

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2262

H.P. 1452

House of Representatives, March 12, 2024

**An Act to Amend the Process for the Sale of Foreclosed Properties
Due to Nonpayment of Taxes**

Reported by Representative PERRY of Bangor for the Joint Standing Committee on Taxation pursuant to Public Law 2023, chapter 358, section 2, subsection 7.

Reference to the Committee on Taxation suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 36 MRSA §943-C**, as amended by PL 2023, c. 358, §1, is further amended
3 to read:

4 **§943-C. Sale of foreclosed properties**

5 Notwithstanding any provision of law to the contrary, after the foreclosure process
6 under sections 942 and 943 or sections 1281 and 1282 is completed and the right of
7 redemption has expired, if a municipality chooses to sell to someone other than the former
8 owner, the municipal officers or their designee shall ~~notify the former owner of the right to~~
9 ~~require the municipality to use the sale process under subsection 3.~~ For the purpose of this
10 section, "former owner" means the owner or owners of record at the time of foreclosure or,
11 if deceased, the former owner's heirs, devisees or personal representatives. ~~The notice must~~
12 ~~be sent by United States Postal Service certified mail, return receipt requested, and first-~~
13 ~~class mail to the last known address of the former owner and "tax-acquired property" means~~
14 real property taken by a municipality for nonpayment of property taxes. If the municipality
15 agrees to sell the property back to the former owner, the alternative sale process under this
16 section does not apply. If the sale to the former owner is not completed, the requirements
17 of this section are reinstated.

18 **1-A. Subject property.** This section governs the sale of all tax-acquired property
19 through the tax lien mortgage foreclosure process under sections 942 and 943 or sections
20 1281 and 1282.

21 ~~**2. Notification; appeal.** At least 90 days prior to listing property for sale, the~~
22 ~~municipal officers or their designee shall send a written notice to the last known address of~~
23 ~~the former owner, by United States Postal Service certified mail, return receipt requested,~~
24 ~~and first class mail, of the right to require the sale process described in subsection 3. The~~
25 ~~State Tax Assessor shall prepare application forms, notices and instructions that must be~~
26 ~~used by municipalities to inform former owners of their right to apply for the sale process~~
27 ~~provided under subsection 3.~~

28 **3. Sale process requirements.** ~~If the former owner submits a written demand within~~
29 ~~90 days after the notification in subsection 2 that the sale process of this subsection be used~~
30 When selling a tax-acquired property, the municipal officers or their designee shall:

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

34 B. ~~Sell~~ Convey the property via quitclaim deed to the successful buyer at the highest
35 reasonable price at which the property is able to sell, ~~or the price at which the property~~
36 ~~is anticipated by the real estate broker to sell within 6 months after listing; and~~

37 C. Pay to the former owner any sale proceeds in excess of:

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

39 (2) ~~Property~~ The sum of all taxes that would have been assessed on the property
40 during the period following foreclosure when the property is owned by the
41 municipality;

42 (3) All accrued interest;

1 (4) Fees, including advertising, mailing and recording fees and property listing
2 and real estate broker's fees;

3 (5) Any other expenses incurred by the municipality in selling, ~~or~~ maintaining or
4 improving the property, including, but not limited to, an administrative fee equal
5 to 10% of the property taxes owed and reasonable attorney's fees;

6 (6) The cost to the municipality of the lien and foreclosure process, including, but
7 not limited to, reasonable attorney's fees; and

8 (7) Unpaid sewer, water or other utility charges and fees imposed by the
9 municipality.

10 ~~If the municipal officers are unable to list or sell the property under the requirements of~~
11 ~~paragraphs A and B, or if the property tax payer does not request that the property be sold~~
12 ~~according to the sale process in this subsection, the municipal officers may sell the property~~
13 ~~in any manner authorized by the municipality's legislative body, if the municipal officers~~
14 ~~pay the former owner any excess sale proceeds as calculated in paragraph C.~~

15 **4-A. Effect of inability to contract or sell property.** If, after 3 attempts, a
16 municipality is unable to contract with a real estate broker for the sale of the property as
17 described in subsection 3 or the broker is unable to sell the property within 6 months after
18 listing, the municipal officers may sell the property in any manner authorized by the
19 municipality's legislative body, as long as the municipality pays the former owner any
20 excess sale proceeds as calculated in subsection 3, paragraph C.

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

24 ~~**6. Quitclaim deed and waiver**~~ **Waiver of former owner.** ~~As a condition of~~
25 ~~disbursement of excess sale proceeds to the former owner under subsection 3, paragraph~~
26 ~~C, the municipal officers may require the former owner to execute a quitclaim deed without~~
27 ~~covenant conveying any interest of the former owner in the property to the municipality~~
28 ~~and to deliver that deed before conveyance by the municipality to the buyer. Receipt of~~
29 ~~such excess sale proceeds by the former owner pursuant to this section is deemed to be a~~
30 ~~waiver of any right of the former owner to commence any action pursuant to section 946-B.~~
31 ~~Failure of a municipality to file the notice required by subsection 11 does not nullify or~~
32 ~~otherwise affect the validity of the waiver under this subsection.~~

33 **7. Retention of tax-acquired property.** If a municipality chooses to retain a tax-
34 acquired property for municipal use, the municipality must procure an appraisal report from
35 an appraiser licensed to provide real estate appraisals in this State showing the value of the
36 tax-acquired property being retained. The appraiser may not hold an elected or appointed
37 office in the municipality or be otherwise employed by the municipality. The municipal
38 officers, after providing the notice required by subsection 8, shall pay the former owner
39 any excess sale proceeds as calculated in subsection 3, paragraph C, substituting the value
40 of the tax-acquired property as shown in the appraisal report for the selling price of the tax-
41 acquired property.

42 **8. Notice of intent to pay excess sale proceeds.** If after the sale of a tax-acquired
43 property there exist any excess sale proceeds as described in subsection 3, paragraph C, at
44 least 30 days prior to disbursement of those excess sale proceeds to the former owner the

1 municipal officers shall send written notice of the municipality's intent to pay the former
2 owner the excess sale proceeds. The notice must be sent by certified mail, return receipt
3 requested, to the last known address of the former owner and the last known address of
4 each record holder of an interest in the tax-acquired property. This notice does not limit
5 the right of lienholders to pursue any claims to the excess sale proceeds against the former
6 owner otherwise available by law.

7 **9. Notice by publication.** If the municipality is unable, after reasonable diligence, to
8 locate the former owner of a tax-acquired property in order to send the notice required in
9 subsection 8, the municipality, once a week for 3 consecutive weeks, shall place a notice
10 in a newspaper of general circulation in the county in which the tax-acquired property is
11 located. The notice must include the name of the former owner, a description of the
12 tax-acquired property that was sold, the amount of the excess sale proceeds and the date by
13 which the excess sale proceeds must be claimed.

14 **10. Retention of proceeds.** If, after provision of notice under subsection 9, a former
15 owner fails to claim the excess proceeds within 30 days of the final published notice, the
16 former owner's rights to the excess sale proceeds are forfeited and the municipality may
17 retain and expend the proceeds in whatever manner the legislative body of the municipality
18 considers appropriate, as long as the municipality has given notice to each record holder of
19 an interest in the tax-acquired property pursuant to subsection 8.

20 **11. Notice of payment of proceeds.** A municipality, within 10 days of payment of
21 any excess sale proceeds to the former owner under this section, shall record in the registry
22 of deeds of the county or registry district where the tax-acquired property is located a notice
23 signed by the municipal officers. The notice must include the name of the former owner
24 to whom the excess sale proceeds were paid, the amount of the excess sale proceeds, the
25 date on which the excess sale proceeds were paid to the former owner, a description of the
26 tax-acquired property that was sold and a statement that receipt of the excess sale proceeds
27 by the former owner is deemed to be a waiver of the former owner's right to commence any
28 action pursuant to section 946-B.

29 The State Tax Assessor shall prescribe the form of the notice to be used by municipalities
30 under this subsection.

31 **SUMMARY**

32 This bill is reported out by the Joint Standing Committee on Taxation. It is the
33 recommendation of the Working Group to Study Equity in the Property Tax Foreclosure
34 Process pursuant to Public Law 2023, chapter 358.

35 This bill amends the process following the foreclosure on a property by a municipality
36 for failure to pay property taxes and the return of excess funds by:

37 1. Requiring a municipality to make 3 attempts to contract with a real estate broker for
38 the sale of the property;

39 2. Requiring that a real estate broker attempt to sell the property for 6 months before
40 the municipality can sell the property in a manner authorized by the municipality's
41 legislative body;

42 3. Eliminating the requirement that the former owner submit a written demand for the
43 return of the excess funds;

1 4. Allowing a municipality to deduct from the proceeds of the sale, in addition to the
2 other costs authorized under current law, fees incurred for advertising, mailing and
3 recording related to the property and expenses incurred in improving the property;

4 5. Requiring a municipality, at least 30 days prior to the disbursement of excess
5 proceeds to the former owner, to provide notice of such intent to the former owner and each
6 record holder of an interest in the property. The notice must be made by certified mail,
7 return receipt requested;

8 6. Requiring the municipality, if it is unable to locate the former owner, to have
9 published in a newspaper of general circulation in the county in which the property is
10 located, a notice specifying the former owner, a description of the property sold, the amount
11 of the excess proceeds and the date by which the proceeds must be claimed; and

12 7. Requiring the municipality, within 10 days of paying the excess proceeds to the
13 former owner, to record in the registry of deeds a notice indicating the payment of the
14 excess proceeds, to whom the payment was made, the date of the payment, a description of
15 the property sold and a statement that the former owner waived, by accepting the excess
16 proceeds, the right to commence an action to dispute the taking of the property.