



# FREQUENTLY ASKED QUESTIONS

## Tax Lien Foreclosure Cases in the Land Court

A tax lien foreclosure is a process through which you can lose ownership of your property if you do not pay your real estate taxes or water/sewer bill. This foreclosure will result in you losing the entire title to your property, even if the amount you owe is much less than your property’s value. However, if your property is foreclosed, and it is worth more than the tax debt owed, you still can claim compensation from the Plaintiff for the excess value (the “equity”) of the property, even though you no longer own it. For more information about home equity compensation, review: [Land Court Statement on Tyler v. Hennepin County Minnesota](#)

The following FAQs provide a very general summary of the tax lien foreclosure process and the tax lien foreclosure cases that are filed in the Land Court. The law establishing the process for tax lien foreclosures is [Chapter 60 of the Massachusetts General Laws](#).

The processes, legal requirements, and deadlines in tax lien foreclosures are very complicated. These FAQs do not include everything you may need to know if your property is subject to a tax lien foreclosure. If you do not answer the complaint, appear at hearings, and defend, you may end up permanently losing ownership of your property. If a tax lien foreclosure case concerning your property has been filed in the Land Court, you should seek advice from a lawyer. More information on tax lien foreclosures is available on the Land Court’s website at [Land Court Tax Lien Foreclosure Cases Resources | Mass.gov](#).

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### GENERAL INFORMATION

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#### 1. What is a tax lien?

A tax lien is a lien that a city or town automatically receives on your real estate (land and buildings) as soon as your property taxes or water/sewer bills are assessed. If you do not pay your property taxes or water/sewer bill by their due dates, this lien allows a city or town (or sometimes a third party), after proper proceedings, to sell or become the owner of your property so that the city or town can be paid what it is owed. After getting a lien because your property taxes or water/sewer bills were not paid by their due date, the city or town may mail you a demand for payment. If you do not pay it within 14 days of receiving that demand letter, the city or town may conduct a “tax taking” of your property, or it may conduct a tax sale of your property. The city or town also may assign (give/sell) the right to enforce the lien (the “tax receivable”) to a third party.

#### 2. What is a tax lien foreclosure case?

A city, town, or sometimes a third party may enforce its tax lien by either taking ownership of the property for itself (a “tax taking”) or selling the property (a “tax sale”); a tax sale is usually to a third party, but sometimes, following a tax sale, the city or town is still the one who receives ownership of the property. A city or town may also assign (give or sell) the right to conduct a tax taking to a third party (assignment of a “tax receivable”).

You may reclaim full ownership of your property by repaying what you owe at any time before the Land Court grants judgment in a tax foreclosure case (this is called “redeeming”). This is because the city, town, or third party’s ownership of the property after a tax taking or tax sale is still subject to the “right of redemption,” discussed below. The amount that you need to repay to reclaim ownership may include additional taxes, costs, and/or interest, depending on the circumstances of the tax sale or taking.

Six months after a taking or sale, either the city, town, or sometimes a third party may begin a tax foreclosure case in the Land Court. The city, town or third party begins a case by filing a complaint; the filer is called the Plaintiff, and the case is against you, the property owner/taxpayer, who is called the Defendant. The purpose of this case is to obtain a judgment of foreclosure, which gives the city, town, or third party full ownership of the property. This judgment cuts off your ability to redeem the property by paying what is owed. That judgment says all of your ownership of the real estate has ended. However, if your property is foreclosed, even though you no longer own it, you can claim compensation



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from the plaintiff for the excess value (the “equity”), if your property is worth more than the tax debt owed.

### 3. What is a tax taking?

When you do not pay your property taxes or water/sewer bills, a city or town may conduct a “taking” to enforce its lien on your property. To do so, the city or town records what is called an “instrument of taking” at the Registry of Deeds. After conducting a tax taking, a city or town then has a “tax title,” which is a type of limited ownership of your property. The “tax title” allows the city or town to take immediate possession of the property, and to collect all rents and income from the property.

After making a tax taking, a city or town may also assign (give/sell) its tax title to a third party, though that third party will not be allowed to take possession until it completes a tax foreclosure case in the Land Court.

However, a tax taking by itself does not give the city or town *full* ownership of your property – it is still possible at this point for you to reclaim ownership of your property by paying what you owe. This is called “redeeming” the property or exercising your “right of redemption,” and is explained below. If you do not redeem your property, and the city, town, or third party obtains a judgment of foreclosure after filing a case in the Land Court, the city, town or third party then becomes the full owner of your property.

### 4. What is a tax sale?

Instead of conducting a tax taking, a city or town may choose to conduct a tax sale to enforce the tax lien it has on your property. In a tax sale, the city or town will auction off your property. The purchaser (usually a third party but sometimes the city or town itself) buys a type of limited ownership of your property commonly called a “tax title.” Unlike a tax title held by a city or town, the third-party purchaser of a tax title may not take possession of your property until it files a case in the Land Court and obtains a judgment of foreclosure.

Even if the city or town has sold the tax title to your property through a tax sale, it is still possible for you to reclaim ownership of your property by paying what you owe. This is called “redeeming” the property or exercising your “right of redemption.” If you do not redeem your property, and the purchaser of the tax title files a foreclosure case in the Land Court and obtains a judgment of foreclosure, the purchaser then becomes the full owner of your property.



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### 5. What is a tax receivable?

A “tax receivable” is the right of a city or town to receive payment for taxes assessed on your property. This is a right normally held by the city or town; however, the city or town may choose to assign (give/sell) the tax receivable for unpaid property taxes to a third party. This allows the third party to collect that particular unpaid tax, and means that the third party, instead of the city or town, would be able to conduct a tax taking. However, unlike with a taking by a city or town, a tax taking conducted by the third party usually does not allow the third party to obtain immediate possession of the property or to collect rents or income.

### 6. Why is a private company, rather than the city or town, the other party in a foreclosure proceeding?

There are a number of reasons why a private company, rather than the city or town, is sending you notices about your unpaid taxes or water/sewer bill, or has filed a case to foreclose in the Land Court. **However, even if a private company is involved, instead of the city or town, you can still redeem and reclaim ownership of your property.**

If the city or town decides to conduct a tax sale, a third party, such as a private company, may **purchase the tax title** to your property and will have the ability to bring a foreclosure action.

Instead of conducting a tax sale itself, the city or town can conduct a tax taking, and may later choose to **assign (sell/give) the tax title** to your property to a third party. That third party would then be able to bring a foreclosure action.

The city or town may decide **to assign (sell/give) the tax receivable** for your unpaid taxes to a third party before conducting a tax sale or tax taking. The third party would then be able to conduct a tax taking as if it were the city or town. If the third party decides to conduct a tax taking after having been assigned your property’s tax receivable, that third party would then be able to bring a tax foreclosure action.

### 7. What does it mean to “redeem” the property, and how do I redeem?

You may reclaim full ownership of your property by paying the tax you owe, even if there has been a tax taking, tax sale, or tax receivable assignment. This is called “redeeming” the property or exercising your “right of redemption.” The amount that you owe may be more than just the original amount of the tax bill that you received: it might include additional taxes due after the original tax bill, costs, legal fees, and/or interest.



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If a tax taking or tax sale has taken place, and the tax title to your property is still held by the city or town, **and no tax foreclosure case has been filed in the Land Court**, you may redeem by paying the city or town's treasurer the total amount you owe.

If the city or town conducted a tax taking or tax sale, and the tax title to your property was then assigned (given/sold) to a third party, and **no tax foreclosure case has been filed yet in the Land Court**, you can redeem by either paying the total amount you owe to the third party, or the total amount you owe (plus ten dollars) to the city or town's treasurer.

If no tax sale or tax taking has taken place, but the tax receivable has been assigned (given/sold) to a third party, you can redeem by paying the total amount owed to the third party.

When you pay the total amount you owe to the treasurer of the city or town, the treasurer will give you a certificate to show you have paid. When you pay the total amount you owe to a third party, the third party will issue you a deed of release indicating that you have paid. Recording the certificate or deed of release at the registry of deeds will end any right that the city, town or third party had in the property through the taking or tax title.

**If a foreclosure case has been filed in the Land Court**, the process to redeem is slightly different. Once a case is filed, you first will have to file an [answer](#) in which you offer to redeem the property. A hearing will then take place, after which the court will issue a finding stating how much you must pay to redeem, the date by when you must pay, and the terms of repayment.

If a foreclosure case has been filed, but the court has not yet issued a finding stating how much you must repay to redeem, you and the other party could agree on how much you owe in order to redeem.

Either way, if you redeem at any time after a foreclosure case was filed but before the court enters a judgment of foreclosure, the city, town or third party will need to file a motion to withdraw the foreclosure case. To reclaim ownership of your property after you redeem, you will need to record the court's order allowing the withdrawal of the foreclosure case and the deed of release or certificate of redemption you got from the city, town or third party after you paid the total amount you owed.

Even if you believe you have redeemed by paying what you owe, the case is not over until it is withdrawn or dismissed by the court. This means that even if you believe that you have paid what you owe, if the court is not informed of and involved in the redemption, the case



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might still progress and eventually proceed to a judgment of foreclosure. If a foreclosure case has been filed and you wish to redeem the property, you should make sure to pay attention to and be actively involved in the case.

### 8. How much do I have to pay to redeem the property?

The overall amount that you owe and must pay to redeem your property will depend on the circumstances of your case. In addition to the amount of the original taxes or bills owed, it might include taxes or bills that become due after the original taxes or bills, as well as costs, legal fees, and interest. The total amount will depend on factors such as whether the city or town made a tax taking, tax sale, or assignment, how much time has passed, and if the new holder of the tax title has had to pay costs and fees. Once a foreclosure case is filed in the Land Court, the amount you need to pay to redeem will be determined by the court (unless you and the city, town, or third party reach an agreement of your own).

### 9. Do I need to pay the full amount needed to redeem at once?

You can pay the total amount that you owe all at once, or you can make multiple payments. A city or town also may have bylaws or ordinances allowing it to enter into payment agreements. A payment agreement might allow you to pay the amount you owe over a period of time and/or waive certain charges that you owe. However, any payment agreement will still require a minimum payment of at least 25% of the amount needed to fully redeem the property, and there are limits on both the amount of interest that can be waived through a payment agreement and the number of years over which payments can be spread. After a tax lien foreclosure case has been filed in the Land Court, the court also may be able to create a payment plan when it issues its finding (see below).

### 10. What is a certificate of redemption?

Under the law (G.L. c. 60, s. 62), only a person with an interest in the property can pay the taxes owed on their property and redeem it. After you pay the total amount you owe and redeem your property, the treasurer of the city or town will give you a certificate to show you have paid. This is a certificate of redemption. Recording the certificate at the registry of deeds will end any right that the city or town had in the property through the taking. A certificate of redemption does not grant a third party the right to file a foreclosure case in the Land Court. Only a third party that possesses a tax title to property (through a tax taking or a collector's deed) can file a foreclosure case in the Land Court.





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### THE PROCESS OF A TAX LIEN FORECLOSURE CASE

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#### 11. What are the stages in a tax foreclosure case before the Land Court?

The stages of a tax foreclosure case in the Land Court can be summarized as follows: (1) **the complaint**, which begins the case; (2) **notice**, which includes the Land Court's preparation of a title examiner's report that identifies all interested parties; (3) **the answer(s)** in which you respond in writing to the complaint; (4) **the hearing**, where you appear before the court and orally make arguments; and (5) **the court's finding**, where the court determines if and how you can redeem the property; and (6) **the court's judgment of foreclosure**, which, if you have not redeemed before judgment, gives all ownership of the property to the plaintiff. If there is no redemption and the foreclosure proceeds to judgment, the taxpayer may seek compensation from the plaintiff for the excess value of the property (the equity) after their tax debt has been satisfied, even though the taxpayer no longer owns the property. Massachusetts laws do not give the Land Court any jurisdiction over compensation claims.

#### 12. Who can file a tax foreclosure case in the Land Court?

Only a city or town or a third party holding the tax title to your property can file a tax foreclosure case in the Land Court. A certificate of redemption is not a tax title and does not entitle a third party to file a tax foreclosure case in the Land Court.

#### 13. When can a tax foreclosure case be filed in the Land Court?

Six months after a taking, sale, or assignment, either the city, town, or third-party holder of your tax title may file a complaint in the Land Court, which begins a foreclosure case. The complaint should include: a copy of the tax taking document or collector's deed, any assignment or transfer of the tax title to a third party, and a copy of the assessing map. However, if the property is either abandoned or assessed to be worth less than the amount due, the city or town does not need to wait six months and can file a case immediately. The city, town, or third party can also file a case immediately if you, as the record owner of the property, consent in writing.

#### 14. How will I receive notice that there is a tax foreclosure case concerning my property?

Promptly after each new tax foreclosure case is filed in the Land Court, the Court will appoint an independent title examiner to prepare a brief title report. Title examiners are asked to file their report with the court within 60 days from the date of their appointment.





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The purpose of the report is to provide a list of those parties with registered or recorded interests in the property.

As soon as possible after the examiner's title report is completed, a staff attorney at the court will read it and determine if it provides the information the court needs to issue notice to the parties identified as having registered or recorded interests in the property. The Land Court then will arrange for notice to all identified interest holders. If the identity or address of owners or interest holders cannot be established after diligent investigation, the notice may ultimately be published in a newspaper.

If you never received notice of a tax foreclosure case involving a property in which you owned an interest, and the court entered a judgment of foreclosure, the court may (in some cases) be able to vacate the judgment, depending on the circumstances of your case.

15. I've received notice that a tax foreclosure case has been filed in the Land Court concerning my property. What do I need to do?

If you received a notice that a tax foreclosure case has been filed in the Land Court, and you have an interest in the property, you should file an [answer](#) to the complaint with the Land Court if you wish to redeem or raise any argument about the validity of the plaintiff's tax title. You may make any filings in the case (including your answer) by mail, delivery, or in-person drop off at the Land Court Recorder's Office or at the Office of the Assistant Recorder at the Registry of Deeds where the land is located. Additionally, eFiling is available in tax lien cases and you may file online using the court's eFiling system. For more information on using the eFiling system, see [eFiling in the Land Court | Mass.gov](#).

Your answer must be filed before the return date specified in the notice, and you must serve the answer on the plaintiff. You must also file a certificate of service – this indicates to the court that you have, in fact, served the complaint on the plaintiff. The Land Court has a [Tax Lien Answer and Certificate of Service](#) form that you may use. Your answer should first state the nature of the interest you claim to have in the property, and then make an offer to redeem the property, and/or describe your legal challenge to the validity of the tax title. (However, the court cannot consider any argument about the city or town's assessed valuation of your property; this issue must have been addressed in a separate process called "tax abatement" over which the Land Court has no jurisdiction. For more information on the strict deadlines and rules of the tax abatement process, see <https://www.mass.gov/info-details/real-estate-tax-appeals-a-helpful-guide-for-taxpayers-and-assessors> and <https://www.mass.gov/lists/property-tax-forms-and-guides>).



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If you do not file an answer within this period, you may be defaulted. Being defaulted means that, because you did not answer, the court has determined that you have admitted the plaintiff's allegations in the complaint or are not contesting the case. The plaintiff may be able to obtain a judgment of foreclosure, preventing you from reclaiming ownership of your property. If this happens, you will lose all your ownership of the property. If there is no redemption and the foreclosure proceeds to judgment, the taxpayer may seek compensation from the plaintiff for the excess value of the property (the equity) after their tax debt has been satisfied, even though the taxpayer no longer owns the property. Massachusetts law does not give the Land Court jurisdiction over compensation claims.

### 16. What happens if I don't file an answer to the complaint?

You might be defaulted, which means that, because you did not answer, the court has determined that you have admitted the plaintiff's allegations in the complaint or are not contesting the case. The court may issue a judgment of foreclosure, preventing you from reclaiming ownership of your property. If this happens, you will lose ownership of the property.

### 17. I've filed and served my answer. What happens next?

If you file an answer, the city, town, or third party that brought the case (the plaintiff) will ask the court to issue a finding that sets the total amount you owe. The court will schedule a hearing, and you will receive in the mail a copy of the plaintiff's request for a finding, as well as a notice with the time, date, and location of the hearing. If you provided your email address to the court when you filed your answer, you may receive the notice by email. This hearing is your opportunity to appear before the court and to argue the amount you think you should be required to pay in order to redeem, the validity of the plaintiff's tax title, or any other topics you wish to raise in opposition to the foreclosure case. (The court, however, cannot consider arguments concerning the valuation of your property; this issue must have been addressed in a separate process called "tax abatement" over which the Land Court has no jurisdiction. For more information on the strict deadlines and rules of the tax abatement process, see <https://www.mass.gov/info-details/real-estate-tax-appeals-a-helpful-guide-for-taxpayers-and-assessors> and <https://www.mass.gov/lists/property-tax-forms-and-guides>). Hearings are held in person at the Land Court, which is in the Suffolk County Courthouse in Government Center at 3 Pemberton Square, Boston, Massachusetts, or by videoconference or telephone conference. The notice sent to you will tell you if the hearing will be in person, by videoconference, or by telephone conference. If you need the assistance of a language interpreter, and you tell



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the court in advance, the court can arrange to have a free interpreter present to help you at the hearing and also can make reasonable accommodations for disabilities.

### 18. What happens after the hearing?

After the court hears your information and arguments, and those of the plaintiff, the court may issue a finding that may allow you to redeem the property for a particular amount, and may set a time by which you must make the redemption payment. The total amount due may include unpaid taxes and water/sewer bills due after the original amount, costs, attorney's fees, and interest. Any attorney's fees you are required to pay must be reasonable, and the court must consider your ability to pay any legal fees. The court's finding may also set other terms depending on the circumstances of your case, such as a payment plan.

If the court issues a finding, it will later hold another hearing on whether you have complied with the terms of the finding and redeemed the property.

### 19. What happens if I don't show up for one of the hearings?

You might be defaulted, which means that, because you did not file an answer or show up, the court has determined that you have admitted the plaintiff's allegations in the complaint or are not contesting the case. The plaintiff may be able to obtain a judgment of foreclosure, preventing you from reclaiming ownership of your property. If this happens, you will lose ownership of the property.

### 20. What is a judgment of foreclosure?

A judgment of foreclosure comes at the end of the case, and gives ownership of the property to the plaintiff. Until the court issues the judgment of foreclosure, the plaintiff's right to your property is limited by your ability to redeem by paying the amount you owe and reclaiming your ownership in the property. This is true even though there has been a tax taking or tax sale of your property. However, once the court issues a judgment of foreclosure, your ability to redeem ends, and the plaintiff gets full ownership of the property—they will be able to use it or sell it like any other real estate. However, if your property is foreclosed, you can claim compensation from the plaintiff for the excess value (the "equity"), if your property is worth more than the tax debt owed, even though you no longer own the property.

The court may issue a judgment of foreclosure if: (1) you do not answer the complaint, and are defaulted; (2) you answer the complaint, but are not present at the hearing, and are



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defaulted; (3) you answer the complaint and are present at the hearing, but after the court issues a finding setting the total amount you owe, you do not make the payments to redeem the property, and the plaintiff files a motion for judgment; or (4) the court determines that the facts show that you are not entitled to redeem the property. If the court decides (either on its own or after you request dismissal) that the plaintiff is not legally entitled to foreclose, the court instead may issue a judgment of dismissal that ends the case.

21. But the amount I owed is far less than the value of the property. If my property is sold after a tax foreclosure for more than I owed, do I get the surplus (my “home equity”) back?

On May 25, 2023, the U.S. Supreme Court decided the case of *Tyler v. Hennepin County, Minnesota*, [No. 22-166](#), which has implications for tax foreclosure cases in Massachusetts, including a property owner’s right to claim compensation for their “home equity”—the excess value of the property above the amount of the tax debt. For more information about home equity compensation, review: [Land Court Statement on Tyler v. Hennepin County Minnesota](#)

22. The court has already issued a judgment of foreclosure. Can I still redeem the property? What can I do to reclaim ownership of my property?

Once the court issues a judgment of foreclosure, you cannot redeem the property; at that point, the plaintiff will have full ownership of the property. However, there are limited circumstances in which the court will vacate, or undo, a judgment of foreclosure after the court has issued the judgment, and then give you the opportunity to redeem the property. There is a one-year window after the court enters a judgment of foreclosure during which you can ask the court, by filing a motion, to vacate (or undo) the judgment. The court in its discretion will decide if it is appropriate to vacate the judgment. After one year has passed a judgment of foreclosure typically can only be vacated with the consent of the Plaintiff or when there has been a violation of due process. For example, if you were not sent any notice of the foreclosure case as required by law, it may be possible to vacate the judgment.

Even after a judgment of foreclosure, you also may be able to come to an agreement with the plaintiff so that the plaintiff either itself files a motion to vacate the judgment, or consents to your motion to vacate the judgment.