

MAINE STATE LEGISLATURE

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Date: 4/17/18

L.D. 1629
(Filing No. H-771)

TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION**

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

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Homeowners Affected by Tax Lien Foreclosure'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 36 MRSA §942, as amended by PL 2009, c. 489, §§2 and 3, is further amended by inserting after the 4th paragraph a new paragraph to read:

Within 30 days after recording a tax lien certificate in the registry of deeds for property that constitutes a homestead for which a property tax exemption is claimed under subchapter 4-B, the municipal treasurer shall provide 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 such a request. The notice must also indicate that the person 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 person work with the municipality 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 information regarding assistance in avoiding tax lien foreclosure to assist municipalities in providing the information required in the notice.

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

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

Notwithstanding any provision of law to the contrary, after the foreclosure process under sections 942 and 943 or sections 1281 and 1282 is completed and the right of

COMMITTEE AMENDMENT

K O F S

1 redemption has expired, if a municipality chooses to sell property that immediately prior
2 to foreclosure was eligible for a property tax exemption as a homestead under subchapter
3 4-B, the municipality shall notify the former owner or owners of the right to require the
4 municipality to use the sale process under subsection 3 if the former owner or owners
5 demonstrate that the property meets the requirements of subsection 1.

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

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

10 B. The former owner or owners of the property demonstrate to the municipality that:

11 (1) The income, as defined in section 5219-KK, subsection 1, paragraph D, of
12 residents of the property was less than \$40,000 for the calendar year immediately
13 preceding the calendar year in which the right of redemption expired; and

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

22 **2. Notification; appeal.** A municipality required to provide the notification required
23 under this section shall notify the former owner or owners of the right to require the sale
24 process described in subsection 3 at least 90 days prior to listing the property for sale and
25 provide an application form with instructions for the former owner or owners to apply for
26 the sale process described under subsection 3 and to provide the information necessary
27 for the municipality to determine whether the former owner or owners meet the
28 conditions required under subsection 1. The former owner or owners must be allowed at
29 least 30 days to submit the required form and information. The municipality, within 30
30 days after receiving the required form and information, shall notify the former owner or
31 owners whether they have been determined to be eligible for the sale process described in
32 subsection 3 and provide the former owner or owners the right to appeal a negative
33 decision. The State Tax Assessor shall prepare forms and instructions that must be used
34 by municipalities to inform former owners of their right to apply for the sale process
35 provided under subsection 3.

36 **3. Sale process requirements.** If a municipality determines that the former owner
37 or owners meet the conditions specified under subsection 2, the municipality shall:

38 A. List the property for sale with a real estate broker licensed under Title 32, chapter
39 114 that is not employed by the municipality;

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

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

R.O.F.S

- 1 (1) The sum of tax owed;
- 2 (2) Property taxes that would have been due on the property during the period
- 3 following foreclosure when the property is owned by the municipality;
- 4 (3) Interest;
- 5 (4) Fees, including real estate broker's fees; and
- 6 (5) Any other expenses incurred by the municipality in making the sale or
- 7 maintaining the property.

8 **4. Effect of inability to contract or sell property.** If a municipality is unable to
 9 contract with a real estate broker for the sale of the property as described in subsection 3
 10 or the broker cannot sell the property within 6 months after listing, the municipality may
 11 treat the property in the same manner as other property acquired through foreclosure.

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

15 **Sec. 3. 36 MRSA §1281,** as amended by PL 1991, c. 846, §12, is further amended
 16 by inserting at the end a new paragraph to read:

17 Within 30 days after recording a tax lien certificate in the registry of deeds for
 18 property that constitutes a homestead for which a property tax exemption is claimed
 19 under chapter 105, subchapter 4-B, the State Tax Assessor shall provide written notice to
 20 the owner named on the tax lien mortgage that that owner may be eligible to file an
 21 application for tax abatement under section 841, subsection 2, indicating that the State
 22 Tax Assessor, upon request, will assist the owner in requesting an abatement and provide
 23 information regarding the procedures for making such a request. The notice must also
 24 indicate that the owner may seek assistance from the Department of Professional and
 25 Financial Regulation, Bureau of Consumer Credit Protection regarding options for
 26 finding an advisor who can help the owner work with the State Tax Assessor to avoid tax
 27 lien foreclosure and provide information regarding ways to contact the bureau. The
 28 Department of Professional and Financial Regulation, Bureau of Consumer Credit
 29 Protection, by July 15th annually, shall provide to a statewide organization representing
 30 municipalities and to the State Tax Assessor information regarding assistance in avoiding
 31 tax lien foreclosure to assist municipalities and the State Tax Assessor in providing the
 32 information required in the notice.

33 **Sec. 4. Appropriations and allocations.** The following appropriations and
 34 allocations are made.

35 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
 36 **Revenue Services, Bureau of 0002**

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

R.O.P.S

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

1	GENERAL FUND	2017-18	2018-19
2	All Other	\$0	\$825,255
3			
4	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$825,255</u>
5			

6 **SUMMARY**

7 This amendment replaces the bill and requires a municipal treasurer or the State Tax
8 Assessor, with regard to property in the unorganized territory, within 30 days after
9 recording a tax lien certificate in the registry of deeds to notify the person named on a tax
10 lien mortgage of the right to apply for an abatement and the availability of assistance in
11 applying for an abatement from the municipal treasurer or the State Tax Assessor. The
12 amendment also requires that the notification include information about the availability of
13 assistance to avoid tax lien foreclosure from the Department of Professional and Financial
14 Regulation, Bureau of Consumer Credit Protection.

15 The amendment also provides a process that must be used by municipalities that
16 choose to sell property that has been acquired through tax lien foreclosure if the property
17 was formerly eligible for a homestead exemption and was owned by a person who was 65
18 years of age or older and meets income and assets guidelines. Under this process the
19 municipality must use an independent real estate broker, sell the property for fair market
20 value or the price at which the independent broker thinks the property will sell within 6
21 months and return the net proceeds of the sale to the former owner after deduction of the
22 municipality's costs.

23 The amendment also provides funding to municipalities to cover state-mandated
24 costs.

25 **FISCAL NOTE REQUIRED**
26 (See attached)

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 1629

LR 2290(05)

An Act To Protect the Elderly from Tax Lien Foreclosures

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-771)

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Funded

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	\$825,255	\$825,255	\$825,255
Appropriations/Allocations				
General Fund	\$0	\$825,255	\$825,255	\$825,255

State Mandates

Required Activity

Provide written notice to homeowner receiving a tax lien that he or she can file an application for tax abatement. Engage a real estate broker, sell at fair market value or price anticipated by broker, remit excess proceeds to the homeowner when sold.

Unit Affected

Municipality

Local Cost

Significant statewide

The bill includes a General Fund appropriation to the Department of Administrative and Financial Services to reimburse municipalities for 90% of the costs of selling property that has been acquired through tax lien foreclosure.

Fiscal Detail and Notes

Additional costs to the Department of Professional and Financial Regulation associated with this legislation can be absorbed within existing budgeted resources.