQUIRED**

(See attached)

SPONSORED BY: 

(Senator DOW)

COUNTY: Lincoln



# 128th MAINE LEGISLATURE

LD 1629

LR 2290(16)

## An Act To Protect the Elderly from Tax Lien Foreclosures

Fiscal Note for Senate Amendment <sup>14</sup>~~D~~ to Committee Amendment "A"

Sponsor: Sen. Dow of Lincoln

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
<b>Net Cost (Savings)</b>				
General Fund	\$0	(\$823,005)	(\$823,005)	(\$823,005)
<b>Appropriations/Allocations</b>				
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.