



Maine Credit Union League

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Testimony from the Maine Credit Union League

In Support of LD 2262, An Act to Amend the Process for the Sale of Foreclosed Properties Due to Nonpayment of Taxes

March 14, 2024

Senator Grohoski, Representative Perry, and Distinguished Members of the Joint Committee on Taxation,

My name is Ellen Parent and I serve as the Director of Compliance at the Maine Credit Union League. The League proudly represents Maine's 49 credit unions and more than 725,000 members statewide. Please accept our testimony in support of LD 2262; An Act to Amend the Process for the Sale of Foreclosed Properties Due to Nonpayment of Taxes.

As member-owned cooperative financial institutions, credit unions in the State of Maine have a vested interest in ensuring that individuals who undergo municipal foreclosure have excess funds returned to them following the repayment of owed property taxes. Prior to last session Maine was one of only 12 states that did not return funds to the former owner of the home. Last year the Supreme Court heard *Tyler v. Hennepin County, Minnesota* and held that the law in Minnesota where a municipality takes and sells a debt and then reserves the surplus is an impermissible violation of the Fifth Amendment's takings clause.¹

I served on the working group that worked on this bill, while I am not sure the bill is perfect, it is a significant improvement in clarity around the process of returning funds to those who go through municipal foreclosure. The bill includes a provision where notices is provided to subsequent lienholders of municipally foreclosed property that a distribution is to be made, allowing lienholders to pursue an action to recoup their loan. In the current system, credit unions and other mortgage holders will usually pay off the municipal tax lien and then commence foreclosure proceedings against the homeowner given the breach of their mortgage agreement. Homeowners will still face two legal actions, one by the municipality and one by the lienholder in this case, as opposed to one judicial action as would occur in a similar breach of a secured loan.

There was some consideration in the working group as to what happens to the excess funds if a former owner cannot be found. The court did not take up this issue and the current bill would have the funds retained by the municipality rather than going to the unclaimed property fund. An additional provision in the bill addresses the long-held problem of clearing title after

¹ *Tyler v. Hennepin County*, 598 U.S. 631 (2023). https://www.supremecourt.gov/opinions/22pdf/22-166_8n59.pdf

municipal foreclosure which makes it harder to sell property. We view this as a significant benefit to those seeking to purchase a home, those living near these foreclosed properties and to municipalities looking to put the property back on the tax rolls.

While tax foreclosure is never something we wish to see happen in our communities, we believe that this bill improves the process behind it and allows former homeowners to make a new start. We also believe that this bill strengthens Maine law to avoid the issue of unconstitutionality. We are grateful to the bill sponsor for bringing this issue forward and we were pleased to be able to contribute to the working group. For these reasons we urge the committee to vote "ought to pass" on LD 2262.