

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:*

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

“Excess equity”, any remaining surplus amount above the taxes, interest, fees and charges of keeping, as reflected in the tax title account balance as of the date of the foreclosure judgment and the fees, expenses, charges and costs actually and reasonably incurred in selling or appraising the property in accordance with section 64A following a final judgment of foreclosure. Where the property is sold in accordance with section 64A, the excess equity shall be determined by deducting from the gross sale proceeds the tax title balance as of the date of the foreclosure judgment, any unpaid property tax, assessments for unpaid water and sewer charges and property insurance accruing from the date of foreclosure and any documented post-judgment costs incurred by the judgment holder from the maintenance, notice and sale of the property, including, but not limited to, broker and real estate agent fees or commissions, listing fees, marketing and advertising costs, legal fees, litigation fees and costs, closing costs, transfer fees, auctioneer fees, notice to property owner, appraisal fees and costs, publication costs, emergency demolition, environmental and other fees, charges or costs directly related to the marketing and sale of the property. Where the property is retained by the judgment holder in accordance with said section 64A, the excess equity shall be determined by

deducting the tax title account balance as of the date of the foreclosure judgment and any documented post-judgment costs of appraisal incurred by the judgment holder from the appraised highest and best use value of the property as of the date of the final judgment of foreclosure.

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

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

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

(iv) the components of the amount as of the date of the notice, subject to accumulating taxes, fees and charges, 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 owner;

(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 purchaser is entitled to receive a judgment from the land court that transfers title to the property to the town or purchaser and permanently eliminates any title rights the owner has in the property; and

(viii) that following a foreclosure of the property, the former owner shall be

entitled to any excess equity in the property, pursuant to section 64A.

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

Section 16. The collector shall, before selling the land of a resident or non-resident, distraining the goods of any person, or arresting them for the tax, serve on the person a statement of the amount thereof with a demand for its payment. If 2 or more parcels of land are assessed in the name of a resident or non-resident, the statement of the aggregate amount of the taxes thereon may be made in 1 demand. Such demand may also include taxes due on account of tangible personal property and any motor vehicle excise tax. If the heirs of a deceased person, co-partners or 2 or more persons are jointly assessed, service need be made on only 1 of them. Such demand for the tax upon land may be made upon the person occupying the same on January 1 of the year in which the tax is assessed. No demand need be made on a mortgagee, unless the mortgagee has given notice under section 38, in which case no demand need be made on the owner or occupant. Demand shall be made by the collector by mailing the same to the taxpayer by certified mail that is addressed to them at their last known residence and usual place of abode, or place of business, or to the address best known by the collector, and failure to receive the same shall not invalidate a tax or any proceedings for the enforcement or collection of the same; provided, that if the land is class one, residential property, as defined in section 2A of chapter 59, the demand shall include a uniform notice prepared by the department of revenue, in language understandable by a least sophisticated consumer, together with a notice in the 7 most common languages in the commonwealth

that this notice affects important legal rights and should be translated immediately, and providing clear notice that the non-payment of property taxes can result in the taking of the property and that the property 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 4. Section 25 of said chapter 60, as appearing in the 2022 Official Edition, is hereby amended by adding the following sentence:- The notice posted shall be prepared by the department of revenue, in language understandable by a least sophisticated consumer, together with a notice in the 7 most common languages in the commonwealth that this notice affects important legal rights and should be translated immediately.

SECTION 5. Section 52 of said chapter 60, as so appearing, is hereby amended by inserting after the third sentence the following 2 sentences:- Where the land is class one, residential property, as defined in section 2A of chapter 59, such notice shall: (i) be mailed by certified mail and addressed to the taxpayer at their last known residence and usual place of abode, or place of business; (ii) be posted upon the class one, residential property; (iii) be posted in a convenient and public place; and (iv) include a uniform notice prepared by the department of revenue, in language understandable by a least sophisticated consumer, together with a notice in the 7 most common languages in the commonwealth, that this notice affects important legal rights and should be translated immediately. The notice shall state that the treasurer intends to sell the tax title to the

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

SECTION 6. Section 53 of said chapter 60, as so appearing, is hereby amended by inserting, in line 7, after the word "forty", the following words:- ; provided, that where the land is class one, residential property, as defined in section 2A of chapter 59, such notice shall be mailed by certified mail and addressed to the taxpayer at their last known residence and usual place of abode or place of business; and such notice shall be posted upon the class one, residential property and published on the town or city website, any properties not class one, residential.

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

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

Where the land is class one, residential property, as defined in section 2A of chapter 59, all notices sent pursuant to this section shall include a uniform notice

prepared by the department of revenue, together with a notice in the 7 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) what taxes or other municipal costs remain unpaid;
- (ii) the taxpayer's right to redeem full ownership of the property, and the components of the amount required to redeem the property;
- (iii) that a complaint to foreclose the tax title may be filed on or after a specific date;
- (iv) that the tax title may be sold to a purchaser of tax receivables;
- (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 owner;
- (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 a judgment from the land court that transfers title of the property to the town or purchaser and permanently eliminates any title rights the owner has in the property; and
- (viii) that following a foreclosure of the property, the former owner shall be

entitled to any excess equity in the property, pursuant to section 64A.

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

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

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

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

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

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

(c)(1) Where a property is retained rather than sold by the judgment holder, the

judgment holder shall have the property appraised for its highest and best use. The appraisal shall be performed by a licensed appraiser in the commonwealth. The appraised highest and best use value of the property as of the date of the final judgment of foreclosure shall be used to establish the amount of excess equity above the taxes, interest, fees, and charges of keeping accrued before foreclosure, as well as any post-foreclosure charges permitted under this chapter. Such excess equity shall be paid to any party who makes a valid claim for excess equity as set forth in this section.

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

(d)(1) Upon a sale or appraisal of the property, the judgment holder shall prepare a written itemized accounting setting forth, as appropriate, the disposition of the proceeds arising from the sale, including without limitation the sale price, legal fees, marketing

fees, auctioneer fees, advertising costs, appraisal fees and any excess equity due to any party entitled to claim excess equity, or their successors in interest, as set forth in this section. Such written itemized accounting shall be mailed by certified mail, to the former owners' last known address or place of business, or to the former owners' personal representative, within 30 days of the sale of the property, or within 30 days of receipt of the appraisal of the property where it is retained rather than sold, as set forth in this section. The judgment holder shall pay the former owners or their personal representative the amount of the excess equity as set forth in the itemized accounting within 60 days following the sale or retention of the property. Where there are multiple former owners or multiple personal representatives, or a combination thereof, the judgment holder shall pay excess equity to each former owner or personal representative in proportion to their ownership interest in the property at the time of the judgment of foreclosure. Liability of the judgment holder to pay excess equity to any other claimants ceases upon disbursement of the excess equity amount paid to the former owner or their personal representative under the terms of this paragraph.

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

(3) Excess equity plus any accrued interest shall be paid to the claimants within 90 days of the receipt of the written claim, unless a different time is agreed to by the claimant and judgment holder, or unless a dispute arises and such dispute is brought

before the superior court, in which case any excess equity plus accrued interest shall continue to be held in such segregated interest-bearing account and paid only in accordance with the court's order.

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

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

SECTION 12. Said chapter 60 is hereby further amended by striking out section

69A and inserting in place thereof the following section:-

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

(b) No motion to vacate a decree of foreclosure and no proceeding at law or in equity for reversing or modifying such a decree shall be commenced by any person other than the petitioner under section 65 after 1 year, except upon a showing that the moving

party's due process rights have been violated.

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

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

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

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

SECTION 16. Said section 77B of said chapter 60, as so appearing, is hereby

further amended by striking out paragraph (4).

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

(b) The commission shall consist of the chairs of the joint committee on revenue or their designees, who shall serve as co-chairs of the commission; the commissioner of the department of revenue or a designee; the chief justice of the land court or a designee; the chief justice of the superior court or a designee; 1 member who shall be appointed by the president of the senate; 1 member who shall be appointed by the speaker of the house of representatives; 1 member who shall be appointed by the house minority leader; 1 member who shall be appointed by the senate minority leader; 1 member who shall be appointed by the governor; a representative of the office of the attorney general; a representative of the Massachusetts Municipal Association, Inc.; a representative of the Massachusetts Collectors and Treasurers Association, Inc.; a representative of third-party purchasers of tax-receivables; and a representative on property owners' rights.

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

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

(ii) an examination of the role of purchasers of tax receivables, including third-

party purchasers of tax receivables, on the collection of delinquent property tax revenue, and any recommended changes to said practice;

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

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

(v) recommended changes to the statute of limitations for such claims, if any;

(vi) the collection and analysis of data, which may include the number of foreclosures of properties following a tax taking which resulted in the loss of excess equity by former property owners for the 3 years preceding the Supreme Court ruling in *Tyler v. Hennepin County*;

(vii) best practices in other states; and

(viii) any other recommendations that the commission finds to be in the interest of property owners and municipalities in the commonwealth.

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

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

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