

HOUSE No. 2605

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Mahoney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the improvement in the process for collecting delinquent property taxes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John J. Mahoney</i>	<i>13th Worcester</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>

HOUSE No. 2605

By Mr. Mahoney of Worcester, a petition (accompanied by bill, House, No. 2605) of John J. Mahoney and others relative to the process for collecting delinquent property taxes. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the improvement in the process for collecting delinquent property taxes.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 60 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by adding the following paragraph:-

3 The filing fees paid by any municipality for recording any documents pursuant to this
4 chapter shall be \$30.

5 SECTION 2. Subsection (c) of section 2C of said chapter 60, as so appearing, is hereby
6 amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

7 (1) The sale of tax receivables shall be by public sale to the most responsible and
8 responsive offeror taking into consideration the following evaluation criteria: (i) the price
9 proposed by the offeror; (ii) the offeror’s qualifications and experience; (iii) the offeror’s plan for
10 communicating with the taxpayers; (iv) whether the offeror has a regular place of business in the
11 commonwealth; (v) whether the offeror is in good standing with the department of revenue; (vi)
12 only those offerors that are licensed as debt collectors by the commonwealth shall be eligible to

13 participate in this sale; and (vii) other criteria determined by the commissioner and the
14 municipality. The sale shall provide for the option to purchase subsequent tax receivables subject
15 to subsection (h) and any regulations that may be promulgated by the commissioner pursuant
16 thereto.

17 SECTION 3. Said subsection (c) of said subsection 2C of said chapter 60, as so
18 appearing, is hereby further amended by striking out paragraph (9) and inserting in place thereof
19 the following paragraph:-

20 (9) A purchaser owning any tax receivable shall give notice to a taxpayer within 12
21 business days of purchasing said tax receivable and to the appropriate municipality of the name,
22 address, telephone number and preferred method of communication with said purchaser and any
23 service agent acting on behalf of said purchaser within 12 business days of purchasing said tax
24 receivable and where the land is residential such notice shall be served in the manner required by
25 law for the service of subpoenas on witnesses in civil cases and shall include a uniform notice
26 approved by the attorney general, in language understandable by a least sophisticated consumer,
27 together with a notice in the 5 most common languages in the commonwealth that this notice
28 affects important legal rights and should be translated immediately and such notice shall state:

29 (i) that a complaint to foreclose the tax title may be filed on or after a specific date;

30 (ii) that the tax title has been sold to a third party;

31 (iii) why the property was taken and that the owner may redeem the property and the date
32 when the redemption period expires;

33 (iv) the components of the amount required to redeem the property and the procedure for
34 redemption;

35 (v) that if a complaint to foreclose the tax title is filed and the owner does not respond by
36 filing an answer the court may enter an order defaulting the order;

37 (vi) that if a complaint to foreclose the tax title is filed, the owner may respond by filing
38 an answer that requests that the court set the terms by which the owner may redeem the property;

39 (vii) that if the property is not redeemed, the town or purchaser is entitled to receive an
40 order from the land court that completes a transfer of ownership of the property to the town or
41 purchaser and permanently eliminates any rights the owner has in the property;

42 (viii) that if the property is not redeemed, the property may be sold at auction and the
43 owner will likely lose significant equity in the property, together with the name, address,
44 telephone number and preferred method of communication with said purchaser and any service
45 agent acting on behalf of said purchaser; and

46 (ix) that upon request by the taxpayer, the municipality shall furnish a copy of such
47 information to the taxpayer within 12 business days of receiving such request.

48 Whenever the purchaser or the service agent of such tax receivables shall change, the
49 new purchaser or service agent shall provide the notice required herein within 12 business days
50 of the effective date of such change.

51 SECTION 4. Said section 2C of said chapter 60, as so appearing, is hereby further
52 amended by adding the following subsection:-

53 (k) If the purchaser of a tax receivable on any parcel of real estate subsequently
54 forecloses upon the property, it shall request that the land court approve all reasonable expenses
55 it has incurred and shall provide a notice to the former owner of the right to redeem for this
56 amount within 1 year. If the land is residential such notice shall be served in the manner
57 required by law for the service of subpoenas on witnesses in civil cases and shall include a
58 uniform notice approved by the attorney general, in language understandable by a least
59 sophisticated consumer, together with a notice in the 5 most common languages in the
60 commonwealth that this notice affects important legal rights and should be translated
61 immediately and such notice shall state the following:- (i) that the land has been foreclosed upon
62 and may be redeemed for a specific amount by a date certain that shall be listed, and shall attach
63 all documents filed at land court related to the foreclosure of the property and (ii) that if it is not
64 redeemed it will be sold at public auction.

65 If the land is redeemed, the foreclosing entity shall take whatever action is necessary to
66 vacate and rescind the foreclosure in land court and record that the title has been redeemed by
67 filing a document at the registry of deeds for the district in which the land lies entitled
68 "Satisfaction of Tax Title Liability."

69 If the land is not redeemed within 1 year, then the foreclosing entity shall publish a notice
70 of auction of the land in each of 3 successive weeks, the first publication of which shall be not
71 less than 21 days before the day of sale, in a newspaper published in the city or town where the
72 land lies or in a newspaper with general circulation in the city or town where the land lies and
73 notice of the sale has been sent by registered mail to the owner or owners of record. If the
74 purchaser sells the land at auction, the balance of any proceeds above and beyond reasonable
75 expenses as approved by the land court shall be equally divided between the owner and the

76 municipality that sold the tax title with a detailed accounting of these expenses within 60 days of
77 such sale.

78 SECTION 5. Section 16 of said chapter 60, as so appearing, is hereby amended by
79 striking out, in lines 2 to 3, inclusive, the words “or arresting him for his tax”.

80 SECTION 6. Said section 16 of said chapter 60, as so appearing, is hereby further
81 amended by striking out the seventh sentence and inserting in place thereof the following
82 sentence:- Demand shall be made by the collector by mailing the same to the last or usual place
83 of business or abode, or to the address best known to him or her, and failure to receive the same
84 shall not invalidate a tax or any proceedings for the enforcement or collection of the same;
85 provided, that if the land is residential a uniform notice approved by the attorney general, in
86 language understandable by a least sophisticated consumer, together with a notice in the 5 most
87 common languages in the commonwealth shall be used that states that this notice affects
88 important legal rights and should be translated immediately, and provides clear notice that the
89 non-payment of property taxes can result in the taking of the property and that the property
90 owner may be eligible for exemptions, abatements and tax deferrals and other assistance and
91 should contact the collector of taxes office together with the address, telephone number, email
92 address, if available, and internet address for further information.

93 SECTION 7. Said chapter 60 is hereby further amended by striking out section 52 and
94 inserting in place thereof the following section:-

95 Section 52. Cities and towns may make regulations for the possession, management and
96 sale of land purchased or taken for taxes, not inconsistent with law, regulations promulgated by
97 the department of revenue or the right of redemption. The treasurer of any city or town holding 1

98 or more tax titles may assign and transfer such tax title or titles, individually or bundled, to the
99 highest bidder after a public auction, after having given 60 days' notice of the time and place of
100 such public auction by publication, which shall conform to the requirements of section 40, and
101 having posted such notice in 2 or more convenient and public places in said city or town,
102 provided that the sum so paid for such assignment is not less than the amount necessary for
103 redemption, and may execute and deliver on behalf of the city or town any instrument necessary
104 therefor. Only those bidders that are licensed as debt collectors by the commonwealth shall be
105 eligible to participate in this sale. Regardless of whether the assignment is pursuant to this
106 section or section 2C, the treasurer shall send notice of the intended assignment to the owner of
107 record of each parcel at his or her last known address not less than 10 days prior to the
108 assignment, where the land is residential such notice shall be served in the manner required by
109 law for the service of subpoenas on witnesses in civil cases and shall include a uniform notice
110 approved by the attorney general, together with a notice in the 5 most common languages in the
111 commonwealth that this notice affects important legal rights and should be translated
112 immediately in language understandable by a recipient with a least sophisticated consumer that
113 the treasurer intends to sell the tax title to the homeowner's property and provides clear notice
114 that the non-payment of property taxes can result in the loss of the property and that the property
115 owner may be eligible for exemptions, abatements and tax deferrals and other assistance and
116 should contact the collector of taxes office together with the telephone number, email address, if
117 available, and internet address for further information.

118 The instrument of assignment shall be in a form approved by the commissioner and shall
119 be recorded within 60 days from its date and if so recorded shall provide a rebuttable
120 presumption as to all facts essential to its validity. The instrument of assignment shall, for each

121 parcel assigned thereunder, state the amount for which the tax title on the parcel could have been
122 redeemed on the date of the assignment, separately stating for each parcel the principal amount
123 and the total interest accrued until the date of assignment. The principal amount shall be the sum
124 of the amounts for which the parcel was taken and amounts subsequently certified under section
125 61 and costs of service if applicable.

126 Except as hereinafter otherwise provided, all provisions of law applicable in cases where
127 the original purchaser at a tax sale is another than the city or town shall thereafter apply in the
128 case of such an assignment, as if the assignee had been a purchaser for the original sum at the
129 original sale or at a sale made at the time of the taking and had paid to the city or town the
130 subsequent taxes and charges included in the sum paid for the assignment. Any extension of the
131 time within which foreclosure proceedings may not be instituted granted by a municipality's
132 treasurer prior to assignment shall be included in the language of sale and be binding upon the
133 assignee. If the land is not redeemed within 1 year, then the foreclosing entity shall publish a
134 notice of auction of the land in each of 3 successive weeks, the first publication of which shall be
135 not less than 21 days before the day of sale, in a newspaper published in the city or town where
136 the land lies or in a newspaper with general circulation in the city or town where the land lies and
137 notice of the sale has been sent by registered mail to the owner or owners of record. If the
138 purchaser sells the land at auction, the balance of any proceeds above and beyond reasonable
139 expenses as approved by the land court shall be equally divided between the owner and the
140 municipality that sold the tax title with a detailed accounting of these expenses within 60 days of
141 such sale.

142 If the land is redeemed, the foreclosing entity shall take whatever action is necessary to
143 vacate and rescind the foreclosure in land court and record that the title has been redeemed by
144 filing a document at the county registry of deeds entitled "Satisfaction of Tax Title Liability".

145 SECTION 8. Section 53 of said chapter 60, as so appearing, is hereby amended by
146 inserting after the word "published," , in line 4, inclusive, the following words:- where the land is
147 residential such notice shall be served in the manner required by law for the service of subpoenas
148 on witnesses in civil cases and published.

149 SECTION 9. Said section 53 of said chapter 60, as so appearing, is hereby further
150 amended by adding the following paragraph:-

151 Where the land is residential all notices sent pursuant to this section shall include a
152 uniform notice approved by the attorney general, together with a notice in the five most
153 common languages in the commonwealth that this notice affects important legal rights and
154 should be translated immediately. Such notice shall state in language understandable by a least
155 sophisticated consumer:

156 (i)That a complaint to foreclose the tax title may be filed on or after a specific date;

157 (ii)That the tax title may be sold to a third party;

158 (iii)Why the property was taken and that the owner may redeem the property and the date
159 when the redemption period expires;

160 (iv)The components of the amount required to redeem the property and the procedure for
161 redemption;

162 (v) That if a complaint to foreclose the tax title is filed and the owner does not respond by
163 filing an answer the court may enter an order defaulting the order;

164 (vi) That if a complaint to foreclose the tax title is filed, the owner may respond by filing
165 an answer that requests that the court set the terms by which the owner may redeem the property;

166 (vii) That if the property is not redeemed, the town or purchaser is entitled to receive an
167 order from the land court that completes a transfer of ownership of the property to the town or
168 purchaser and permanently eliminates any rights the owner has in the property; and

169 (viii) That if the property is not redeemed, the property may be sold at auction and the
170 owner will likely lose significant equity in the property.

171 SECTION 10. Said chapter 60 is hereby further amended by striking out subsection 62A
172 and inserting in place thereof the following section:-

173 Section 62A. Municipalities may by bylaw or ordinance authorize payment agreements
174 between the treasurer and persons entitled to redeem parcels in tax title. Such agreements shall
175 be for a maximum term of no more than 10 years and may waive not more than 50 per cent of
176 the interest that has accrued on the amount of the tax title account unless someone aged 60 or
177 older or whose primary source of income is disability benefits is on the deed for the parcel and
178 the parcel is his or her primary residence, in which case 75 per cent of the interest that has
179 accrued on the amount of the tax title may be waived, subject to such lower limit as the
180 ordinance or bylaw may specify. An ordinance or bylaw under this section shall provide for such
181 agreements and waivers uniformly for classes of tax titles defined in the ordinance or bylaw. Any
182 such agreement must require a minimum payment at the inception of the agreement of 25 per
183 cent of the amount needed to redeem the parcel unless someone aged 60 or older or whose

184 primary source of income is disability benefits is on the deed for the parcel and the parcel is his
185 or her primary residence, in which case the minimum payment shall be no less than 10 per cent
186 of the amount needed to redeem the parcel of the interest that has accrued on the amount of the
187 tax title may be waived, subject to such lower limit as the ordinance or bylaw may specify.
188 During the term of the agreement the treasurer may not bring an action to foreclose the tax title
189 unless payments are not made in accordance with the schedule set out in the agreement or timely
190 payments are not made on other amounts due to the municipality that are a lien on the same
191 parcel.

192 SECTION 11. Said chapter 60 is hereby further amended by striking out section 64 and
193 inserting in place thereof the following section:-

194 Section 64. The title conveyed by a tax collector's deed or by a taking of land for taxes
195 shall be absolute after foreclosure of the right of redemption by decree of the land court as
196 provided in this chapter. The land court shall have exclusive jurisdiction of the foreclosure of all
197 rights of redemption from titles conveyed by a tax collector's deed or a taking of land for taxes,
198 in a proceeding provided for in sections 65 to 75, inclusive. Except if the title was conveyed to a
199 third party pursuant to section 2C or 52 then the title may be redeemed within 1 year of the
200 foreclosure.

201 SECTION 12. Section 65 of said chapter 60, as so appearing, is hereby amended by
202 striking out, in line 4, the words "after six months," and inserting in place thereof the following
203 words:- after 12 months.