

# Commonwealth of Massachusetts



**Supporting a Commonwealth of Communities**

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## What's New in Municipal Law 2025

### Workshop A

### Tax Title



## **Tax Title Changes Index of Publications**

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- **Section 87 of Chapter 14 of the Acts of 2025 - Tax Title Interest Rate**
- **How To Handle Foreclosure Decrees Received Prior To November 1, 2024 and Other Issues Related to Tax Title Changes in Chapter 140 of the Acts of 2024**
- **Chapter 140 of the Acts of 2024 Tax Title Reform**
- **Collection FAQs**
- **Tax Title Forms**



## Recent Tax Title Changes: Chapter 140 of the Acts of 2024

- Section 88 amends G.L. c. 60, § 62 (Tax Title Interest Rate)
  - Reduces the tax title interest rate from 16% to 8%
  - Interest on outstanding taxes remains at 14%
    - Question: When/how does this apply?
  - DLS publishes [BUL-2024-6](#)
  - Leominster v. Corbett, 22 TL 000447 (2025)
    - DLS files amicus
    - Land Court: 16% until November 1, 2024, then 8% thereafter (no appeal)
    - Land Court April 18, 2025 Memorandum on Calculation of Interest prior to Tax Lien Motion for the Entry of Finding
    - DLS publishes [BUL-2025-3](#)
- Section 87 of the Acts of 2025 [BUL-2025-6](#)
  - Conclusion: The reduced tax title interest rate is only applicable for tax titles entered into on or after November 1, 2024 and property already in tax title before November 1, 2024 will continue to accrue interest at a rate of 16%
  - Now applies to [Land Court filings](#) and redemption

# **City of Woburn v. Crane's Court Industrial Park**

**Land Court TL 122256**

- **September 1993, City took property by tax taking, initiated this tax lien foreclosure action in January 2000, then the case laid dormant**
- **St. 2024, c. 140 became law, with an effective date of November 1, 2024**
- **On April 18, 2025, the Land Court issued a Procedural Order which adopted the Corbett Calculations in all pending/future Tax Title cases**
- **The Court entered a finding applying the Corbett Calculations and allowed the City's motion to report this matter to the Appeals Court (potentially now moot)**



## Recent Tax Title Changes: Chapter 140 of the Acts of 2024

- **Section 88 amends G.L. c. 60, § 62 (Tax Title Interest Rate)**
  - **Reduces the tax title interest rate from 16% to 8%**
  - **What about 41A deferral agreements?**
    - **The interest rate of a tax deferral under G.L. c. 59, § 5 Clause 41A is 8% or such lesser rate as may be determined by the legislative body of the city or town. Upon the conveyance of the property or death of the owner, interest shall accrue at the rate of tax titles pursuant to G.L. c. 60, § 62 which for most deferring taxpayers would be 16%. For deferral agreements that are entered into on or after the Act's November 1, 2024 effective date, upon the conveyance or death of the property owner, the tax title interest rate on the deferral will be 8% rather than 16%.**



## **Recent Tax Title Changes: Chapter 140 of the Acts of 2024**

- **Section 94 amends G.L. c. 60, § 65 (Petition for Foreclosure)**
  - **Prior to Chapter 140 of the Acts of 2024, with some exceptions, the treasurer was required to wait six months after the tax taking to file a petition in Land Court to foreclose all rights of redemption. G.L. c. 60, § 65. Chapter 140 of the Acts of 2024 changed that to 12 months.**
  - **Same question as Section 88 arose – does this apply prospectively?**
    - **Attorneys were being told they must wait no matter when the tax title occurred**
- **Section 87 of the Acts of 2024**
  - **Section 87, Chapter 14 of the Acts of 2025 has applied the extended duration of 6 to 12 months to file to foreclose the right of redemption only to tax titles entered into on or after November 1, 2024.**



## **“Recent” Tax Title Changes: Chapter 140 of the Acts of 2024**

- **Why was there is a need for a legislative fix?**
  - **Tyler v. Hennepin County 598 U.S. 631 (2023).**
    - **Retention of excess equity from a taking above the tax debt violates the Takings Clause of the 5<sup>th</sup> Amendment, requiring a payment of just compensation.**
    - ***The taxpayer must render unto Caesar what is Caesar's, but no more!***
- **Section 80-99 took effect on November 1, 2024 per Section 250.**
- **Sections 81-87 add notice and publication requirements to the tax title foreclosure process and the sale or assignment of tax titles**



## Chapter 140 of the Acts of 2024

- **Section 89-91 amends local option statute G.L. c. 60, § 62A (Tax Title Payment Agreements)**
  - **Requires acceptance and enactment of bylaw or ordinance**
  - **Treasurers may waive interest on tax title account *only* as authorized by bylaw or ordinance**
  - **Previously: agreements for up to 5 years, pay at least 25% of the total amount needed to redeem at that time and the agreement could only waive up to 50% interest**
  - **Now: agreements up to 10 years, pay at least 10% of total amount needed to redeem at that time and waive interest up to 100%**
  - **A community that wishes to use the new amounts must reflect the same in an amended or newly created ordinance or bylaw. There is no requirement to change current bylaws/ordinances. If amended, any changes would only apply to new agreements entered into on or after the November 1, 2024 effective date or date of the change in bylaws/ordinances, whichever is later**





## **Recent Tax Title Changes: Chapter 140 of the Acts of 2024**

### **■ Section 212 (Retroactive Claims of Excess Equity)**

- **Former owners may seek excess equity that resulted from their foreclosed property if their right of redemption was foreclosed upon by a final judgment of foreclosure entered on or after May 25, 2021 but before the effective date of the Act**
- **To claim excess equity, prior owners must file written complaint in Superior Court for the return of excess equity within 12 months of the effective date of the Act**
  - **DLS interprets this section to mean that claims can be filed no later than November 1, 2025 (ambiguous, consult w/ local counsel to make determination)**
- **No claim for the return of excess equity may be asserted by any party where a Land Court judgment of foreclosure was entered and not appealed, on or before May 24, 2021**
- **Has anyone had any of these claims?**
- **Question: does the taxpayer have to file with the Court if the municipality is willing to give them agreed upon excess proceeds?**



## Chapter 140 of the Acts of 2024

- **Section 93 adds G.L. c. 60, § 64A (Disposition of Foreclosed Property)**
  - **Municipality must decide either to retain possession of the property and dedicate to municipal use or sell the property**
  - **Decision within 30 days after the entry of judgment foreclosing all rights of redemption has become final**
  - **30 days measured from:**
    - **No appeal: 30 days**
    - **Appeal: at time judgment entered for the appeal**
    - **Section 23 of Chapter 14 of the Acts of 2025 extended the time in which municipalities must decide to either sell or retain property, after receiving a foreclosure judgment, from 14 days to 30 days after the judgment has become final**
- **Once decision is made the former owners must be notified of that decision by certified mail and be informed of the process for them to claim any resulting excess equity**
  - **Practical consideration – make decision before judgment becoming final and send notice immediately after judgment becomes final**
  - **Question: who makes the decision to sell or retain?**



## Chapter 140 of the Acts of 2024

- **Section 93 (Disposition of Foreclosed Property)**
  - **Where municipality elects to retain the property:**
    - **Use reasonable efforts to have an appraisal of the property be conducted within 120 days of the judgment becoming final unless otherwise agreed upon by taxpayer**
    - **Appraisal for the highest and best use of the property as of the date of the final judgment of foreclosure and conducted by an independent appraiser licensed in MA**
    - **Resulting value from this process will be used to determine whether any excess equity exists that can then be given to or claimed by the taxpayer**
    - **Need an appropriation**



## Chapter 140 of the Acts of 2024

- **Section 93 (Disposition of Foreclosed Property)**
  - **Where municipality elects to sell the property:**
    - **Municipality must list the property for sale with a real estate agent or broker within 180 days of the judgment becoming final unless otherwise agreed upon by the taxpayer**
      - **For example, if a foreclosure decree is issued on March 1, 2025 and there is no appeal then the judgment becomes final on March 31, 2025. As a result here, the municipality must list the property for sale within 180 days of March 31, 2025.**
    - **The real estate agent or broker *cannot* hold elected or appointed office or be employed by the municipality where the property is located**



## Chapter 140 of the Acts of 2024

- **Section 93 (Disposition of Foreclosed Property)**
  - **Where municipality elects to sell the property continued**
  - **If 12 months have elapsed from the date of the initial listing by the agent or broker and the property has not been sold, the municipality must conduct an auction for said property:**
    - **Auctioneer handling auction must be licensed in MA and cannot hold elected or appointed office in the municipality or be an employee of the municipality in ANY capacity**
    - **Auctioneer may not accept bids at auction that are less than 2/3 of the appraised value**
      - **Once a decision is made to move to auction, obtain appraisal that complies with the provisions governing retaining the property**
    - **Bids may not be accepted from elected or appointed officials in the municipality, or from employees of the municipality**



## **Chapter 140 of the Acts of 2024**

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- **Section 93 (Disposition of Foreclosed Property)**
  - **Where municipality elects to sell the property continued**
    - **If a property still cannot be sold after both the (1) initial listing for sale with a real estate agent or broker and (2) the auction:**
      - **Municipality must notify all parties entitled to excess equity, by certified mail, of its intent to continue trying to market the property for sale, without the property being considered retained by the municipality**
      - **Thereafter, the property may be sold at auction by the municipality's tax title custodian (usually treasurer) under the procedure specified in G.L. c. 60, § 77B?**



## **Chapter 140 of the Acts of 2024**

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- **Section 93 (Disposition of Foreclosed Property)**
- **Further process under election of sale or retention**
- **Within 30 days of a sale or, in the case of a municipality retaining possession, the municipality must:**
  - **Prepare a written itemized accounting of the disposition of the proceeds**



## Chapter 140 of the Acts of 2024

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- **Section 93 (Disposition of Foreclosed Property)**
- **If identity and mailing address of any parties entitled to claim excess equity *are known*, along with itemized accounting:**
  - **Provide a proportional share of the excess equity to which each such individual is entitled**
- **If identity and mailing address of any parties entitled to claim excess equity *are not known*, along with itemized accounting:**
  - **Publish notice to alert former owners and all others known to hold right of redemption in property at time judgment of foreclosure entered in Land Court that they may claim excess equity in writing to municipality**
    - **Claim within 18 months after date of notice**





## Chapter 140 of the Acts of 2024

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- **Section 93 (Disposition of Foreclosed Property)**
- **Disputes arising out of this process may be filed by an interested party in Superior Court within 12 months after the date of the notice of written itemized accounting**



## Chapter 140 of the Acts of 2024

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- **Section 80 adds two definitions under G.L. c. 60, § 1 regarding disposition of foreclosed property**
  - **Excess equity.**
  - **Language understandable by a least sophisticated consumer.**
  
- **Section 81 modifies G.L. c. 60, § 2C (assignment & transfer of tax receivables)**
  - **New requirements that must be included on notices that must be sent to affected property owners using language understandable by a least sophisticated consumer, along with a notice in 7 languages clearly stating that the notice affects legal rights and should be translated immediately.**
  - **DLS to provide forms.**



## Chapter 140 of the Acts of 2024

- **Section 82 amends G.L. c. 60, § 16 (Collector's Demand Notices)**
  - **Advise property owner to contact assessors about abatements, exemptions and tax deferrals.**
  - **New requirements added to demand notices for Class One residential properties and mixed-use properties.**
  - **DLS to provide State Tax Form 6016.**
  
- **Section 83 modifies G.L. c. 60, § 25 (Distrained goods & auction)**
  - **Additional notices that must be sent to taxpayers prior to auctioning off distrained goods.**
  - **Collectors rarely use as a remedy.**
  - **DLS to provide forms (similar requirements as those for G.L. c. 60, § 16).**



## Chapter 140 of the Acts of 2024

- **Section 84 amends G.L. c. 60, § 52 (assignment of tax title)**
- **Treasurer's notice of intended assignment (may assign & transfer tax title(s) individually or bundled to highest bidder after public auction)**
- **For residential parcels**
  - **Mailed to the taxpayer at last known residence and usual place of abode or place of business;**
  - **Posted upon the property;**
  - **Posted in a convenient and public place; and**
  - **All three of these forms of notice must include a uniform notice prepared by DOR. DLS to provide State Tax Form 6052.**



## Chapter 140 of the Acts of 2024

- **Section 85-87 amends G.L. c. 60, § 53 (tax taking)**
  - **Amends process when real estate tax is not paid after the demand is sent for both for residential and for all other property.**
  - **Collector must wait until at least 14 days after demand sent**
  - **If unpaid, collector to give notice of intent to take. State Tax Form 6053.**
  - **For class one residential: a) posted on municipal website, b) mailed to taxpayer at last known address (residence or business), c) posted upon the property itself (likely applies for vacant land as well); for all 3, must include STF 6053 & 6053A.**
    - **Mixed use property, follow above requirements.**
    - **Posting on property itself can be done by sheriff or constable. *It may be possible that the cost of this service can be added to the tax title account under G.L. c. 60, § 15, Clause 17.***
  - **For residential & non-residential, post in 2 or more public places. Res. 2 forms; Non-res. STF 6053 & in newspaper.**



## Chapter 140 of the Acts of 2024

- **Section 85-87 tax taking continued**
  - **The notice must contain a description of the property to be taken, the amount of taxes and other charges for which the property will be taken, the names of all owners known to the collector, and the time and place of the taking;**
  - **Collector must then wait at least 14 days after the later of the date of the publication or posting of the notice of intent to take.**
  - **Collector then makes the taking at the time and place in the notice**
  - **Collector must record or register Instrument of Taking (STF 301) at Registry of Deeds within 60 days of the date of the taking under G.L. c. 60, § 54.**
    - **Must include a description of the property, the name of the assessed owner or owners, and the taxes and charges for which the property was taken.**



## Chapter 140 of the Acts of 2024

### Before and After

- 1. If a foreclosure decree was received by a municipality prior to November 1, 2024, but the property has not yet been dedicated to a municipal use or otherwise disposed of, does the municipality now have to adhere to the new disposition process described in G.L. c. 60, § 64A?
- 2. Given the above answer to Question #1, if a foreclosure decree was received by a municipality prior to November 1, 2024, and the property has not yet been dedicated to a municipal use or otherwise disposed of, can it be disposed of pursuant to an auction under G.L. c. 60, § 77B?
- 3. Similarly, given the above answers to Questions #1 and #2, if a foreclosure decree was received by a municipality prior to November 1, 2024, and the property has not yet been dedicated to a municipal use or otherwise disposed of, are there requirements to dispose of the property forthwith?
- If we issued demands prior to Nov 1, 2024 but did not put the property into tax title, do we have to re-issue the demands?



## Chapter 140 of the Acts of 2024

- **Before and After:**
- **If a property owner is delinquent on multiple properties and is owed excess equity as the result of the foreclosure and sale of one of their properties, can the municipality apply the balance of any excess equity to the outstanding obligations on other properties using the process described in G.L. c. 60, § 93?**
  - **Yes. The treasurer can withhold the money and apply it to other delinquent amounts by using the statutory set-off remedy established by G.L. c. 60, § 93. This remedy is illustrated in the Massachusetts Appeals Court decision of Decota v. Town of Stoughton, 23 Mass. App. Ct. 618 (1987), review denied 399 Mass. 1105. In the Decota case, an eminent domain award to a taxpayer was applied by the town to satisfy the taxpayer's unpaid taxes on other parcels.**





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# Any Questions?

**Davenport v. Town of Reading**  
**2024 U.S. Dist. LEXIS 187132 (October 15, 2024)**

- **US District Court**
- **Davenport failed to pay real estate taxes for FY 2007, Town put in tax title, filed a petition to foreclose in 2013, Land Court issued a judgment for Town in April 2014**
- **Then in January 2023, the Town sold the property for \$400,000 (outstanding est. \$150,546)**
- **Town retained the remaining \$219,453.522**
- **3 issues for the court to consider**

# **Davenport v. Town of Reading**

**2024 U.S. Dist. LEXIS 187132 (October 15, 2024)**

- (1) Did the then controlling version of the tax foreclosure system in Massachusetts pass constitutional muster?
  - Cannot “import a previously unavailable remedy into the statute”
- (2) If it did not, when did Davenport’s constitutional injury accrue?
  - Main issue: was injury when foreclosed or when sold? Court says when the property was sold and excess kept
  - Note: St. 2024, c. 140 s. 212 (excess retro if final judgment entered on or after May 25, 2021)
- (3) If Davenport's injury accrued within the limitations period, is the Town entitled to an offset for unjust enrichment?
  - He lived rent/tax free for 9 years; Court says no
- Town Appeal filed (Nov. 14, 2024) (No.24-2055)

## **Milley v. Town of Reading**

**2024 U.S. Dist. 1:25-cv-10349**

- <https://www.youtube.com/watch?v=z44tJB97uIY>
- **Milley is sole heir to Father's property, Father passed in 2005, property delinquent in 2009, tax taking in 2010, foreclosure decree in 2015, sold property in 2022 for \$460,000 (est. owe about \$151,313)**
- **Never probated estate / received notices**
- **Complaint filed Feb 11, 2025**
- **Agreed to stay proceedings until appeal in Davenport case decided**

## **City of Chelsea v. Vigorito**

**32 LCR 458 (August 21, 2024)**

- **Vigorito bought gasoline station in 2016 which had order to demolish on it, couldn't stop demolition, City added cost to demolish to tax bill, now looking to foreclose his right to redeem title following nonpayment**
- **Covered this case previously (this is round 2): in prior case Court issued a finding against Vigorito in the sum of \$320,953.81 with interest, court costs and legal fees and set a deadline of June 12, 2024, for Vigorito to exercise his right of redemption**
- **On May 13, 2024, Vigorito filed the Motions that are the subject of this case (basically to vacate prior order)**

## **City of Chelsea v. Vigorito**

**32 LCR 458 (August 21, 2024)**

- **Court here upholds previous ruling**
- **Res judicata applies to all of Vigorito's arguments relating to demolition and there need be no further delay**
- **The debt may be collected pursuant to G.L. c. 139, § 3A - Vigorito received the demolition charges on which became due, failed to make payment, the City recorded its Statement of Claim/Lien**

**City of Marlborough v. Driscoll**  
**105 Mass. App. Ct. 1104 (November 18, 2024)**

- **Summary Decision**
- **Appeal from two final judgments entered in Land Court who ruled that all rights of redemption as to three parcels of land, Parcels C, D, and E, were forever foreclosed**
- **Court says have standing to contest the taking with respect to Parcels C and D, and that the order foreclosing his right of redemption must be vacated pursuant to Tyler, 598 U.S. at 639**
- **Case has been ongoing since 2009, long and storied history of who actually owns what**

## **City of Marlborough v. Driscoll**

**105 Mass. App. Ct. 1104 (November 18, 2024)**

- **Court says Tyler must be applied to this case as it is pending when that decision was made**
- **Redemption of the parcel is possible**
- **Should foreclosure judgment be entered again and City sold the property, would need to return excess equity**



## ***Shea v. City of Lynn***

**2025 Mass. App. Unpub. LEXIS 518 (July 2, 2025)**

- **City observed numerous building code violations creating safety risks to tenants – they notified the owner – Shea.**
- **Shea was slow to respond to the required remedies and pursuant to G. L. c. 40U, § 12, fines and penalties from Shea's violation notices were added to his property tax obligation, the city filed a notice of tax lien taking against the property for the unpaid obligation, then the city filed a complaint to foreclose on the property in the Land Court**
- **Instead of objecting to the foreclosure by appearing at the Land Court, Shea paid the city to release the tax lien**
- **Then Shea filed a complaint in the Superior Court asserting claims against the defendants for violations of the Massachusetts Civil Rights Act, among others**
- **Ultimately dismissed by the Court**

**Pung v. Kopke,**  
**2025 U.S. App. LEXIS 2149 (January 28, 2025)**

- **Isabella County took Pung's home for approximately \$2,200 in taxes and fees**
- **Court used auction sale price rather than the property's fair market value for its damages calculation**
- **The questions presented are:**
  - **1. Whether taking violates the Takings Clause of the Fifth Amendment when the compensation is based on auction sale price rather than the property's fair market value?**
  - **2. Whether this constitutes an excessive fine under the Eighth Amendment?**
- **Supreme Court granted review on October 3, 2025**



# Any Questions?