TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Before the Joint Standing Committee on Taxation
Hearing Date: *2/7/23*

LD 101 - *An Act to Return to the Former Owner Any Excess Funds Remaining After the Sale of Foreclosed Property*

Senator Grohoski, Representative Perry, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Neither For Nor Against LD 101 - *An Act to Return to the Former Owner Any Excess Funds Remaining After the Sale of Foreclosed Property.*

Under current law, if a municipality, or the State Tax Assessor for property located in the unorganized territory, forecloses on property for failure to pay taxes owed on that property, the municipality is generally under no obligation to return any funds that exceed the amount owed in taxes after the sale of the property. This bill would require the return of those excess funds subject to the process laid out in the bill.

For background, legislation in 2015 created the option for municipalities to return excess funds from sale of properties to previous owners, but only if the property was a homestead, and only if the former owner met certain age and income limitations. The bill as drafted applies to all taxpayers and all types of property, including vacation homes, undeveloped land, and commercial property.

While the Administration is not opposed to the general purpose of the bill, the Administration has significant concerns with the specifics of the bill.

The bill's requirement that the State or municipality pay the taxpayer "excess funds" based on an appraisal prior to actual sale of the property if the property is not sold within 180 days of foreclosure creates significant issues for both municipalities and for the State.

Due to the statutory foreclosure sale process, sales of foreclosed property in the unorganized territory will always take longer than 180 days. Because the State will not be posting or selling the property until at least a year following the foreclosure, there is the potential to be a significant difference between what the State pays out and what it recoups at auction.

For municipalities, having to pay the excess funds prior to sale may create a significant burden on some municipal budgets, especially if that amount is not recovered at auction. These concerns are particularly significant in the context of unique, expensive, or hard-to-sell properties.

The scope and purpose of the statutorily required negotiations is unclear; and the allocation of the costs of arbitration between the municipality (who can't deduct those costs from the amount due the former owner), and the former owner (who is already delinquent and likely can't afford to pay their taxes) may create additional issues. Alternatively, consideration should be given to using the standard property tax appeal processes to resolve disagreements between the taxpayer and the municipality.

Turning to a more technical concern with the bill, the application of the bill to properties with multiple owners should be clarified.

Finally, making this process mandatory for all municipalities will likely trigger the 90% reimbursement mandate under the Maine Constitution, article IX, section 21 for costs to the municipality to administer the process to the extent costs are not recovered from sale proceeds.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions. I would be happy to respond to any questions you may have now.