

**TESTIMONY OF
MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *May 16, 2025*

LD 1841 – “*An Act to Modify the Process of Selling Tax-acquired Properties*”

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 1841, “*An Act to Modify the Process of Selling Tax-acquired Properties*.”

To provide the Committee with context, the provisions being amended were enacted in 2024 as part of the Legislature’s consideration of recommendations from a working group convened by MRS pursuant to P.L. 2023, Ch. 358 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). The *Hennepin County* decision found that the failure to return the excess proceeds from the sale of a tax-acquired property to the property’s former owner in that case was unconstitutional.

I will begin with the legal and statutory concerns with the bill. First, the amended first paragraph of 943-C states that after the foreclosure process has expired, the former owner can offer a deed in lieu of foreclosure as an alternative to the sale process. If the foreclosure process has expired, it is unclear what interest the former owner could possibly be conveying via such a deed since a tax foreclosure generally extinguishes all rights of the former owner in the property.

Second, it is unclear whether a deed in lieu of foreclosure conveying the property to the municipality would still entitle the former owner to any excess proceeds from the sale of the property. If it does not, this would raise concerns under the *Hennepin County* decision.

Third, the amended section 943-C(2) requires that notice be sent to the owner 30 days prior to foreclosure. However, municipalities are already required to notify the owner of the property subject to the tax lien 30 to 45 days prior to the foreclosure under 36 M.R.S. § 943. It is therefore not clear the purpose of this new overlapping requirement and whether it might be better located in section 943.

Fourth, the amended 943-C(2)(B) requires the municipality to notify the owner after foreclosure of the amount required to redeem the property. This creates a definitional conflict as the right of redemption has expired once foreclosure has taken place.

Fifth, this bill raises concerns under the *Hennepin County* decision by allowing municipalities to retain tax-acquired properties and only return 10% of the excess proceeds; and by allowing municipalities to use a sale process that may not return the highest possible bid.

Relatedly, allowing municipalities to retain 90% of the excess proceeds and use a sale method that may not return the highest bid may be perceived as unfair by affected taxpayers and may create constitutional concerns under the *Hennepin County* decision. It is unclear what policy objective is served by allowing a municipality to use either a sealed bid or the existing statutory sale process.

Finally, as a technical concern, the foreclosure process typically specifies that notices be sent to the last known address of the former owner. The bill does not include this language; it is unclear whether this is intentional.

The fiscal and administrative costs associated with this bill can be absorbed under current budgetary allotments.

In conclusion, the Administration is opposed to LD 1841 because the bill raises new concerns under the *Hennepin County* decision and legislation on this issue was enacted last session after multiple meetings of a stakeholder working group and multiple work sessions in the Committee. It is simply too soon to make changes.

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.