



**LEGAL SERVICES
FOR MAINE ELDERS**

March 14, 2024

Testimony of John Brautigam, Esq. for Legal Services for Maine Elders on LD 2262
An Act to Amend the Process for the Sale of Foreclosed Properties Due to Nonpayment of Taxes.

Good afternoon, Senator Grohoski, Representative Perry, and esteemed members of the Taxation Committee. My name is John Brautigam, and I represent Legal Services for Maine Elders. We support this bill but along with others who will testify after me, suggest additional amendments for your consideration.

We were invited to participate in the working group established in 2023 by LD 101. The working group held very constructive discussions over several months. Peter Lacy of Maine Revenue Services did an admirable job managing this process. The end result of the working group is the legislation before you as LD 2262.

Although we support the report that came out of the working group, Legal Services for Maine Elders had a handful of suggestions that did not make it into the draft legislation. We recommended:

- First, when a municipality launches the process for selling a home pursuant to a tax lien foreclosure, the homeowner should be notified. Under current law, there is a notification at this stage because the homeowner must be given the opportunity to choose a public sale procedure rather than a private procedure. The working group recommendation provides that all sales would be public. We think this is a good result. The working group further concluded that since there is no option for a private procedure, the homeowner no longer faces a choice, and that therefore the importance of notifying the homeowner is diminished. However, we think that it still makes sense for the homeowner to be notified and aware that the sale procedure has begun.
- Second, when the municipality places a property on the market for a public sale, the working group draft would allow the municipality to pivot to a private sale option after six months if the property remains unsold. Since the real estate market can be seasonal, we recommend that the property be offered for sale for a full twelve months

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before concluding that this option is not viable. For a property that is not attracting buyers, the municipality can always reduce the asking price.

- Third, following a tax lien foreclosure sale, when a homeowner does not come forward to receive payment of the surplus value, we recommend that the proceeds be treated as unclaimed property. The state has an existing system for managing unclaimed property and we recommend using that system rather than having the municipality retain the funds for their own use. We note that by this point in the process, the municipality has been fully made whole for all expenses and the effort it has expended.

The person who owns a home subject to tax lien foreclosure is a person who is struggling financially, and perhaps in other aspects of their lives. Of course, the municipality has an obligation to collect taxes due. But when doing so, the owner's rights and interests can still be respected to the greatest extent possible. And we note that many municipalities are exemplary in this regard. Two of the principles we believe are most important in protecting the homeowner are (1) providing effective notice of the process as early and often as possible; and (2) utilizing a sale procedure that is designed to capture the full value of the property. We hope these considerations will guide your work.

Since the working group report was issued, we have been in touch with Maine Equal Justice, Pine Tree Legal Assistance, and the National Consumer Law Center. Those organizations have identified other possible amendments for the Committee's consideration as you will hear from their representatives today. We hope you will give their testimony your customary careful consideration.

Thank you.