

SENATE No. 1722

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 protecting homeowners from unfair tax lien practices by cities and towns.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>

SENATE No. 1722

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1722) of Mark C. Montigny, Mike Connolly, Mary S. Keefe and Jack Patrick Lewis for legislation to protect homeowners from unfair tax lien practices by cities and towns. Revenue.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act protecting homeowners from unfair tax lien practices by cities and towns.

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 2016
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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If the land is not redeemed within 1 year, then the foreclosing entity shall publish a notice of auction of the land in each of 3 successive weeks, the first publication of which shall be not less than 21 days before the day of sale, in a newspaper published in the city or town where the land lies or in a newspaper with general circulation in the city or town where the land lies and notice of the sale has been sent by at least 14 days prior to the date of sale by registered mail to the owner or owners of record of the last deed prior to the tax taking, to the address set forth in section 61 of chapter 185, if the land is then registered, or in the case of unregistered land, to the

77 address of the owner or owners as given on the deed or on the petition for probate by which the
78 owner or owners acquired title, if any, or if in either case no owner appears, then mailed by
79 registered mail to the address which the tax collector last sent the tax bill for the premises
80 scheduled to be sold.

81 If the tax purchaser sells the land at auction, the balance of any proceeds above and
82 beyond reasonable expenses as approved by the land court shall be disbursed to the homeowner.
83 A detailed accounting of these expenses will be provided by the tax purchaser within 60 days of
84 such sale.

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

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

should contact the collector of taxes office together with the address, telephone number, email address, if available, and internet address for further information.

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

Section 52. Cities and towns may make regulations for the possession, management and sale of land purchased or taken for taxes, not inconsistent with law, regulations promulgated by the department of revenue or the right of redemption. The treasurer of any city or town holding 1 or more tax titles may assign and transfer such tax title or titles, individually or bundled, to the highest bidder after a public auction, after having given 60 days' notice of the time and place of such public auction by publication, which shall conform to the requirements of section 40, and having posted such notice in 2 or more convenient and public places in said city or town, provided that the sum so paid for such assignment is not less than the amount necessary for redemption, and may execute and deliver on behalf of the city or town any instrument necessary therefor. Only those bidders that are licensed as debt collectors by the commonwealth shall be eligible to participate in this sale. Regardless of whether the assignment is pursuant to this section or section 2C, the treasurer shall send notice of the intended assignment to the owner of record of each parcel at his or her last known address not less than 10 days prior to the assignment, where the land is residential such notice shall be served in the manner required by law for the service of subpoenas on witnesses in civil cases and shall include a uniform notice approved by the attorney general, together with a notice in the 5 most common languages in the commonwealth that this notice affects important legal rights and should be translated immediately in language understandable by a recipient with a least sophisticated consumer that the treasurer intends to sell the tax title to the homeowner's property and provides clear notice

121 that the non-payment of property taxes can result in the loss of the property and that the property
122 owner may be eligible for exemptions, abatements and tax deferrals and other assistance and
123 should contact the collector of taxes office together with the telephone number, email address, if
124 available, and internet address for further information.

125 The instrument of assignment shall be in a form approved by the commissioner and shall
126 be recorded within 60 days from its date and if so recorded shall provide a rebuttable
127 presumption as to all facts essential to its validity. The instrument of assignment shall, for each
128 parcel assigned thereunder, state the amount for which the tax title on the parcel could have been
129 redeemed on the date of the assignment, separately stating for each parcel the principal amount
130 and the total interest accrued until the date of assignment. The principal amount shall be the sum
131 of the amounts for which the parcel was taken and amounts subsequently certified under section
132 61 and costs of service if applicable.

133 Except as hereinafter otherwise provided, all provisions of law applicable in cases where
134 the original purchaser at a tax sale is another than the city or town shall thereafter apply in the
135 case of such an assignment, as if the assignee had been a purchaser for the original sum at the
136 original sale or at a sale made at the time of the taking and had paid to the city or town the
137 subsequent taxes and charges included in the sum paid for the assignment. Any extension of the
138 time within which foreclosure proceedings may not be instituted granted by a municipality's
139 treasurer prior to assignment shall be included in the language of sale and be binding upon the
140 assignee. If the land is not redeemed within 1 year, then the foreclosing entity shall publish a
141 notice of auction of the land in each of 3 successive weeks, the first publication of which shall be
142 not less than 21 days before the day of sale, in a newspaper published in the city or town where
143 the land lies or in a newspaper with general circulation in the city or town where the land lies and

notice of the sale has been sent by registered mail to the owner or owners of record. If the purchaser sells the land at auction, the balance of any proceeds above and beyond reasonable expenses as approved by the land court shall be equally divided between the owner and the municipality that sold the tax title with a detailed accounting of these expenses within 60 days of such sale.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 62A. Municipalities may by bylaw or ordinance authorize payment agreements between the treasurer and persons entitled to redeem parcels in tax title. Such agreements shall be for a maximum term of no more than 10 years and may waive not more than 50 per cent of the interest that has accrued on the amount of the tax title account unless someone aged 60 or older or whose primary source of income is disability benefits is on the deed for the parcel and the parcel is his or her primary residence, in which case 75 per cent of the interest that has

accrued on the amount of the tax title may be waived, subject to such lower limit as the ordinance or bylaw may specify. An ordinance or bylaw under this section shall provide for such agreements and waivers uniformly for classes of tax titles defined in the ordinance or bylaw. Any such agreement must require a minimum payment at the inception of the agreement of 25 per cent of the amount needed to redeem the parcel unless someone aged 60 or older or whose primary source of income is disability benefits is on the deed for the parcel and the parcel is his or her primary residence, in which case the minimum payment shall be no less than 10 per cent of the amount needed to redeem the parcel of the interest that has accrued on the amount of the tax title may be waived, subject to such lower limit as the ordinance or bylaw may specify. During the term of the agreement the treasurer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the agreement or timely payments are not made on other amounts due to the municipality that are a lien on the same parcel.

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

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

208 SECTION 12. Section 65 of said chapter 60, as so appearing, is hereby amended by
209 striking out, in line 4, the words “after six months,” and inserting in place thereof the following
210 words:- after 12 months.