



April 6th, 2023



**In this edition:**

- **Free Cash Update**
- **Data Highlight: Free Cash**
- **Announcing a New, Simplified Property Tax Exemption Submission Process**
- **Ask DLS: Takings & Foreclosures**

## Important Dates & Information

### Farm Value Advisory Commission FY2024 Recommended Chapter Land Values

The Division of Local Services has posted the Farmland Valuation Advisory Commission adopted range of recommended agricultural, horticultural, and forest land use values for the various categories of land classified under *Chapter 61 and 61A* for Fiscal Year 2024.

Please see below for the land rates and related information:

[Click here for more information on the FY 2024 Chapter Land 61 and 61A Valuations](#)

Communities questioning the FY 2024 chapter land rates should contact the Bureau of Local Assessment at [bladata@dor.state.ma.us](mailto:bladata@dor.state.ma.us).

### OSD Climate Action Survey: Meeting Your Electric Vehicle Needs

The Operational Services Division

## Free Cash Update

Tony Rassias - Deputy Director of Accounts

An October 21, 2021 *City & Town* article entitled [An Update on Free Cash](#) found early indications that July 1, 2021 free cash certifications were showing significant increases over certifications from the previous year. To that end, the Bureau of Accounts (BOA) was cautiously optimistic that this positive financial news would continue and reverse fears of a general certified free cash reduction during the pandemic. The following piece expands our scope to include what we saw when certifications were completed in June of 2022. Note that at the end of this is a preliminary overview of this year's free cash (i.e., certified as of July 1, 2022).

### As of July 1, 2021 Certifications (approved during FY2022)

Despite some gloomy predictions, total statewide free cash certifications showed significant growth totaling \$2.33 billion, increasing \$383,4 million or 19.7% over the previous year.



consistently reviews the marketplace, buyer purchasing trends, and our Statewide Contract portfolio to determine if there are gaps in our offerings. The Local Government Enablement team at OSD is reaching out to our municipal partners to understand your goals with respect to Climate Action Initiatives, with a focus on Vehicles, Vehicle Infrastructure, and Grants. Your feedback will inform our Statewide Contract procurement activities going forward and ultimately assist municipal organizations in meeting their short- and long-term purchasing goals.

[Take the survey](#)

### Latest Issue of *Buy the Way* Now Available

Don't miss Issue #20 of [Buy the Way](#), the official magazine of the Operational Services Division (OSD).

This issue includes our feature article, Climate Action in Action, other Earth Week-related stories, plus standard features such as Statewide Contract Updates, Strategic Sourcing News, and more!

[Click here](#) to get news and updates from OSD delivered to your inbox.

### DCR Lifeguarding Program Seeks Applicants

The Department of Conservation and Recreation continues to seek lifeguards at agency-managed waterfronts and pools across the state for the summer season. Pay starts at \$22/hour; and positions are available five days per week, 40 hours per week, weekends included. Additionally, bonuses are available for early sign on by May 1<sup>st</sup> and additional retention bonuses are available for lifeguards who remain guarding for the duration of the season with DCR. Interested candidates 16 years and older can find additional information by visiting the DCR [lifeguard webpage](#). To apply to be a lifeguard, please visit the [application webpage](#). To assist DCR in safeguarding local swimming destinations in your area, please share with any interested applicants seeking summer employment.

### Massachusetts Dredging Program 2023 Grant Round opening soon!

In early April, the Executive Office of Housing and Economic Development (EOHED) will release its application for the 2023 grant

As reported to BOA by City and town accounting officials reported that \$455.5 million from FY2021 estimated receipts coming in above budget, \$717.2 million from budgeted but unspent FY2021 appropriations and \$1.1 billion from unobligated free cash of the prior year (i.e. certified free cash as of July 1, 2020 contributed in large part to this final total.

In this certification period, 347 communities were certified with positive free cash, one negative and three had no submission. The greatest free cash increase was in Springfield at \$20.3 million and the greatest decrease in Boston at \$62.1 million. Across the board, we saw a median increase of \$935,347 and median decrease of \$227,585. Certifications for Boston and Cambridge of \$366 million and \$214.4 million respectively had a considerable effect on the total statewide July 1, 2021 certification. Their total represented about 25% of the state total and if their certifications are removed from the last two fiscal periods, the statewide total increase for the remaining communities reveals a net 34% increase rather than a net 19.7% increase as noted above.

The following table categorizes free cash certifications pre- and during the pandemic showing where the increases occurred.

	Free Cash Certifications (greater than \$0)						
	< \$1 million	\$1 million to \$2 million	\$2 million to \$3 million	\$3 million to \$4 million	\$4 million to \$5 million	\$5 million to \$10 million	> than \$10 million
7/1/2019	114	68	38	26	20	40	39
7/1/2020	110	64	38	30	21	41	40
7/1/2021	86	48	45	30	27	56	55

Despite the rise seen in the statewide total, not every community experienced an increase from the previous period as shown in the graph below. Note that in only one fiscal period shown did the number of decreases exceed increases.

round of the [MA Dredging Program](#).

Applications will be accepted for saltwater dredging projects with construction planned in FY24. The MA Dredging Program is a capital grant program that provides funding to coastal municipalities for dredging and dredged material disposal. One-year construction grants are competitively awarded with a focus on shovel-ready projects that support the economic vitality, vibrant waterfronts, maritime safety, or ecosystem health of the Commonwealth's harbors. All Massachusetts [coastal municipalities](#) are eligible to apply. A minimum 50% non-state match is required for any application to be considered.

Full details are expected to be available in COMMBUYS no later than April 12. To be added to the round's announcement list, please send your name, organization, and email address to [EOHEDgrants@mass.gov](mailto:EOHEDgrants@mass.gov), subject line: "Dredging Program Email List."

### FY2024 Preliminary Local Aid Estimates

The Healey-Driscoll administration is pleased to provide local officials with preliminary local aid estimates for FY2024 in advance of next week's release of the administration's budget (House 1).

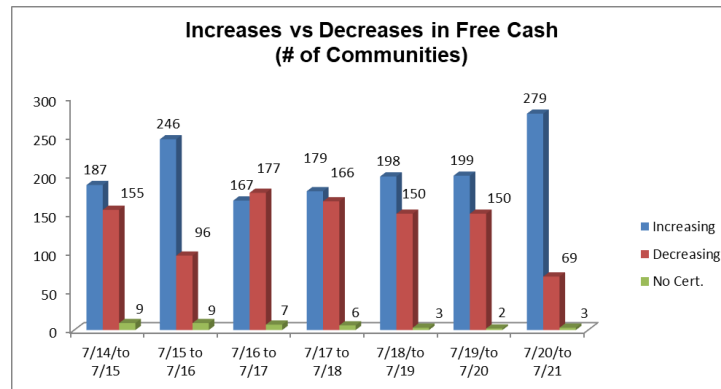
The administration is funding Chapter 70 at \$6.585 billion, or \$586.4 million above the FY2023 level, increasing Unrestricted General Government Aid (UGGA) by \$24.6 million to \$1.26B, increasing State-Owned Land Reimbursements by \$6.5M to \$51.5M, increasing aid to libraries by \$3.1 million and increasing Regional School Transportation by \$14.9 million to \$97.1M.

For more information about the local aid package to be included in the upcoming budget, please review the budget brief found [here](#).

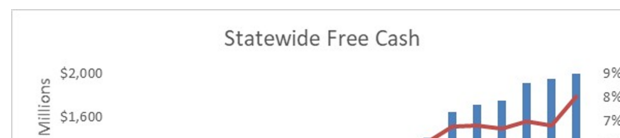
View the proposed cherry sheet estimates for your community or school district from the link below:

[Municipal receipts and charges](#)  
[Regional school receipts and charges](#)

More detailed information regarding Chapter 70 and other school finance related initiatives contained in House 1 and the accompanying legislation can be found on the Department of Elementary and Secondary Education (DESE) website at <http://www.doe.mass.edu/finance/>



It's helpful to measure free cash as a percent of budget. Statewide, free cash as a percent of budget has increased to more than 8% from less than 5% a decade ago. This is displayed in the graph below.



The following table categorizes free cash certifications as a percent of budget pre- and during the pandemic showing where the increases occurred. It shows a significant decrease in the number below 5% of budget, which is an indicator of increased balance sheet strength.

	Free Cash Certifications as % of Budget					
	< 5%	5% - 7.5%	>7.5% - 10%	>10% - 15%	>15% - 20%	>20%
7/1/2019	148	103	37	36	15	9
7/1/2020	154	84	44	42	10	15
7/1/2021	82	89	77	56	21	21

### Appropriations

BOA does not receive information as to the purpose of each appropriation. However, the BOA can determine whether the appropriation was made in total for a particular purpose, to "reduce the tax rate", or a combination of both.

## [chapter70.](#)

Information includes the Chapter 70 aid calculations, minimum contributions and net school spending requirements.

Cherry sheet estimates for charter school tuition and reimbursements are based on estimated tuition rates and projected enrollments under charters previously issued by the Board of Elementary and Secondary Education.

Please be advised that charter school assessments and reimbursements will change as updated tuition rates and enrollments become available. Estimates for the school choice assessments may also change significantly when updated to reflect final tuition rates and enrollments.

It is important for local officials to remember that these estimates are preliminary and are subject to change as the legislative process unfolds.

Please contact the Data Analytics and Resources Bureau at [databank@dor.state.ma.us](mailto:databank@dor.state.ma.us) with any questions.

### **FY2024 Budget Issues and Other Related Matters**

The Division of Local Services (DLS) Bureau of Accounts (BOA) has issued and posted Bulletin (BUL) 2023-2. This Bulletin addresses several topics that cities, towns, regional school and other districts should consider for FY2024 budgeting and other related matters.

#### **[BUL-2023-2: FY2024 Budget Issues and Other Related Matters](#)**

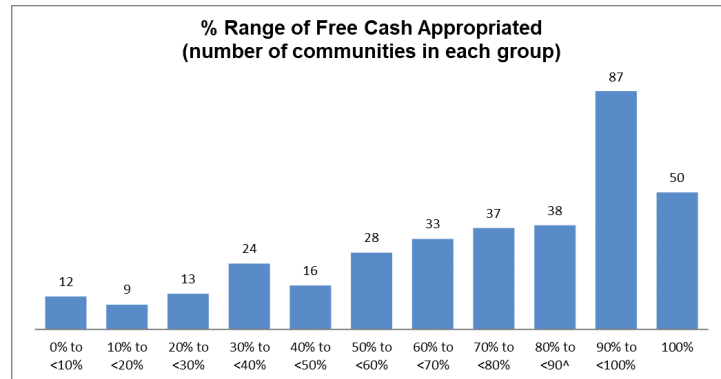
To view the bulletin, [click here](#). To access additional IGRs and Bulletins, please visit this [webpage](#).

### **Proposed FY2024 State-Owned Land Valuation under MGL C. 58 § 13-17**

The Division of Local Services has posted on its website proposed FY2024 state-owned land values based on the fair cash value of certain state owned lands (SOL) pursuant to [MGL Ch. 58, §§ 13-17](#). These lands are reimbursed for loss of local tax revenue on the Cherry Sheet's State-Owned Land line.

Click [here](#) to display the proposed municipal state-owned land values and their share of the total state-owned land. In addition, please see

Included in the 347 communities with positive free cash during the July 1, 2021 certification period were five that appropriated \$0 from their certification, 50 that appropriated their entire certification and eight that left unappropriated an amount under \$100. The following table shows the range of free cash appropriated and the number of communities in that range.



Of the 342 communities that appropriated free cash, 289 voted only for particular purposes, while 51 voted a combination of particular purposes and to reduce the FY2022 and/or the FY2023 tax rate. None voted to reduce only the FY2022 tax rate and two voted to reduce only the FY2023 tax rate. The total amount appropriated was \$1.22 billion, 48% of the total statewide certification.

### **Preliminary Indications for July 1, 2022 Certifications (approved in FY2023)**

At the time of this writing, 311 cities and towns have free cash certified as of July 1, 2022 with 177 showing increases and 134 showing decreases from their prior certification. The statewide total increase for these 311 is \$232.7 million or 12.6% over their previous certification. Data for the same 311 communities is shown in the following graph, which indicates that free cash as a percent of budget continues to be strong at over 8% of budget statewide. Our next update will report the final result.

the DLS [Frequently Asked Questions](#) about this [program](#).

The Bureau of Local Assessment (BLA) is notified of acquisitions, deletions and agency transfers by the Department of Capital Asset Management & Maintenance (DCAMM). In preparation for the FY2024 final numbers, if your community has newly reported and outstanding acquisitions from calendar year 2021 and 2022, you will be notified by mid-February by BLA for processing in the Gateway system by March 1, 2023.

It is imperative you respond to any request for information within fifteen (15) days to have the additional acreage included in your FY 2024 valuation issued on June 1, 2024.

### Final 2022 Equalized Valuations (EQVs)

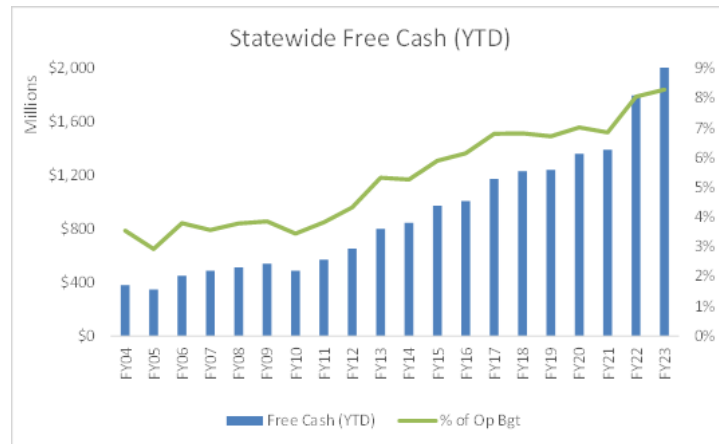
On January 25, 2023 the Bureau of Local Assessment issued the final 2022 Equalized Valuations (EQVs), representing the full and fair cash value of all taxable property for each municipality as of January 1, 2022 to the [DLS Gateway website](#) by clicking on LA19 Equalized Valuation Report.

These EQVs will be used as a basis of comparison among the 351 municipalities within the Commonwealth for certain state and local purposes. Specifically, EQV is used in the allocation of aid to public libraries, in the calculation of Chapter 70 funding, and in the reimbursement rate of school construction projects. Certain Cherry Sheet charges also use EQV: County Tax, Boston Metropolitan Transit District, Mosquito Control Projects and Air Pollution Control Districts. In addition, EQV is used in calculating a community's debt limit (M.G.L. c.44, § 10).

Questions regarding this report should be directed to James J. Paquette at [paquettej@dor.state.ma.us](mailto:paquettej@dor.state.ma.us).

### BULLETIN 2023-1: Summary of 2022 Municipal Finance Law Changes

The DLS Municipal Finance Law Bureau has issued a new Bulletin. To keep local officials informed of legislative developments, DLS periodically publishes a Bulletin summarizing new laws that affect municipal budgets and local tax assessment, administration and collection. Each issue contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued any



For a general overview of free cash, please see our [Introduction to Free Cash video on YouTube](#). To review a color-coded map of free cash and other statewide statistics, visit our [Municipal Finance Visualizations](#) that include a Municipal Finance Interactive Overview of free cash. You can use the Municipal Financial Self-Assessment and the Municipal Finance Trend Dashboard tools on that page for community-specific data trended over a multi-year period. Also, please review our *City & Town* article on [Fiscal Stress – A Diminishing Level of Reserves](#), December 6, 2018 for a refresher on how to improve free cash position and for policies on generating and using free cash. For FAQs on free cash, see [Counting Free Cash](#), *City & Town*, December 21, 2017.

## Data Highlight: Free Cash

The Data Analytics and Research Bureau offers a wide variety of municipal, financial and socioeconomic information. This month's data highlight focuses on free cash.

Free cash is a revenue source that results from the calculation, as of July 1, of a community's remaining, unrestricted funds from its operations of the previous fiscal year based on the balance sheet as of June 30. It typically includes actual receipts in excess of revenue estimates and unspent amounts in departmental budget line items for the year just ending, plus unexpended free cash from the previous year. Free cash is offset by property tax receivables and certain deficits, and as a result, can be a negative number. To see

further implementation guidelines. This edition of the LEGISLATIVE BULLETIN includes any legislative changes affecting municipal finance found in Chapters 1 - 448 of the Acts of 2022.

#### [BUL-2023-1](#) – Summary of 2022 Municipal Finance Law Changes

To access IGRs, LFOs and Bulletins, please visit this [webpage](#).

#### **Additional Opioid Settlement Dollars Available to Cities and Towns** Attorney General's Office

The Attorney General's Office has reached opioid settlements with Teva, Allergan, Walgreens, Walmart and CVS. On February 9, 2023, Rubris, the National Opioid Settlement Implementation Administrator, emailed municipalities a package of information and materials. Municipalities must complete and return participation forms for each of the settlements on or before April 18, 2023 to receive abatement funds from these settlements. A municipality must fill out these forms even if it has already agreed to participate in settlements with Johnson & Johnson and Cardinal, AmerisourceBergen and McKesson.

Additional information about the settlements is available on the [AG's website](#) (including [estimated settlement payments](#) to participating municipalities and [answers to frequently asked questions](#)), or by emailing the Attorney General's Office at [MAOpioidSettlements@mass.gov](mailto:MAOpioidSettlements@mass.gov).

#### **MBI Municipal Digital Equity Planning Program is Live**

The Massachusetts Broadband Institute (MBI) is accepting applications for the [Municipal Digital Equity Planning Program](#)!

The ability to engage in digital equity planning activities will be a critical step for municipal leaders and staff to build a broad understanding of how internet access, or lack thereof, affects residents of their community, and to develop actionable solutions to bridge the digital divide.

Specifically, the Municipal Digital Equity Planning activities will support municipalities in:

- Decision-making and investments related to services and infrastructure that will increase access, adoption, and usage of the

free cash certified for all cities and towns since FY2003, click [here](#).

Visit the [Municipal Finance Trend Dashboard](#) to learn more. The Dashboard includes trends in certified free cash data under [Category One](#) - Operating Position. You can also view our [Municipal Finance Visualizations](#) page to view the Municipal Finance Self-Assessment and Municipal Finance Interactive Overview visualizations.

As always, please contact us if you need help navigating the data or with any questions by emailing us at [databank@dor.state.ma.us](mailto:databank@dor.state.ma.us).

## **Announcing a New, Simplified Property Tax Exemption Submission Process**

### **Data Analytics & Resources Bureau**

The Data Analytics & Resources Bureau is pleased to announce a change to DLS Gateway that will make it faster and easier to submit property tax exemption forms. We used feedback from assessors and DLS staff to identify the parts of the process that sometimes-caused confusion, which in turn impacted the amount of time necessary to process the forms. The new process addresses those issues, reducing the number of steps to just two:

- Fill out and submit the Veterans Exemption form
- Fill out and submit the MDM-1 form

As of February 22nd, we have eliminated the Paraplegic form. If your community has paraplegic exemptions to report, you will do so on the Veterans Exemption form. This means that all communities will now follow the same two-step process regardless of the types of exemptions granted locally. This consistency will also help DLS staff, who can process submissions without needing to unlock forms so often.

[Detailed instructions for entering paraplegic exemptions](#) can be downloaded from the Misc. Forms module landing page, or from the [DLS Gateway User Guides and Templates](#) web page. Any forms



internet for the populations most impacted by the COVID-19 pandemic.

- Preparing to submit grant proposals to existing or forthcoming state or federal opportunities related to solving the digital divide.

Municipalities participating in this program will receive expert advisement from a network of prequalified consultants identified by the MBI.

[Click here to find full program details, eligibility requirements, and apply!](#) For questions or additional information, please reach out via email at [eichen@masstech.org](mailto:eichen@masstech.org).

## DLS Links:

[COVID-19 Resources and Guidance for Municipal Officials](#)

[Events & Training Calendar](#)

[Municipal Finance Training and Resource Center](#)

[Local Officials Directory](#)

[Municipal Databank](#)

[Informational Guideline Releases \(IGRs\)](#)

[Bulletins](#)

[Tools and Financial Calculators](#)



already in process will go through the new process, with no additional action needed. All paraplegic exemption data stored prior to the change will appear automatically in the Veterans Exemption form. We hope this change will make it easier and faster to submit property tax exemption data.

For support with any Gateway form, contact DLS Gateway Support at [DLSGateway@dor.state.ma.us](mailto:DLSGateway@dor.state.ma.us). Questions about property tax exemption reimbursement can be emailed to [databank@dor.state.ma.us](mailto:databank@dor.state.ma.us).

## Ask DLS: Takings & Foreclosures

This month's *Ask DLS* features frequently asked questions concerning takings & foreclosures. Please let us know if you have other areas of interest or send a question to [cityandtown@dor.state.ma.us](mailto:cityandtown@dor.state.ma.us). We would like to hear from you.

### What is the process for a tax taking?

If a real estate tax remains unpaid, a demand must first be made which is a prerequisite to the taking. The collector must send a demand to the assessed owner after the due date for payment of the last installment of the tax, i.e., May 2 or one day after the final due date, if later than May 1. The demand is sent to the assessed owner's last or usual place of residence or business, or alternatively, to the address best known to the collector. [G.L. c. 60, § 16](#). If no payment is made after the demand is sent, then the collector should perfect and secure the municipality's lien on the real estate by a tax taking.

The collector must wait at least 14 days after the demand is sent. [G.L. c. 60, § 17](#). If the taxes still are unpaid, the collector must give notice of intent to take by (1) publishing a notice in a newspaper published in the city or town, or, if there is no paper published in the city or town, in a newspaper published in the county, and (2) posting a notice in two or more public places. The publication and postings

need not be made on the same date, but all must occur at least 14 days after the demand is sent. 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. [G.L. c. 60, §§ 1, 40 and 53](#).

The collector must then wait at least 14 days after the later of the publication or posting of the notice of intent to take. The collector then makes the taking at the time and place in the notice and records or registers an instrument of taking at the Registry of Deeds within 60 days of the date of taking. The instrument of taking 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. [G.L. c. 60, §§ 53 and 54](#).

#### **When can a municipality foreclose on a property?**

By perfecting and securing the real estate tax lien, the collector has created a tax title which becomes the responsibility of the city or town treasurer. If the treasurer receives full payment of the total amount in tax title as of the payment date, then the treasurer issues a redemption certificate. If full payment is not received, the treasurer can institute a proceeding to foreclose the taxpayer's right to redeem by (1) filing a petition in Land Court, [G.L. c. 60, § 65](#), or (2) if the land is low value, by auction after obtaining an affidavit from DLS within the Department of Revenue, [G.L. c. 60, §§ 79 and 80](#). The city or town treasurer is responsible for management of tax titles.

If the amount in tax title is not paid, then the treasurer can seek to enforce the lien through foreclosure. With some exceptions, the treasurer must 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](#). Exceptions include where a taxpayer has a tax deferral (six months after the property is sold or taxpayer dies, [G.L. c. 59, § 5](#), Clauses 18A and 41A) and the buildings on the parcel are abandoned (immediately after recording of affidavit from the building inspector, [G.L. c. 60, § 81A](#)).



Once the petition is filed, the Land Court will appoint a title examiner to identify all interested parties in the property. The parties will be notified of the proceedings by registered mail in order to respond to the petition or redeem the tax title. [G.L. c. 60, § 66](#). If the tax title is not redeemed or the tax taking is not successfully challenged, the Land Court will issue a decree of foreclosure. The decree vests title to the property in the city or town. If the owner files a petition within one year and pays all amounts outstanding, the Land Court may vacate the foreclosure decree. [G.L. c. 60, § 69A](#). A successful petition to vacate within the one-year period requires extenuating circumstances. *Town of Bourne v. Coffey*, 101 Mass. App. 496, *appeal denied* 490 Mass 1107 (2022).

An alternative to judicial foreclosure is the Land of Low Value procedure. The normal foreclosure process for taking ownership of a parcel for nonpayment of taxes is long, complex and expensive. The Land of Low Value foreclosure procedure is an alternative to seeking a foreclosure decree from Land Court under [G.L. c. 60, § 79](#). See [IGR-2021-22](#) for more information on the administrative foreclosure process following the receipt of a Commissioner of Revenue's affidavit pursuant to a Land of Low Value tax title foreclosure application. It should be noted that communities may accept title from the owners of properties on which there are municipal liens as an alternative to tax taking and foreclosure proceedings. [G.L. c. 60, § 77C](#). See [IGR-2021-22](#).

**If a resident has not been paying taxes on their real property, and the Land Court issues a tax title foreclosure decree vesting title in the municipality, when should the community remove the real property from the tax rolls?**

Real property acquired by a community as the result of tax title foreclosure should not be removed from the tax rolls for the fiscal year after the year the foreclosure decree is entered by the Land Court since the owner has the right to petition Land Court to vacate the decree within one year after the final entry of the decree as provided in [G.L. Ch. 60, § 69A](#). This does not mean any tax assessed on the property for a subsequent fiscal year should be abated. Instead, the tax, including interest and charges, should be

certified by the collector to the treasurer and accounting officer and transferred to the tax possession account. Any taxes that remain on the collector's books because they were not certified to the tax title account before the foreclosure decree was issued should also be certified and transferred to the tax possession account pending a final disposition of the property. In our opinion, the community should be able to require payment of these amounts in addition to those for which the foreclosure decree was entered if the original owner seeks to vacate the decree and redeem the property.

#### **Does an error in the notice requirement impact the tax title?**

Yes. The Land Court, which has jurisdiction over tax title foreclosure petitions, could declare the tax taking invalid. There are many examples of fatal flaws in the tax taking process. For example, the taking would be invalid if the collector did not send the demand to the assessed owner, sent the demand to an incorrect address or did not record the instrument of taking within 60 days of the taking as required by [G.L. c. 60, § 54](#).

If there is an error in the tax taking procedure, the collector should disclaim the taking and retake within 90 days and the lien will be valid. [G.L. c. 60, § 37](#). If the taking is invalid due to an error in the assessment, such as an assessment made to a non-owner as of the January 1 assessment date, the collector should disclaim the taking and the assessors should reassess the unpaid taxes to the actual owner on January 1. Under [G.L. c. 59, § 77](#), the reassessed tax is a lien for the same period and under the same conditions as the original tax. If the lien for the reassessed tax is valid and the reassessed tax remains unpaid, the collector should send a demand to the reassessed owner and then make a new tax taking. If, for instance, the tax commitment from the assessors lists the incorrect owners, the collector should disclaim the taking, send a demand to the reassessed owner and then make a new tax taking.

**What happens when a municipality goes through the tax taking and foreclosure process on a condominium? Who is responsible for any condominium fees?**

From the date of taking and prior to foreclosure, the condominium association could recover unpaid condominium common area charges from the municipality. *Town of Milford v. Boyd*, 434 Mass. 754 (2001). After a municipality forecloses on a condominium, the municipality would be responsible for the condominium fees from the date of foreclosure. [G.L. c. 183A, § 20](#). We would recommend consulting with local counsel when this issue arises.

**What is the foreclosure procedure if the property in question is currently the subject of a deferral agreement pursuant to [G.L. c. 59, § 5 \(41A\)](#)?**

The payment of deferred taxes and accrued interest is due when the property is sold or the property owner passes away, unless a surviving spouse continues to defer. As of that date, the interest rate goes up to 16%. If 6 months later, the deferred amount has not been paid, the treasurer may petition the Land Court to foreclose the lien on the property.

**Can a community be given a parcel of land that is in tax title?**

Yes, by acceptance of a deed in lieu of foreclosure. Communities may accept title from the owners of properties on which there are municipal liens as an alternative to tax taking and foreclosure proceedings. Properties accepted under this option are then treated as if a tax title foreclosure has been completed. [G.L. c. 60, § 77C](#).

Liens for outstanding real estate taxes or other municipal liens must exist on the parcel at the time title is accepted, but the parcel does not have to be in tax title.

Title to the parcel may be accepted, however, subject only to municipal liens. This means that all other liens or encumbrances, such as mortgages, mechanics or other liens, will ordinarily have to be cleared before the municipality may accept the deed.

Alternatively, the deed may be accepted if all mortgagees, lien holders and others with interests in the parcel convey their interests to the municipality.

To protect the municipality, all parties with interests in the parcel will have to be identified and, therefore, a title examination may be required. Municipal counsel should be consulted regarding any proposed transaction and municipalities should adopt policies regarding the circumstances under which they will accept title to a parcel.

Additionally, acceptance should generally be limited to parcels with a current fair cash value of at least the amount owed unless a parcel is being acquired for a public use or the enforcement of personal liability against the assessed owner is unlikely or impossible. The assessed owner of a parcel that is worth less than the amount outstanding would otherwise realize a windfall since acceptance discharges the owner from personal liability, and the municipality could not recover any deficiency, unlike an ordinary tax title foreclosure. In *City of Boston v. Gordon*, 342 Mass. 586 (1961), the Supreme Judicial Court permitted the City of Boston to seek a deficiency judgment for the unpaid balance in excess of the parcel's fair market value. If there is a deed in lieu of foreclosure, the assessors are to remove the parcel from the tax roll beginning in the fiscal year after the title is transferred to the municipality. All municipal taxes and charges outstanding as of the date the deed is recorded are to be carried in a tax possession account. This includes the full amount of taxes assessed for the current fiscal year, as well as all accrued interest and collection costs, owed as of that date.

**Editor:** Dan Bertrand

**Editorial Board:** Kasey Bik, Sean Cronin, Emily Izzo, Paula King, Lisa Krzywicki and Tony Rassias

Contact *City & Town* with questions, comments and feedback by emailing us at [cityandtown@dor.state.ma.us](mailto:cityandtown@dor.state.ma.us). To view previous editions, please [click here](#).

To unsubscribe to *City & Town* and all DLS alerts, email [dls\\_alerts@dor.state.ma.us](mailto:dls_alerts@dor.state.ma.us).

---

This email was sent to <<Email Address>>

[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)

Massachusetts Department of Revenue - Division of Local Services · PO Box 7095 · Boston, MA 02204-7095 · USA

