



**Testimony of David Little, Tax Collector/Deputy Treasurer, City of Bangor  
Before the**

**Joint Standing Committee on Taxation**

**Regarding LD 1629 "An Act To Protect the Elderly from Tax Lien Foreclosures"**

**January 25, 2018**

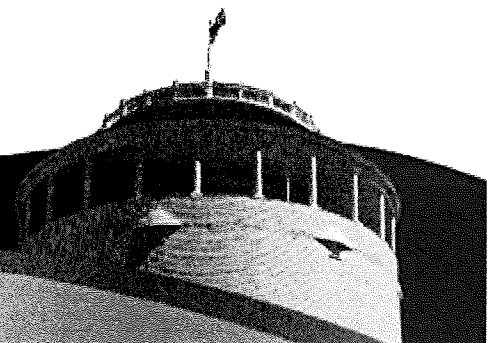
Senator Dow, Representative Tipping and distinguished members of the Joint Standing Committee on Taxation:

I am David Little, Tax Collector/Deputy Treasurer for the City of Bangor and I am submitting this testimony on their behalf in opposition of LD 1629.

LD 1629 would put into place a number of requirements, some of which are already required or practiced throughout the State and others which would place an unnecessary and undue burden on municipalities.

The primary focus of LD 1629 is that it pertains to property owners who are 65 years old or older. Yet there is no current requirement or system in place to obtain and track homeowner's ages. Municipalities would have to develop a method of gathering and storing this information which prompts additional questions. How to obtain the information? Would it be considered confidential, when currently nearly all property tax information is public? When does the "65 or older" provision trigger, when the lien is initially filed, or 90 days before the maturity date? What if a taxpayer will turn 65 during the 90 day window?

LD 1629 requires municipalities to assist the taxpayer in applying for an abatement as well as offering a reasonable repayment schedule? Municipalities are already required to offer and assist with abatements under Title 36, section 841 and repayments agreements have been a standard practice for years. The difference is that LD 1629 adds an administrative burden of engaging mediator if a "reasonable" schedule cannot be agreed to. Half of the cost of which will be borne by other taxpayers. The wording also seems to focus on just the balance of the one maturing lien. Due to the 18 month maturity schedule for tax liens, by the time the lien matures there are typically one or two more years of outstanding taxes due. Are these amounts not to be included in the agreement? Are separate agreements required each year a lien is about to mature? What would be considered a "reasonable timeframe"?



Under Section 4. Foreclosure and Sale, the bill states that if the property is the owner's only residence then the municipality cannot sell the property until the lien value is more than 50% of the assessed value. The wording "the municipal lien" seems to indicate the value of one lien has to meet this requirement. Since this would create situations in which a municipality could never take the property, we would like to believe the intent is the accumulated total of all taxes due against the property. Even then, this requirement will result in a significant number of outstanding tax years. Bangor currently has 108 properties that have at least one matured lien, these range from having 2 to 18 years of unpaid taxes. The top five residential properties, in regards to outstanding balances, have amounts due ranging from \$20,000 to \$47,000. These represent 6 to 11 years of unpaid taxes yet only amount to 18% to 43% of the assessed value. Under LD 1629, none of these properties could be taken for unpaid taxes if owned by someone 65 years old or older. How is that fair and equitable to other Bangor taxpayers?

The other provisions of Section 4 add additional administrative burdens onto the municipality as well as conditions which would make any sale of the property nearly impossible. Item C would require the property be listed by an independent licensed broker and be sold for no less than the municipal assessed value. The tax lien process, while still the best way for municipalities to ensure payment, is still open to legal challenge. Title 36, Section 946-B allows action against the municipal taking of property for taxes for a period of 5 years. In addition, municipalities only issue a quitclaim deed when a property is sold. These uncertainties force a typical municipal sale to be significantly lower than the assessed value. Another factor which would drive down potential sale prices is Item D, which stipulates that the neither the municipality nor the purchaser can take action to remove the former owner until after the sale. A potential buyer will not pay the full assessed value knowing in advance they are facing the added time and expense of an eviction process.

Items B and C under Section 4 also appear to conflict while adding an additional complication. Item B allows the owner to "purchase" the property from the 3<sup>rd</sup> party even after a sale by paying the taxes, interest, fees and other charges. But under Item C, the 3<sup>rd</sup> party just paid at least the full assessed value. How is the 3<sup>rd</sup> party made whole? Presuming the municipality prepares a refund; do "other charges" include all mediator and broker fees as well as other costs the municipality incurred? Does "paying the taxes" mean bringing the account to a zero balance or just the past due amounts?

Finally Item E would require that any excess funds from a sale be returned to the former owner. This type of requirement has been proposed during prior sessions and resulted in Title 36, Section 949 which allows a municipality to establish such a policy by ordinance. The services municipalities provide are dependent on the property tax and every owner who doesn't pay their portion is subsidized by the others. The law has always recognized this and realized that there has to be a penalty for not paying your taxes. That penalty is the loss of the property. Taxpayers have ample opportunity to pay their taxes or work with the municipality and should not be rewarded if they chose not to do so.

From the date of commitment it takes over 2 years for an unpaid tax amount to be liened and for that lien to mature. During that time, the taxpayer receives both required and non-required correspondence from the municipality informing them of programs such as abatements and workout agreements. Even when taxpayers make no attempt to contact the municipality or make payment we do not immediately take action when a lien matures. As I mentioned earlier, Bangor has 108 properties with at least one matured lien; some of which haven't paid for 18 years and have accrued balances of over \$47,000. The City made the choice, so far, to not act on these properties but we

should have the right to decide when to say enough is enough. Our obligation to the other Bangor taxpayers should not be hampered by proposals such as LD 1629.

If enacted, LD 1629 would open the door for every property owner 65 years old or older to simply stop paying their taxes, regardless of their financial situation. Under Bangor's current mill rate, the established interest rate and assuming no significant change in assessed value and that LD 1629 intends to factor in all amounts due it would take 15 unpaid tax years to reach to 50% threshold. Even then, the taxpayer gets to remain in the property for the months or years it may take to find a buyer willing to pay full assessed value for an occupied property with a clouded title. Once word gets out, municipalities could be faced with hundreds if not thousands of unpaid accounts and struggle with how to continue to provide services without once again placing the burden on the other taxpayers.

Over the past few years the City of Bangor has taken a more focused look at the properties with matured liens. We were seeing a steady increase in the number of properties with matured liens as well as an increase in properties in disrepair or vacant. Our main focus was on vacant land and vacant properties but also included a few occupied properties. As with our normal practice we attempted to work with the owners to come to a resolution; by offering hardship abatements or payment plans. While a few took advantage of these we found that some owners were trying to hold onto a property that they simply could no longer afford. It wasn't just the taxes not being paid but they were struggling with paying for heat, electricity, water, food and other basic necessities. We found taxpayers living at properties with no running water, no electricity along with other health and safety issues because they could not afford to make repairs to the property. The City stepping in and taking the property while assisting them and allowing them time to find other suitable and affordable accommodations not only lifted a burden off their shoulders but also improved their quality of life.

We have no desire to take property and it is certainly not to make any profit. Of the properties the City has taken and sold, all were done so at a loss. In many cases, in addition to the tax loss, the City had to pay from \$10,000 to \$20,000 to have the property demolished due to significant disrepair. The properties that could be rehabbed or the newly vacant lots all sold well below the taxes and costs. The most prevailing reasons were the condition of the property, the municipal quitclaim deed and the 5 year challenge period.

While we understand that some municipalities may have significantly valued property which could result in a "profit" depending on the circumstances; those few situations should not result in a dramatic change that impacts and places significant limitations and administrative burdens on other municipalities. The decision of when and which properties to focus on and the return of excess funds, in the few cases it may happen, needs to remain local.

We encourage you to give this proposal an "Ought Not to Pass" vote when the time comes.

Thank you for your time and attention.

For additional Information, please feel free to contact any of the following municipal officials:

Ben Sprague, Mayor	<a href="mailto:benjamin.sprague@bangormaine.gov">benjamin.sprague@bangormaine.gov</a>	852-1405
Catherine Conlow, City Manager	<a href="mailto:cathy.conlow@bangormaine.gov">cathy.conlow@bangormaine.gov</a>	992-4201
David Little, Tax Collector	<a href="mailto:david.little@bangormaine.gov">david.little@bangormaine.gov</a>	992-4289

## City of Bangor Tax Lien Process

The following will outline from start to finish the tax lien process in Bangor, using the assumption of a brand new property.

- The value and ownership of property will be set as of April 1, 2018. This is set by Maine Law – Title 36, Chapter 105 Section 502.
- As our tax year will run from July 1, 2018 to June 30, 2019, the commitment will be prepared in July using the name and value as of April 1, 2018.
- The commitment is used to produce tax bills with two installments for the convenience of the taxpayer. One installment payable in September and the other the following March.
- After the March installment, non-required courtesy reminders are sent for any account not paid.
- Ownership and value is fixed as of April 1, 2019 for the next tax year.
- In May of 2019, the City sends the required 30-Day Demand notice to accounts not paid. The notice must be hand delivered or sent certified mail, return receipt requested. This requirement is set by Maine Law – Title 36, Chapter 105 Section 942. The law allows this notice to be sent no earlier than 8 months and no later than 12 months from the date of commitment.
- After the 30 Day period has gone by the City has 10 days (not business days) to file a lien for the unpaid balance at the Registry of Deeds. So in this example the City's lien would be filed in June of 2019.
- At the same time as the filing the lien, the City is required to send a copy of the lien to all mortgage holders and non-assessed owners by hand delivery or certified mail, return receipt requested.
- In July of 2019, a new commitment is produced and new tax bills are prepared and mailed. That bill would also have two installments, September and March. The City adopts the policy to apply payments to the oldest tax first so any payments would be applied to the lien.
- After the March 2020 installment, another courtesy reminder is mailed for any account not paid. The reminder includes prior year amounts.
- Ownership and value is fixed as of April 1, 2020 for the next tax year.
- In May of 2020, the City sends a 30-Day Demand notice for the new tax year not paid.
- In June of 2020, after the 30 day period and within the 10 day window a new lien is filed at the Registry. Notice of the lien is sent to all mortgage holders and non-assessed owners.

- In July of 2020, a new commitment is produced and new tax bills are prepared and mailed. That bill would also have two installments, September and March. The City adopts the policy to apply payments to the oldest tax first so any payments would be applied to the oldest lien.
- Under State Law liens automatically mature 18 months from the filing date. The City's oldest lien was filed in June of 2019 so it will mature in December of 2020. – Title 36, Chapter 105 Section 943.
- 30 to 45 Days before the foreclosure date the City sends a required Notice of Impending Foreclosure. The notice is sent to the assessed owner, all mortgage holders, parties of interest and all non-assessed owners by hand delivery or certified mail, returned receipt requested.
- If left unpaid, the lien filed in June of 2019 automatically forecloses in December of 2020; the City now holds title to the property.
- By this point, 2½ years after the original commitment date, the taxpayer has three years of outstanding taxes, received three tax bills, two courtesy reminders, two certified mail demand letters and a certified mail notice of impending foreclosure. These notices encourage the taxpayer to contact the municipality if they are unable to pay their taxes and reference that abatements are available for hardship.



**Testimony of Kathleen Cutler, Tax Collector/Deputy Treasurer, City of Gardiner before the Joint Standing Committee on Taxation**

**Regarding LD 1629 "An Act to Protect the Elderly from Tax Lien Foreclosures"**

**January 25, 2018**

Senator Dow, Representative Tipping and distinguished members of the Joint Standing Committee on Taxation:

My name is Kathleen Cutler and I am the Tax Collector/Deputy Treasurer for the City of Gardiner. I submit this as my written testimony in opposition to LD 1629.

LD 1629 as written would cause undue burden to municipalities. In light of the last few years' reductions in revenue sharing, most municipalities have had to make reorganizational changes and reductions in staff. The moving pieces in the proposed changes would require additional staff, and training when staff already struggle to meet the demands of the job. The goal of the proposed legislation is to protect residents who are 65 years or older from foreclosure. Municipalities currently have no process in place to determine a taxpayer's age. I have concerns about asking a taxpayer their age as it could be perceived as profiling. A main concern for the City of Gardiner is that there are many moving pieces to the proposed legislation and if passed, will encourage people not to pay taxes.

The requirement that the municipality assist in applying for abatements seems redundant. Gardiner already does this and also works out "buy back" agreements. The City of Gardiner was advised by the City's solicitor to avoid entering into payment agreements after the lien matures and the city forecloses, as it puts the city in the position of mortgage holder. If the resident defaults on payments the city would have to take civil action to proceed and foreclose, resulting in added financial burden to the taxpayers. Because of the additional work, financial concerns and caring for all taxpayers Gardiner makes every effort to avoid foreclosure.

As Tax Collector I have increased my efforts in outreach to the community, speaking to various elder groups about what is available for tax relief. I had a table at this past years' election with a display of information and handouts/applications for residents to take. The City of Gardiner offers various programs designed specifically for the elderly or anyone on a fixed income. We offer a tax club, a tax relief discount program and a sewer discount program. We have held public workshops after hours and on weekends and always include a separate newsletter that addresses tax relief with each year's tax bill.

Section 3A of LD 1629 asks staff to suggest a reverse mortgage to a resident struggling to pay their taxes. I am a professional tax collector; I am not a trained financial planner and therefore not qualified to act in this capacity to assist city residents in the various options of a reverse mortgage. It could actually be considered a conflict of interest if the resident is later determined to have mental capacity issues retrospectively.

Section C requires that the municipality make a determination of physical or mental condition that impedes the resident's ability to handle business with the municipality. As a municipal tax collector I lack the professional medical training, expertise and licensure to determine mental capacity for any person. The City of Gardiner does not employ anyone qualified to screen for these conditions nor does it have any set criteria by which to measure mental capacity.

If passed, the language in C & D, will make it impossible for a municipality to sell a property when the lien matures and will undoubtedly cost municipalities and taxpayers more money. Why would anyone consider buying a tax acquired property at full assessed value only to have it sold back to the owner for taxes owed? If a mediator or licensed broker is deemed necessary, this too causes an added burden and cost to taxpayers.

Under current state law the City of Gardiner already does due diligence in making notice to the resident that they need to pay taxes. We have no interest in taking property and putting ourselves in the position of realtor and as such would ask you to continue to allow us to perform our duties under current statutes, without causing additional burden to our tax payers that remain current. The City of Gardiner asks that you give this proposal an "Ought Not to Pass" vote when the time comes.

Thank you for your time and attention.

For additional information, please feel free to contact any of the following municipal officials:

Thomas Harnett, Mayor	<a href="mailto:mayor@gardinermaine.com">mayor@gardinermaine.com</a>	582-0905
Anne Davis, Interim City Manager	<a href="mailto:adavis@gardinermaine.com">adavis@gardinermaine.com</a>	582-4200
Kathleen Cutler, Tax Collector	<a href="mailto:kcutler@gardinermaine.com">kcutler@gardinermaine.com</a>	582-2223

## Tax Collection Time Line

- **April 1** - Tax are assessed
- **April/May/June** - Council adopts budget, sets interest rate and approves Tax Club
- **July/August** - Assessor commits the taxes to the Tax Collector
- **August** - Tax Bills are sent out via 1<sup>st</sup> Class mail
- **September 15<sup>th</sup>** - First half taxes are due
- **March 15<sup>th</sup>** - second half taxes are due
- **May** - 30 day Notice and Demand letters are sent out for current year balances owed via Certified Return Receipt. Certified letters that are returned to us unclaimed are mailed out via 1<sup>st</sup> class. We search at minimum of 3 different data bases for alternate addresses for certified letters that are returned for an invalid/insufficient address.
- **June** - liens are filed for current year taxes owed. Mortgage holders are mailed a copy of the lien via Certified Return Receipt

A lien matures and automatically forecloses in 18 months.

- **November** - of each year, the Notice of Automatic Impending Foreclosure Notices for the oldest outstanding tax year are mailed 30-45 days prior to foreclosure. These notices are sent via Certified Return Receipt.
- **December** - Automatic Impending Foreclosure occurs on the oldest unpaid tax year that remains unpaid. If the city forecloses on an account, the tax collector sends out a five (5) day letter via Certified Return Receipt as well as 1<sup>st</sup> Class mail, informing the owner that the city has foreclosed and in order to redeem the property all outstanding taxes/sewer charges will need to be paid in full. Certified letters that are returned to us unclaimed are mailed out via 1<sup>st</sup> class. We search at minimum of 3 different data bases for alternate addresses for certified letters that are



returned for an invalid/insufficient address, and failing all other attempts a notice will be hand delivered and posted on the door of the residence.

- If the owner requests, they can appear before the City Council in an Executive Session to request an extension of time in which to buy back the property.
- April/May - City proceeds with disposal of tax acquired properties, either through an auction or RFP process.