

HOUSE No. 4791

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 25, 2024.

The committee on Ways and Means, to whom was referred the Bill relative to municipal tax lien procedures and protections for property owners in the Commonwealth (House, No. 4624), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4791).

For the committee,

AARON MICHLEWITZ.

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to municipal tax lien procedures and protections for property owners in the Commonwealth.

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 1 of chapter 60 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by inserting after the definition of “Collector” the following
3 definition:-

4 “Excess equity”, any remaining surplus amount above the taxes, interest, fees and
5 charges of keeping, as reflected in the tax title account balance as of the date of the foreclosure
6 judgment and the fees, expenses, charges and costs actually and reasonably incurred in selling or
7 appraising the property in accordance with section 64A following a final judgment of
8 foreclosure. Where the property is sold in accordance with section 64A, the excess equity shall
9 be determined by deducting from the gross sale proceeds the tax title balance as of the date of the
10 foreclosure judgment, any unpaid property tax, assessments for unpaid water and sewer charges
11 and property insurance accruing from the date of foreclosure and any documented post-judgment
12 costs incurred by the judgment holder from the maintenance, notice and sale of the property,
13 including, but not limited to, broker and real estate agent fees or commissions, listing fees,

14 marketing and advertising costs, legal fees, litigation fees and costs, closing costs, transfer fees,
15 auctioneer fees, notice to property owner, appraisal fees and costs, publication costs, emergency
16 demolition, environmental and other fees, charges or costs directly related to the marketing and
17 sale of the property. Where the property is retained by the judgment holder in accordance with
18 said section 64A, the excess equity shall be determined by deducting the tax title account balance
19 as of the date of the foreclosure judgment and any documented post-judgment costs of appraisal
20 incurred by the judgment holder from the appraised highest and best use value of the property as
21 of the date of the final judgment of foreclosure.

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

24 (9) A purchaser owning any tax receivable shall give notice to a taxpayer and to the
25 appropriate municipality, within 12 business days of purchasing said tax receivable. The notice
26 shall have the name, address, telephone number and preferred method of communication with
27 said purchaser and any service agent acting on behalf of said purchaser. Whenever the purchaser
28 or the service agent of such tax receivables shall change, the new purchaser or service agent shall
29 provide the notice required herein within 12 business days of the effective date of such change.
30 Where the land is class one, residential property, as defined in section 2A of chapter 59, such
31 notice shall: (i) be mailed by certified mail and addressed to the taxpayer at their last known
32 residence and usual place of abode, or place of business; (ii) be posted upon the class one,
33 residential property; (iii) be posted in a convenient and public place; and (v) include a uniform
34 notice prepared by the commissioner of revenue, in language understandable by a least
35 sophisticated consumer, together with a notice in the 7 most common languages in the

36 commonwealth that this notice affects important legal rights and should be translated
37 immediately, and such notice shall state:

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

39 (ii) that the tax title has been sold to a purchaser of tax receivables;

40 (iii) why the property was taken, and that the owner may redeem the property up until the
41 property is foreclosed by a judgment issued on a proceeding before the land court;

42 (iv) the components of the amount as of the date of the notice, subject to accumulating
43 taxes, fees and charges, required to redeem the property and the procedure for redemption;

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

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

48 (vii) that if the property is not redeemed, the purchaser is entitled to receive a judgment
49 from the land court that transfers title to the property to the town or purchaser and permanently
50 eliminates any title rights the owner has in the property; and

51 (viii) that following a foreclosure of the property, the former owner shall be entitled to
52 any excess equity in the property, pursuant to section 64A.

53 SECTION 3. Said chapter 60 is hereby further amended by striking out section 16 and
54 inserting in place thereof the following section:-

55 Section 16. The collector shall, before selling the land of a resident or non-resident,
56 distraining the goods of any person, or arresting them for the tax, serve on the person a statement
57 of the amount thereof with a demand for its payment. If 2 or more parcels of land are assessed in
58 the name of a resident or non-resident, the statement of the aggregate amount of the taxes
59 thereon may be made in 1 demand. Such demand may also include taxes due on account of
60 tangible personal property and any motor vehicle excise tax. If the heirs of a deceased person,
61 co-partners or 2 or more persons are jointly assessed, service need be made on only 1 of them.
62 Such demand for the tax upon land may be made upon the person occupying the same on
63 January 1 of the year in which the tax is assessed. No demand need be made on a mortgagee,
64 unless the mortgagee has given notice under section 38, in which case no demand need be made
65 on the owner or occupant. Demand shall be made by the collector by mailing the same to the
66 taxpayer by certified mail that is addressed to them at their last known residence and usual place
67 of abode, or place of business, or to the address best known by the collector, and failure to
68 receive the same shall not invalidate a tax or any proceedings for the enforcement or collection
69 of the same; provided, that if the land is class one, residential property, as defined in section 2A
70 of chapter 59, the demand shall include a uniform notice prepared by the department of revenue,
71 in language understandable by a least sophisticated consumer, together with a notice in the 7
72 most common languages in the commonwealth that this notice affects important legal rights and
73 should be translated immediately, and providing clear notice that the non-payment of property
74 taxes can result in the taking of the property and that the property owner may be eligible for
75 exemptions, abatements and tax deferrals and other assistance, and should contact the collector
76 of taxes office, together with the address, telephone number, email address, if available, and
77 internet address for further information.

78 SECTION 4. Section 25 of said chapter 60, as appearing in the 2022 Official Edition, is
79 hereby amended by adding the following sentence:- The notice posted shall be prepared by the
80 department of revenue, in language understandable by a least sophisticated consumer, together
81 with a notice in the 7 most common languages in the commonwealth that this notice affects
82 important legal rights and should be translated immediately.

83 SECTION 5. Section 52 of said chapter 60, as so appearing, is hereby amended by
84 inserting after the third sentence the following 2 sentences:- Where the land is class one,
85 residential property, as defined in section 2A of chapter 59, such notice shall: (i) be mailed by
86 certified mail and addressed to the taxpayer at their last known residence and usual place of
87 abode, or place of business; (ii) be posted upon the class one, residential property; (iii) be posted
88 in a convenient and public place; and (iv) include a uniform notice prepared by the department of
89 revenue, in language understandable by a least sophisticated consumer, together with a notice in
90 the 7 most common languages in the commonwealth, that this notice affects important legal
91 rights and should be translated immediately. The notice shall state that the treasurer intends to
92 sell the tax title to the owner's property, that the non-payment of property taxes may result in the
93 loss of the property, and that the property owner may be eligible for exemptions, abatements, and
94 tax deferrals and other assistance, and should contact the office of the collector of taxes, together
95 with the telephone number, email address, if available, and internet address for further
96 information.

97 SECTION 6. Section 53 of said chapter 60, as so appearing, is hereby amended by
98 inserting, in line 7, after the word "forty", the following words:- ; provided, that where the land
99 is class one, residential property, as defined in section 2A of chapter 59, such notice shall be
100 mailed by certified mail and addressed to the taxpayer at their last known residence and usual

101 place of abode or place of business; and such notice shall be posted upon the class one,
102 residential property and published on the town or city website, any properties not class one,
103 residential.

104 SECTION 7. Said section 53 of said chapter 60, as so appearing, is hereby further
105 amended by adding the following sentence:- The notice posted shall be prepared by the
106 department of revenue, in language understandable by a least sophisticated consumer, together
107 with a notice in the 7 most common languages in the commonwealth, that this notice affects
108 important legal rights and should be translated immediately.

109 SECTION 8. Said section 53 of said chapter 60, as so appearing, is hereby further
110 amended by adding the following paragraph:-

111 Where the land is class one, residential property, as defined in section 2A of chapter 59,
112 all notices sent pursuant to this section shall include a uniform notice prepared by the department
113 of revenue, together with a notice in the 7 most common languages in the commonwealth that
114 this notice affects important legal rights and should be translated immediately. Such notice shall
115 state in language understandable by a least sophisticated consumer:

116 (i) what taxes or other municipal costs remain unpaid;

117 (ii) the taxpayer's right to redeem full ownership of the property, and the components of
118 the amount required to redeem the property;

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

120 (iv) that the tax title may be sold to a purchaser of tax receivables;

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

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

125 (vii) that if the property is not redeemed, the town or purchaser is entitled to receive a
126 judgment from the land court that transfers title of the property to the town or purchaser and
127 permanently eliminates any title rights the owner has in the property; and

128 (viii) that following a foreclosure of the property, the former owner shall be entitled to
129 any excess equity in the property, pursuant to section 64A.

130 SECTION 9. Section 62A of said chapter 60, as so appearing, is hereby amended by
131 striking out, in line 4, the figure “5” and inserting in place thereof the following figure:- 10.

132 SECTION 10. Said section 62A of said chapter 60, as so appearing, is hereby further
133 amended by striking out, in line 12, the figure “25” and inserting in place thereof the following
134 figure:- 10.

135 SECTION 11. Said chapter 60 is hereby further amended by striking out section 64 and
136 inserting in place thereof the following 2 sections:-

137 Section 64. The land court shall have exclusive jurisdiction of the foreclosure of all rights
138 of redemption from titles conveyed by a tax collector’s deed or a taking of land for taxes, in a
139 proceeding provided for in sections 65 to 75, inclusive. The title conveyed by a tax collector’s
140 deed or by a taking of land for taxes shall be absolute after foreclosure of the right of redemption
141 by judgment of the land court as provided in this chapter; provided, however, that the entry by

142 the land court of a judgment of foreclosure of the right of redemption shall not impair or limit the
143 right of the owner of the land at the time of foreclosure, and of those holding an interest in the
144 land at the time of foreclosure, and their heirs, successors and assigns, to receive any excess
145 equity and subject to the requirements of section 64A. Any sale or retention of property by a
146 municipality or other foreclosing entity pursuant to this chapter, shall be subject to the duties and
147 requirements set forth in said section 64A.

148 Section 64A. (a) This section shall apply to every sale or retention of property by a
149 municipality or a purchaser of tax receivables following a final judgment of the land court
150 foreclosing the right of redemption. Within 14 days of entry of judgment foreclosing the right of
151 redemption becoming final, with either no appeal having been taken within the applicable time
152 limit, or any appeal taken having resulted in the entry of judgment pursuant to the rescript of the
153 supreme judicial court or appeals court, the judgment holder shall elect either to: (i) retain
154 possession of the property; or (ii) sell the property. The judgment holder shall notify the former
155 owners of the property and all others known to hold the right of redemption in the property at the
156 time judgment entered of the petitioner's election by mailing notice of the judgment holder's
157 election and the rights and procedures for claiming excess equity set forth in this section, by
158 certified mail, to their last known address or place of business.

159 (b) If selling the property, the judgment holder shall market the property for sale within
160 120 days of the final judgment of the land court, unless a later date is agreed to by the judgment
161 holder and any party entitled to claim excess equity under this section. If, after 12 months from
162 the date the property was marketed for sale, the foreclosed property has not sold, the judgment
163 holder may sell the foreclosed property to the highest bidder by public auction. If the property is
164 to be retained, rather than sold, the judgment holder shall have the property appraised, as set

165 forth in this section, within 120 days of the final judgment of the land court, unless a later date is
166 agreed to by the judgment holder and any party entitled to claim excess equity under this section.

167 (c)(1) Where a property is retained rather than sold by the judgment holder, the judgment
168 holder shall have the property appraised for its highest and best use. The appraisal shall be
169 performed by a licensed appraiser in the commonwealth. The appraised highest and best use
170 value of the property as of the date of the final judgment of foreclosure shall be used to establish
171 the amount of excess equity above the taxes, interest, fees, and charges of keeping accrued
172 before foreclosure, as well as any post-foreclosure charges permitted under this chapter. Such
173 excess equity shall be paid to any party who makes a valid claim for excess equity as set forth in
174 this section.

175 (2) A property shall not be considered retained by a judgment holder that has elected to
176 sell the property and who, in good faith, has tried to sell a foreclosed property without success,
177 pursuant to the requirements set forth in this section. When the property has not been sold within
178 1 year of being marketed for sale, the judgment holder shall notify any party entitled to claim
179 excess equity of their intention to continue the sale to another date and not to retain the property.
180 Such notice shall be mailed, by certified mail, to any party entitled to claim excess equity, or
181 their successors in interest, to their last known address or place of business. In each successive
182 year after the first attempt at sale, the judgment holder shall use reasonable best efforts to market
183 the property for sale. If no sale is completed within 5 years from the date of the attempted first
184 sale of said property, the property is considered retained and the excess equity shall be
185 determined in accordance with the appraisal provisions set forth in this section.

186 (d)(1) Upon a sale or appraisal of the property, the judgment holder shall prepare a
187 written itemized accounting setting forth, as appropriate, the disposition of the proceeds arising
188 from the sale, including without limitation the sale price, legal fees, marketing fees, auctioneer
189 fees, advertising costs, appraisal fees and any excess equity due to any party entitled to claim
190 excess equity, or their successors in interest, as set forth in this section. Such written itemized
191 accounting shall be mailed by certified mail, to the former owners' last known address or place
192 of business, or to the former owners' personal representative, within 30 days of the sale of the
193 property, or within 30 days of receipt of the appraisal of the property where it is retained rather
194 than sold, as set forth in this section. The judgment holder shall pay the former owners or their
195 personal representative the amount of the excess equity as set forth in the itemized accounting
196 within 60 days following the sale or retention of the property. Where there are multiple former
197 owners or multiple personal representatives, or a combination thereof, the judgment holder shall
198 pay excess equity to each former owner or personal representative in proportion to their
199 ownership interest in the property at the time of the judgment of foreclosure. Liability of the
200 judgment holder to pay excess equity to any other claimants ceases upon disbursement of the
201 excess equity amount paid to the former owner or their personal representative under the terms
202 of this paragraph.

203 (2) Any excess equity shall be held in escrow by the judgment holder in a segregated
204 interest-bearing account in which all excess equity funds from all foreclosures are deposited and
205 separately accounted for on the books and records of the municipality until such time as it is paid
206 to a former owner or their personal representative.

207 (3) Excess equity plus any accrued interest shall be paid to the claimants within 90 days
208 of the receipt of the written claim, unless a different time is agreed to by the claimant and

209 judgment holder, or unless a dispute arises and such dispute is brought before the superior court,
210 in which case any excess equity plus accrued interest shall continue to be held in such segregated
211 interest-bearing account and paid only in accordance with the court's order.

212 (e) If a dispute arises between or among the judgment holder and any former owners or
213 their personal representative, including, but not limited to disputes regarding the valuation of the
214 property, the sale process, the amount of excess equity, its distribution, or any other aspect of this
215 section, any such party may seek a determination of the dispute by filing a written complaint in
216 the superior court. Any such complaint shall be filed within 12 months of the date of the notice
217 of written itemized accounting following sale or appraisal of the property, pursuant to this
218 section. Process shall issue and service be made in accordance with the Massachusetts Rules of
219 Civil Procedure. All matters pertaining to the litigation shall be heard by the superior court
220 department.

221 (f) A former owner or other previous holder of the right of redemption of property, or
222 their successors in interest, whose right of redemption was foreclosed upon by a final judgment
223 of foreclosure entered on or after May 25, 2023, but before the date of the passage of this act,
224 may file a written complaint in the superior court for the return of excess equity in accordance
225 with this section, within 12 months of the date of the passage of this act. No claim for the return
226 of excess equity may be asserted by any party where a land court judgment of foreclosure was
227 entered, and not appealed, on or before May 24, 2023.

228 SECTION 12. Said chapter 60 is hereby further amended by striking out section 69A and
229 inserting in place thereof the following section:-

230 Section 69A. (a) The land court may, in its discretion, grant a motion to vacate a decree
231 of foreclosure brought by any interested person other than the petitioner under section 65 within
232 1 year after the final entry of the decree only if: (i) the property has not been sold to an innocent
233 purchaser for value; or (ii) no claim for excess equity has been paid pursuant to section 64A,
234 unless in either case the court makes appropriate equitable orders to protect the rights of the
235 purchaser of the property or the payor of the excess equity. If said foreclosure petition was filed
236 for an unoccupied or abandoned building as set forth in sections 1 and 81A, or there has been a
237 certification pursuant to section 81B that the redemption amount as determined pursuant to
238 section 62 exceeds the assessed value of the parcel, no petition to vacate a decree of foreclosure
239 entered under section 69 and no proceedings at law or equity for reversing or modifying such a
240 decree shall be commenced by any person other than the petitioner except within 90 calendar
241 days after the final entry of the decree, or within 1 year of the final entry of the decree, if the
242 decree was entered prior to the effective date of this section. For any decree relating to a property
243 for which record title stands in the name of a deceased person or person under guardianship or
244 conservatorship, a petition may be maintained for reversal or modification of such decree up to 1
245 year from the date of decree.

246 (b) No motion to vacate a decree of foreclosure and no proceeding at law or in equity for
247 reversing or modifying such a decree shall be commenced by any person other than the petitioner
248 under section 65 after 1 year, except upon a showing that the moving party's due process rights
249 have been violated.

250 (c) If a decree of foreclosure is vacated pursuant to this section, all rights and obligations
251 set forth in section 64A shall be suspended, and any proceedings instituted in the superior court
252 regarding excess equity shall be dismissed.

253 SECTION 13. Section 75 of said chapter 60, as appearing in the 2022 Official Edition, is
254 hereby amended by adding the following sentence:- The notices shall be prepared by the
255 department of revenue, in language understandable by a least sophisticated consumer, together
256 with a notice in the 7 most common languages in the commonwealth, that this notice affects
257 important legal rights and should be translated immediately.

258 SECTION 14. The second paragraph of section 77B of said chapter 60, as so appearing,
259 is hereby amended by inserting, after the second sentence, the following sentence:- The notice
260 shall also include the affirmative statement that the custodian shall, following a completed sale,
261 provide to such owner a written notice containing an itemized accounting of the disposition of
262 the proceeds arising from the sale, including the sale price, legal fees, auctioneer fees and
263 advertising costs, other fees, and any excess equity due to the owner, within 30 days after the
264 receipt of such funds.

265 SECTION 15. Said section 77B of said chapter 60, as so appearing, is hereby further
266 amended by inserting, in line 36, after the word “law” the following words:- , so long as the
267 accounting provisions of this section and section 64A are satisfied.

268 SECTION 16. Said section 77B of said chapter 60, as so appearing, is hereby further
269 amended by striking out paragraph (4).

270 SECTION 17. (a) There is hereby established a special commission to conduct a
271 comprehensive study relative to current law and practice around the collection of delinquent
272 property tax revenue by cities and towns in the commonwealth.

273 (b) The commission shall consist of the chairs of the joint committee on revenue or their
274 designees, who shall serve as co-chairs of the commission; the commissioner of the department

275 of revenue or a designee; the chief justice of the land court or a designee; the chief justice of the
276 superior court or a designee; 1 member who shall be appointed by the president of the senate; 1
277 member who shall be appointed by the speaker of the house of representatives; 1 member who
278 shall be appointed by the house minority leader; 1 member who shall be appointed by the senate
279 minority leader; 1 member who shall be appointed by the governor; a representative of the office
280 of the attorney general; a representative of the Massachusetts Municipal Association, Inc.; a
281 representative of the Massachusetts Collectors and Treasurers Association, Inc.; a representative
282 of third-party purchasers of tax-receivables; and a representative on property owners' rights.

283 (b) The commission shall file a report that shall include, but not be limited to:

284 (i) an examination and assessment of the current local property tax collection processes,
285 including property owner notification and communication, property tax deferral options, or
286 exemptions that exist for special classes, third-party investor and any subsequent foreclosure
287 proceedings;

288 (ii) an examination of the role of purchasers of tax receivables, including third-party
289 purchasers of tax receivables, on the collection of delinquent property tax revenue, and any
290 recommended changes to said practice;

291 (iii) recommended changes to the current statutory interest rate for delinquent property
292 taxes, if any, and the effect said changes would have on municipal operations and finances;

293 (iv) an examination of the revenue impact on cities and towns from former owners
294 seeking to recover lost equity to which they may be entitled following the United States Supreme
295 Court ruling in Tyler v. Hennepin County;

- 296 (v) recommended changes to the statute of limitations for such claims, if any;
- 297 (vi) the collection and analysis of data, which may include the number of foreclosures of
298 properties following a tax taking which resulted in the loss of excess equity by former property
299 owners for the 3 years preceding the Supreme Court ruling in Tyler v. Hennepin County;
- 300 (vii) best practices in other states; and
- 301 (viii) any other recommendations that the commission finds to be in the interest of
302 property owners and municipalities in the commonwealth.

303 (c) The commission shall file its final report and its recommendations for legislation with
304 the clerks of the house of representatives and the senate, the joint committee on revenue, and the
305 house and senate committee on ways and means, not later than December 31, 2025.

306 SECTION 18. To uphold the language access and inclusion notice requirements, pursuant
307 to sections 2 to 5, inclusive, and sections 7, 8 and 14, the department of revenue shall evaluate
308 every 10 years the 7 most common languages of the commonwealth utilizing the most recent
309 data from the decennial federal census. The department shall update and prepare notices in
310 language understandable by a least sophisticated consumer and the 7 most common languages in
311 the commonwealth, as established by the most recent census data.

312 SECTION 19. The department of revenue shall prepare the notices required by this act in
313 language understandable by a least sophisticated consumer consistent with the standard for
314 evaluating truth and deception under the federal Fair Debt Collection Practices Act, 15 U.S.C.
315 Section 1692 et seq., as summarized in Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir.
316 1985).