

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 101

H.P. 69

House of Representatives, January 9, 2023

**An Act to Return to the Former Owner Any Excess Funds
Remaining After the Sale of Foreclosed Property**

Reference to the Committee on Taxation suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative PERKINS of Dover-Foxcroft.
Cosponsored by Representatives: ARATA of New Gloucester, COLLAMORE of Pittsfield,
GRIFFIN of Levant, HENDERSON of Rumford, JAVNER of Chester, POIRIER of
Skowhegan, RUDNICKI of Fairfield, WHITE of Guilford.

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

2 **Sec. 1. 36 MRSA §949**, as enacted by PL 2015, c. 53, §1, is repealed.

3 **Sec. 2. 36 MRSA §949-A** is enacted to read:

4 **§949-A. Disbursement of excess funds**

5 A municipality that obtains title to property under the operation of this article shall
6 disburse to the former owner the excess of any funds as provided in this 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:

10 (1) The amount obtained by the municipality for the disposition of the property
11 less:

12 (a) All taxes and interest owed on the property and the amount of taxes and
13 interest that would have been assessed had the property not been acquired by
14 the municipality;

15 (b) The municipality's cost of the lien and foreclosure process;

16 (c) The municipality's cost of maintaining and disposing of the property;

17 (d) Unpaid sewer, water or other charges and fees imposed by the municipality
18 or a quasi-governmental authority; and

19 (e) The municipality's cost of mailing notices regarding the property; or

20 (2) If a municipality does not dispose of property within 180 days after foreclosure,
21 the amount determined by subtracting from the fair market value of the property at
22 the time of foreclosure, as determined by an independent appraisal, the costs
23 specified in subparagraph (1) and the cost of the appraisal performed pursuant to
24 this subparagraph.

25 B. "Former owner" means a party named on the tax lien mortgage at the time of the
26 levy of the tax lien or that party's successors, heirs or assigns or a representative of that
27 successor, heir or assign.

28 C. "Municipality" means, for property located in the unorganized territory, the State
29 Tax Assessor.

30 **2. Time and form of return; notice.** Within 30 days after the disposition of property
31 or 180 days after foreclosure, whichever is earlier, a municipality shall mail by certified
32 mail, return receipt requested, to the former owner's last known address notice of the excess
33 of any funds. The notice must include an itemized statement showing the amount for which
34 the property was sold or appraised and all deductions made from that amount. The notice
35 also must include directions for the redemption of the excess of any funds, including
36 requiring the personal appearance of the former owner to claim the excess funds and the
37 location and hours of operation of the clerk of the municipality or, for property located in
38 the unorganized territory, the bureau.

39 **3. Escrow; negotiation; failure to redeem.** A municipality shall hold the excess of
40 any funds for the benefit of the former owner in escrow in a segregated account for 90 days

1 or until the completion of negotiation, as required by this subsection, or arbitration, as
2 required by subsection 4, whichever is later. Upon the request of the former owner and
3 within 90 days after receipt of the notice provided pursuant to subsection 2, the
4 municipality shall enter into negotiations for the return of the excess of any funds. If the
5 former owner is dissatisfied with the result of the negotiations, the former owner, within
6 30 days after negotiation, may seek arbitration as provided in subsection 4. If the former
7 owner fails to appear personally within 90 days after receipt of the notice provided pursuant
8 to subsection 2, the excess of any funds may be retained by the municipality.

9 **4. Arbitration.** The former owner, within 90 days after receipt of the notice provided
10 pursuant to subsection 2 or 30 days after the negotiation with the municipality pursuant to
11 subsection 3, may request that the controversy regarding the return of the excess of any
12 funds be submitted to binding arbitration. The arbitration may be by one arbitrator,
13 mutually agreed upon by the municipality and the former owner. If agreement on one
14 arbitrator is not reached, the arbitration must be submitted to a panel of 3 arbitrators, one
15 of whom is selected by the former owner, one of whom is selected by the municipality and
16 one of whom is a neutral arbitrator who is selected jointly by the other 2 arbitrators. Each
17 party shall pay its chosen arbitrator and half of the cost of the neutral arbitrator.
18 Determination of disputed matters by the panel of arbitrators is final and binding on the
19 parties. The arbitration must be administered under the auspices of the American
20 Arbitration Association or a successor organization and, except for the selection of
21 arbitrators, is governed by the commercial rules and procedures of the American
22 Arbitration Association or a successor organization. The concept of "last best offer" must
23 be used.

24 **Sec. 3. Application.** This Act applies to property foreclosed on by a municipality
25 or, for property located in the unorganized territory, by the State Tax Assessor on or after
26 the effective date of this Act.

27 SUMMARY

28 Under current law, if a municipality, or the State Tax Assessor for property located in
29 the unorganized territory, forecloses on property for failure to pay taxes owed on that
30 property, the municipality is under no obligation to return any funds that exceed the amount
31 owed in taxes after the sale of the property.

32 This bill requires the municipality, which includes the State Tax Assessor for property
33 located in the unorganized territory, to provide notice of the availability of the excess funds,
34 after subtracting the tax lien, interest, fees for recording the lien, costs of mailing notice,
35 court costs and any other expenses incurred in disposing of the property, to the former
36 owner within 30 days after the sale of the property or 180 days after the foreclosure,
37 whichever is sooner. The municipality is required to keep the excess funds in a segregated
38 escrow account. If the former owner fails to claim the excess funds in person within 90
39 days after receipt of the notice, the municipality is allowed to retain the excess funds. If the
40 former owner or the former owner's representative notifies the municipality within 90 days
41 after receipt of the notice, the municipality must negotiate with the former owner over the
42 return of the excess funds. If the former owner is dissatisfied with the municipality's offer,
43 the former owner may seek binding arbitration for resolution of the matter.