



# FREQUENTLY ASKED QUESTIONS

## Tax Lien Foreclosure Cases in the Land Court

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If you do not pay your real estate taxes or water/sewer bill, you can lose ownership of your property. This is called a “tax lien foreclosure.” This foreclosure will result in you losing ownership of your property. This will happen even if the amount you owe is much less than your property’s value. In that case, you still can claim compensation (or payment) from the Plaintiff for the property’s excess value, or “excess equity.” You can claim compensation for the excess equity even though you no longer own the property. For more information on excess equity compensation, see: [Land Court Statement on Tyler v. Hennepin County Minnesota](#)

Tax lien foreclosure cases are filed in the Land Court. These frequently asked questions (“FAQs”) are a simple summary of the tax lien foreclosure process in the Land Court. [Chapter 60 of the Massachusetts General Laws sets](#) the tax lien foreclosures process.

Tax lien foreclosure cases are very complicated. There are complex processes, legal requirements, and deadlines involved. These FAQs do not include everything you may need to know if your property is part of a tax lien foreclosure. If you do not answer the complaint and go to hearings, you may permanently lose your property. If a tax lien foreclosure case about your property has been filed in the Land Court, you should talk to a lawyer. For more on tax lien foreclosures, see 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 gets 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 bills by their due dates, a city or town can sell your property to collect what is owed. This lien allows it, after proper proceedings. Sometimes, a third party can do this. 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 letter, the city or town may enforce its tax lien. 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. They can either take ownership of the property (a “tax taking”) or sell the property (a “tax sale”). A tax sale is usually to a third party. But sometimes, the city or town ends up with the property after a tax sale. The city or town may also assign (give or sell) the right to enforce the lien (the “tax receivable”) to a third party.

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 after a tax taking or tax sale, the property is still subject to the “right of redemption,” discussed below. This applies to the city, town, or third party. To reclaim ownership you may need to repay extra taxes, costs, and/or interest, depending on the tax sale or taking.

Depending on the date of the taking or sale, either six or twelve months later, the city, town, or sometimes a third party may begin a tax foreclosure case in the Land Court. A city, town or third party starts a case by filing a complaint. The filer is the Plaintiff. The case is against you, the property owner/taxpayer, 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 ends your ownership of the real estate. If your property is foreclosed, you can claim compensation from the plaintiff for its excess value (the “equity”). This is if it’s worth more than the tax debt owed.



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### 3. What is a tax taking?

If you don't pay your property taxes or water/sewer bills or other municipal charges, a city or town may take your property to enforce its lien. 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" lets the city or town take immediate possession of the property. It also collects all rents and income from it.

After making a tax taking, a city or town may assign (give/sell) its tax title to a third party. That third party cannot take possession until it completes a tax foreclosure case in the Land Court.

A tax taking does not give the city or town *full* ownership of your property. You can still 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 gets a judgment of foreclosure after filing a case in the Land Court, they then own 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. A "tax title" is a limited ownership of your property. The purchaser is usually a third party, but it may be the city or town. 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. It must first file a case in the Land Court and get a judgment of foreclosure.

You can reclaim your property, even if the city or town sold the tax title at a tax sale. Just pay what you owe. This is called "redeeming" the property or exercising your "right of redemption." If you do not redeem your property, the tax title buyer can file a foreclosure case in the Land Court. If they get a judgment of foreclosure, the purchaser then becomes the full owner of your property.

### 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 assign (give/sell) the tax receivable for unpaid property taxes to a third party. This lets the third party collect the unpaid tax. So, the third party, not the city or town, can



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conduct a tax taking. However, unlike a city or town tax taking, a third-party tax taking 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 Plaintiff in a foreclosure proceeding?

It's possible that a private company, not the city or town, is sending you notices about your unpaid taxes or water/sewer bills. It also may file a foreclosure case in the Land Court.

**However, even if a private company is involved, you can still reclaim your property.**

If the city or town conducts a tax sale, a third party, like a private company, may **buy your property's tax title**. They can then foreclose on it.

Instead of conducting a tax sale, the city or town can do a tax taking. It may later **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 **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 conducts a tax taking after being assigned your property's tax receivable, it could then 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 taxes you owe. This is true 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.” You may owe more than the original tax bill. It might include additional taxes, costs, legal fees, and/or interest.

If a tax taking or tax sale has occurred, and the city or town holds the tax title to your property, you may redeem it if **no tax foreclosure case has been filed in the Land Court**. To redeem, pay the city or town's treasurer the total amount you owe.

If the city or town did a tax taking or tax sale, and the tax title to your property was then assigned (given/sold) to a third party, you can redeem it if **no tax foreclosure case has been filed in the Land Court**. To redeem, pay either 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.



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If there was no tax sale or tax taking, and a third party now owns the tax receivable, you can redeem by paying them the total amount owed.

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. The court will then issue a finding. It will state how much you must pay to redeem, the date by when you must pay, and the repayment terms.

If a foreclosure case is filed, but the court has not yet stated how much you must repay to redeem, you and the other party could agree on the amount owed.

If you redeem after a foreclosure case was filed but before the court enters a judgment of foreclosure, the city, town, or third party must file a motion to withdraw the case. To reclaim your property after you redeem, you must record the court's order allowing the withdrawal of the foreclosure case. Also, record the deed of release or certificate of redemption you got from the city, town, or third party after you paid your debt in full.

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 think you have paid what you owe, the court must be informed of and involved in a redemption. If not, the case might still progress and end in 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 amount that you owe and must pay to redeem your property will depend on the circumstances of your case. It might include new taxes or bills that become due after the original taxes or bills. It might also include costs, legal fees, and interest. The total will depend on a few factors. These include if the city or town made a tax taking, tax sale, or assignment. Also, how much time has passed. Lastly, if the new holder of the tax title has paid costs and fees. Once a foreclosure case is filed in the Land Court, the court will set the



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redemption amount. This is 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 at once, or you can make multiple payments.

A city or town may have bylaws or ordinances that allow payment agreements. These agreements let you pay what you owe over time and/or waive some charges. However, some bylaws or ordinances may require a minimum down payment of at least 10% of the total amount needed to redeem the property. There may also be limits on how many years you can take to make payments.

Some cities and towns offer tax work-off programs. These programs are for certain qualified homeowners like seniors and veterans. They can reduce their property tax bills by volunteering in their community.

To learn more about paying off a tax title lien, entering into a payment agreement, or joining a tax work-off program (if available), contact your city or town's Tax Collector's Office.

After a tax lien foreclosure case is filed in the Land Court, the court may 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 prove 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 with a tax title to property can file a foreclosure case in the Land Court. This title can come from a tax taking or a collector's deed.

## 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?

A tax foreclosure case in the Land Court has six stages: (1) **the complaint**, which begins the case; (2) **notice**, which includes the Land Court's preparation of a title examiner's report





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that identifies all interested parties, followed by sending citation to all owners and interested parties; (3) [the answer\(s\)](#) in which you respond in writing to the complaint; (4) **the hearing**, where you make arguments before the court; (5) **the court's finding**, where the court determines if and how you can redeem the property; and (6) **the withdrawal of the case or the court's judgment of foreclosure**. If you have not redeemed the property before judgment, it gives all ownership of the property to the plaintiff. If the foreclosure goes to judgment, the taxpayer may seek compensation from the plaintiff for the excess value of the property (the "excess equity"). This applies even though the taxpayer no longer owns the property. The tax debt must be satisfied first. Massachusetts laws do not give the Land Court any jurisdiction over excess equity claims. Any disputes arising from these excess equity claims must be filed in the Superior Court of the county where the property is located.

### 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?

The city, town, or third-party holder of your tax title may file a complaint in the Land Court. This must be done either six or twelve months later depending on the date of the taking or sale. The complaint 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. If the property is abandoned or worth less than the amount due, the city or town can file a case immediately. They do not need to wait. The city, town, or third party can also file a case immediately if you consent in writing.

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

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

After the examiner's title report is done, the Land Court will notify all owners and interest holders listed in the plaintiff's Complaint for which the court has address information. This





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is the first phase of citation (notice). In the second phase of citation (notice), a staff attorney at the court will read the title report and the plaintiff's documents. They will check if the court has notified all parties with registered or recorded interests in the property. If more information is needed to notify interested parties, the court will contact the plaintiff. The plaintiff must provide contact information needed to notify all interested parties. If, after diligent search, the owners' or interest holders' identities or addresses remain unknown, the notice may be published in a newspaper.

If you never received notice of a tax foreclosure case involving a property you owned, and the court entered a judgment of foreclosure, you may (in some cases) request that the court vacate the judgment. This depends 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 got notice of a tax foreclosure case in the Land Court, and you have an interest in the property, file an [answer](#) to the complaint with the Land Court. Do this if you wish to redeem the property or challenge the plaintiff's tax title. You may file anything 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](#). Attorneys are required to use the court's eFiling system unless an exemption applies.

File your answer by the return date specified in the notice. Also, serve the answer on the plaintiff. You must also file a certificate of service. It shows the court that you have served the answer 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. Then make an offer to redeem it, and/or describe your legal challenge to the tax title validity. (But, the court cannot consider any argument about the city or town's assessed valuation of your property. This must have been addressed in a 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 [Real Estate Tax Appeals: A Helpful Guide for Taxpayers and Assessors](#) and [Property Tax Forms and Guides](#)).



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If you do not file an answer by the return date specified in the notice, you may be defaulted. Being defaulted means that, because you did not answer, the court has found that you have admitted the plaintiff's claims or are not contesting the case. The plaintiff may get a foreclosure judgment. It would bar you from reclaiming 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, you may seek compensation from the plaintiff for the excess value of the property (the "excess equity") after the tax debt has been satisfied, even though you no longer own the property. Massachusetts law does not give the Land Court jurisdiction over excess equity claims. Any disputes arising from these excess equity claims must be filed in the Superior Court of the county where the property is located.

### 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 claims or are not contesting the case. The court may issue a judgment of foreclosure, preventing you from reclaiming your property. If this happens, you will lose ownership of the property. If you lose ownership of the property, you still can seek compensation from the plaintiff for the excess value of the property (the "excess equity") after the tax debt has been satisfied. Massachusetts law does not give the Land Court jurisdiction over excess equity claims. Any dispute arising from these excess equity claims must be filed in the Superior Court of the county where the property is located.

### 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. You will get a copy of the plaintiff's request for a finding, and a notice with the hearing's time, date, and location by mail. 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 chance to appear before the court. You can argue the amount you should pay to redeem, the validity of the plaintiff's tax title, or any other issues against the foreclosure case. (The court cannot consider arguments about property value. This issue must have been addressed in a separate process called "tax abatement," which the Land Court has no jurisdiction over. For more information on the strict deadlines and rules of the tax abatement process, see [Real Estate Tax Appeals: A Helpful Guide for Taxpayers and Assessors](#) and [Property Tax Forms and Guides](#)).



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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. They can also be held 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 a language interpreter, tell the court in advance. It can arrange a free interpreter for the hearing and make reasonable accommodations for disabilities.

### 18. What happens after the hearing?

After the court hears from both sides, the court may allow you to redeem the property for a certain amount. It may set a deadline for the payment. The total amount due may include unpaid taxes and water/sewer bills due after the original amount, costs, reasonable attorney's fees, and interest. 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 may hold a hearing later about 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. This means the court has found you have admitted the plaintiff's claims or are not contesting the case. This is because you did not file an answer or show up. The plaintiff may be able to get a judgment of foreclosure, preventing you from reclaiming ownership of your property. If this happens, you will lose ownership of the property. If you lose ownership of the property, you still can seek compensation from the plaintiff for the excess value of the property (the "excess equity") after the tax debt has been satisfied. Massachusetts law does not give the Land Court jurisdiction over excess equity claims. Any dispute arising from these excess equity claims must be filed in the Superior Court of the county where the property is located.

### 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. You can redeem it by paying the amount you owe and reclaiming your ownership. This is true even though there has been a tax taking or tax sale of your property. But, once the court issues a judgment of foreclosure, your ability to redeem ends. The plaintiff then gets full ownership of the property. They can use it or sell it like any



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other real estate. If your property is foreclosed, you can claim compensation from the plaintiff for the excess value (the “excess equity”), if your property is worth more than the tax debt owed, even though you no longer own the property. Massachusetts law does not give the Land Court jurisdiction over excess equity claims. Any dispute arising from these excess equity claims must be filed in the Superior Court of the county where the property is located.

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 at the hearing, and are defaulted; (3) you answer the complaint and are 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 facts show that you are not entitled to redeem the property. If the court decides, on its own or after your request, that the plaintiff cannot foreclose, it may dismiss the case.

21. The amount I owe for unpaid taxes is far less than the value of the property. Do I get the surplus (my “home equity” or “excess equity”) back if the property is foreclosed?

Yes. Starting November 1, 2024, Massachusetts law allows former property owners and other interested parties to claim their “excess equity” in tax foreclosed properties. This applies to former owners and other interested parties. Excess equity is any amount left after deducting unpaid taxes, interest, fees, and all costs related to the foreclosure and disposition of the property. After a final foreclosure judgment enters, the plaintiff must notify you of your right to claim any excess equity. The plaintiff may then sell the property or keep it and obtain an appraisal. Claims to recover the excess equity must be submitted directly to the plaintiff, **not to the Land Court**. Due to **strict deadlines** to file such claims, you should consult with an attorney to understand your rights and options. **Any disputes arising from these excess equity claims must be filed in the Superior Court of the county where the property is located.** The Land Court has no jurisdiction to hear or resolve claims disputes related to excess equity.

22. My property was foreclosed before November 1, 2024. Do I still get the surplus (my “home equity” or “excess equity”) back?

If you lost your property to tax foreclosure between May 25, 2021 and October 31, 2024, you may claim “excess equity” in the foreclosed property. Excess equity is any amount left after deducting unpaid taxes, interest, fees, and all costs related to the foreclosure and sale or maintenance of the property. **To claim excess equity, you must file a claim in the**



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***Superior Court of the county where the property is located.*** Due to **strict deadlines** to file such claims, you should consult with an attorney to understand your rights and options. The Land Court has no jurisdiction to hear or resolve claims related to excess equity.

**23. 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. The plaintiff will have full ownership of the property. But, the court will vacate, or undo, a judgment of foreclosure in limited circumstances. It may then allow you to redeem the property.

You can ask the court to undo a foreclosure judgment. Do this within one year after the court enters a judgment of foreclosure. You can ask the court, by filing a motion, to vacate (or undo) the judgment due to “extraordinary circumstances.” But, the court has limited discretion to vacate the judgment and may not be able to do so if the property has already been sold or if an excess equity claim has already been paid. After one year has passed, a judgment of foreclosure typically can only be vacated with the consent of the plaintiff or when a violation of due process is proven. 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.