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**Maine Equal Justice**  
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**In opposition to LD 1841 “An Act to Modify the  
Process of Selling Tax-acquired Properties”  
May 16, 2025**

Good afternoon, Senator Grohoski, Representative Cloutier, and members of the Joint Standing Committee on Taxation. My name is Frank D'Alessandro, and I am the Legal Services Director of Maine Equal Justice. We are a civil legal services organization, and we work with and for people with low income seeking solutions to poverty through policy, education, and legal representation. Thank you for the opportunity to offer written testimony to you in opposition to LD 1841.

Maine Equal Justice opposes LD 1841 because it rolls back homeowner protections that only went into effect in the fall of 2024.

### **What This Bill Does**

This bill modifies the property tax foreclosure process in a manner which will reduce the proceeds to which a homeowner will receive after losing their home to the municipality due to non-payment of property taxes.

### **Why Maine Equal Justice Opposes LD 1841**

LD 1841 relates to municipal tax foreclosures - a topic that has been recently the focus of work by the Committee on Taxation following the United States Supreme Court decision in *Tyler v. Hennepin County*.<sup>1</sup> In that case the U.S. Supreme Court held that “The County had the power to sell Tyler’s home to recover the unpaid property taxes. But it could not use the toehold of the tax debt to confiscate more property than was due. By doing so, it effected a “classic taking in which the government directly appropriates private property for its own use.” *Tyler v. Hennepin Cnty.*, 598 U.S. 631, 639 (2023).

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<sup>1</sup> [https://www.supremecourt.gov/opinions/22pdf/22-166\\_8n59.pdf](https://www.supremecourt.gov/opinions/22pdf/22-166_8n59.pdf)

The *Tyler* decision held that if a municipality sells a property and there is money left over after paying off expenses and overdue taxes, the former owner has a right to that money. The Committee on Taxation has worked hard to address the results of this decision in not one, but two separate bills.

In 2023 LD 101 was passed and signed into law to amend Maine law to incorporate the holding of *Tyler*. The bill also set up the Working Group to Study Equity in the Foreclosure Process.<sup>2</sup>

During 2023 that working group conducted its review and made extensive additional recommendations for improving the foreclosure process.<sup>3</sup>

In 2024, the Committee on Taxation considered those recommendations and endorsed several amendments to Title 14 and Title 36 as set forth in LD 2262. The legislature enacted the bill and the governor signed it into law. PL 2024, c. 640.<sup>4</sup>

Those discussions were balanced, fair, and exhaustive. They were guided by multiple considerations -- compliance with the decision of the United States Supreme Court, ensuring that any sale of property yields a fair market value, and compensating municipalities for the expense and staff hours required to handle this process. LD 1841 proposes to undo much of the work only recently done by the Committee on Taxation to ensure that a homeowner who loses their home to the municipality due to non payment of real estate taxes receives any equity that may be in the home.

In particular, Maine Equal Justice opposes the following portions of LD 1841:

**Section 1 and Section 3:** Section 1 proposes that “As an alternative to the sale process, a former owner may offer a deed in lieu of foreclosure.” Section 3 would allow the municipality to choose to use a sealed bill process to sell the property. Competitive sales are the norm in the market and remain the best

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<sup>2</sup> <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280085276>

<sup>3</sup> [https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/Final%20Report%20of%20the%20Foreclosure%20Working%20Group%2020240115\\_0.pdf](https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/Final%20Report%20of%20the%20Foreclosure%20Working%20Group%2020240115_0.pdf)

<sup>4</sup> <https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280092446>

way to sell property for a fair value. Market-based sales as the best way to ensure fair market value. This process does involve some cost, but the municipality is fully compensated for those costs. In addition, When municipalities attempt to sell a property in a market sale but the property proves difficult to sell, existing law already allows them to use other sale methods of their choice. 36 MRS§ 943-C(4-A).

The sales process was the focus of extensive deliberation before the Committee on Taxation in 2024 and the legislation enacted permitted a sealed bid to sell the property only after a real estate broker or agent could not be located or a sale was not successful. The existing legislation provides a process that is equitable to all parties and should not be changed. This is especially true given that the existing legislation concerning the sale of property that is foreclosed upon by a municipality was only recently put into effect and there is no evidence that it is not working.

No alternative to the sale process, including a deed in lieu of foreclosure, should be permitted until a sale has been attempted as set forth in existing legislation.

**Section 2:** This section of the bill proposes to amend the notice provisions of existing law. In particular, it proposes to reduce from 90 days to 30 days the notice provided to homeowners. Maine Equal Justice opposes any reduction in the notice provided to the previous homeowner. The existing 90 day notice requirement was only recently put into effect and there is no evidence that it is not working.

**Section 6:** This section proposes that in cases in which the municipality decides to retain the property for its own use it only be required to return 10% of the property's equity to the prior homeowner. "The Takings Clause, applicable to the States through the Fourteenth Amendment, provides that "private property [shall not] be taken for public use, without just compensation." U. S. Const., Amdt. 5.<sup>5</sup> Paying the prior homeowner only 10% of the property's equity in cases in which the municipality chooses to retain the property for its own use is not just, and it is clearly unconstitutional.

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<sup>5</sup> [Tyler v. Hennepin Cnty.](#), 598 U.S. 631, 637

## **CONCLUSION**

For the all of the reasons set forth above, Maine Equal Justice opposes LD 1183 and urges the Committee to vote ought not to pass on this bill. In addition to the above cited reasons, I would also point out that the recently enacted property tax deferral program is very helpful for homeowners having trouble paying their property taxes and should make tax foreclosures be very rare which would make the proposals in this bill appear unnecessary. I am happy to answer any questions.