



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1629

H.P. 1124

House of Representatives, June 5, 2017

### An Act To Protect the Elderly from Tax Lien Foreclosures

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative ESPLING of New Gloucester. (GOVERNOR'S BILL)

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 36 MRSA §943**, as amended by PL 2011, c. 104, §1, is repealed and the  
3 following enacted in its place:

4 **§943. Tax lien mortgage; redemption; discharge; foreclosure**

5 **1. Tax lien mortgage.** The filing of the tax lien certificate in the registry of deeds  
6 creates a tax lien mortgage on that real estate to the municipality in which the real estate  
7 is situated having priority over all other mortgages, liens, attachments and encumbrances  
8 of any nature and gives to that municipality all the rights usually incident to a mortgagee,  
9 except that the municipality does not have any right of possession of that real estate until  
10 the right of redemption has expired.

11 The filing of the tax lien certificate in the registry of deeds is sufficient notice of the  
12 existence of the tax lien mortgage.

13 In the event that the tax, interest and costs underlying the tax lien are paid within the  
14 period of redemption, the municipal treasurer or assignee of record shall prepare and  
15 record a discharge of the tax lien mortgage in the same manner as is provided for the  
16 discharge of real estate mortgages, except that a facsimile signature of the treasurer or  
17 treasurer's assignee may be used.

18 If the tax lien mortgage, together with interest and costs, is not paid within 18 months  
19 after the date of the filing of the tax lien certificate in the registry of deeds, the tax lien  
20 mortgage is deemed to have been foreclosed and the right of redemption to have expired.

21 **2. Additional notice prior to foreclosure.** The municipal treasurer shall notify the  
22 party named on the tax lien mortgage and each record holder of a mortgage on the real  
23 estate not more than 45 days nor less than 30 days before the foreclosing date of the tax  
24 lien mortgage, in a writing signed by the treasurer or bearing the treasurer's facsimile  
25 signature and left at the holder's last and usual place of abode or sent by certified mail,  
26 return receipt requested, to the holder's last known address of the impending automatic  
27 foreclosure and indicating the exact date of foreclosure. For sending this notice, the  
28 municipality is entitled to receive \$3 plus all certified mail, return receipt requested, fees.  
29 These costs must be added to and become a part of the tax. If notice is not given in the  
30 time period specified in this subsection to the party named on the tax lien mortgage or to  
31 any record holder of a mortgage, the person not receiving timely notice may redeem the  
32 tax lien mortgage until 30 days after the treasurer does provide notice in the manner  
33 specified in this section.

34 The notice of impending automatic foreclosure must be substantially in the following  
35 form:

36 STATE OF MAINE

37 NOTICE OF IMPENDING AUTOMATIC FORECLOSURE

38 Title 36, M.R.S.A. Section 943

39 IMPORTANT: DO NOT DISREGARD



1 owners 65 years of age or older. After filing the tax lien mortgage and at least 90 days  
2 before the right of redemption expires, the municipality shall proceed as follows.

3 A. The municipality shall contact the owner and, with the owner's consent, assist the  
4 owner in applying for a tax abatement pursuant to section 841. The municipality shall  
5 make a good faith evaluation of the owner's eligibility for a tax abatement. If the  
6 owner is found eligible for a full abatement of the tax, the municipality shall  
7 discharge its lien. The municipality shall inform the owner of the option of seeking a  
8 reverse mortgage.

9 B. If pursuant to paragraph A a partial abatement is granted or if the owner is found  
10 not eligible for an abatement, the municipality must offer the owner a reasonable  
11 repayment schedule. If the owner does not agree to the repayment schedule, the  
12 municipality must offer to engage in mediation with the goal of producing a mutually  
13 acceptable schedule. The municipality shall select the mediator and pay the  
14 mediator's fee, and one-half of the cost must be added to the amount owed by the  
15 owner. The mediator must be impartial and listed with the judicial branch. If  
16 mediation is successful, the right of redemption does not expire as long as the owner  
17 makes payments according to the mediation schedule.

18 If a scheduled payment becomes delinquent more than 18 months after the tax  
19 commitment date and remains delinquent for more than 30 days, the municipality  
20 shall send a notice of delinquency to the owner by certified mail, return receipt  
21 requested, that includes a statement that payment of the full balance owed must be  
22 made within 14 days of receiving the notice of delinquency or the right of redemption  
23 will expire. If payment is not made by the 15th day, the right of redemption expires.  
24 The municipality shall confirm the date of expiration by filing a notice of the  
25 expiration date in the registry of deeds where the lien was filed. A copy of the notice  
26 must be given to the owner in hand or by certified mail, return receipt requested.

27 C. If at any time a municipal official or employee has a reasonable suspicion that the  
28 owner has a physical or mental condition that interferes with the owner's ability to  
29 have business dealings with the municipality or that the owner is a victim of abuse,  
30 neglect, including self-neglect and neglect by another, or exploitation, the  
31 municipality shall notify the Department of Health and Human Services, office of  
32 elder and adult services, adult protective services program. The department shall  
33 determine whether the owner is in need of protective services or refer the owner to  
34 other community services that can assist the owner with the process described in this  
35 section.

36 **4. Foreclosure and sale.** After the foreclosure process is completed and the right of  
37 redemption has expired, any sale of the property by the municipality must proceed as  
38 follows.

39 A. If an owner is 65 years of age or older and is living in the property and the  
40 property is the owner's sole residence, the municipality may not take any action to  
41 sell the property to a 3rd party until the value of the municipal lien for nonpayment of  
42 taxes established by this chapter exceeds 50% of the municipal assessed value of the  
43 property.

