TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Before the Joint Standing Committee on Taxation
Hearing Date: *March 4, 2025*

LD *399* – "*An Act to Amend the Laws Regarding the Retention of Proceeds from Municipal Foreclosures*"

Senator Grohoski, Representative Cloutier, 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 Against LD *399*, "*An Act to Amend the Laws Regarding the Retention of Proceeds from Municipal Foreclosures.*"

I want to start by noting that the provision being amended by this bill was enacted last year as part of the Legislature's consideration of recommendations from a stakeholder working group convened by MRS pursuant to P.L. 2023, Ch. 358 in order to help align Maine's property tax foreclosure process with the U.S. Supreme Court's decision in *Tyler v. Hennepin County*, 598 U.S. 631 (2023). If you recall, the *Hennepin County* decision ruled that a property tax taxpayer is constitutionally entitled to the excess proceeds from the sale of a tax-acquired property.

Turning to this bill, it is not clear what is intended by the new provision allowing a municipality to "retain" the excess proceeds. Can a municipality spend the excess proceeds, or must it retain the proceeds until the former owner or their heirs claim the proceeds? This intent should be clarified. If the intent is to allow the municipality to keep and spend the proceeds, then the bill runs counter to the

U.S. Supreme Court's decision in the *Hennepin County* case, absent procedures that determine taxpayer abandonment of the property.

In addition, retention of the excess sale proceeds by the municipality as provided in the bill is also unaligned with the waiver provision in 36 M.R.S. § 943-C (6) and potentially leaves the municipality open to constitutional and other legal challenges by the former owner and/or their heirs. More broadly, allowing municipalities to retain the excess sale proceeds may simply be perceived as unfair by affected taxpayers.

From a fiscal perspective, the bill may result in some additional revenue to the Unorganized Territory Education and Services Fund from retention of excess proceeds from sales of tax-acquired property in the unorganized territory.

In conclusion, the Administration opposes this bill because the bill raises serious constitutional concerns and because the tax foreclosure process was extensively debated just last session, resulting in the legislation which was passed by this committee and the full Legislature after significant input from a wide variety of interested parties and stakeholders.

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.