



# TAX LIEN FORECLOSURE INFORMATIONAL OUTLINE

## Tax Lien Foreclosure Cases in the Land Court

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A tax lien foreclosure can cause you to lose your property. This happens if you do not pay your real estate taxes or water/sewer bill. It can happen even if you owe much less than your property's value. If your foreclosed property is worth more than the tax debt owed, you still can claim compensation from the plaintiff for the excess value (the "excess equity") of the property. This is true even if you no longer own it. See [Land Court Statement on \*Tyler v. Hennepin County Minnesota\*](#)

The foreclosure process includes a case in the Land Court. [Chapter 60 of the Massachusetts General Laws](#) is the law that establishes the process for tax lien foreclosures.

This Land Court Tax Lien Foreclosure Informational Outline offers a general overview. It is for self-represented litigants, taxpayers, and attorneys. The outline summarizes the tax lien process. It covers collecting the real estate tax or water/sewer bills. It also covers steps to take after the court issues a judgment. The outline has a definitions section in the beginning. It has resources and sample documents at the end. Some of the resources listed at the end of the outline are legal service organizations. These organizations might provide information to taxpayers before and after a case is filed at the Land Court. The outline also lists remedies for taxpayers before a tax lien foreclosure if they cannot afford their real estate taxes.

Tax lien foreclosure cases have very technical, complex processes, laws, and deadlines. This guide does not include everything you may need to know if your property is subject to a tax lien foreclosure. Failing to answer the complaint or appear at hearings may result in the permanent loss of your property. If a tax lien foreclosure case concerning your property has been filed in the Land Court, you should consult a lawyer, if possible. For more information, visit the Land Court's website at [Land Court Tax Lien Foreclosure Cases Resources | Mass.gov](#).

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### I. DEFINITIONS

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- 1) **Assessor** – The town or city’s assessor identifies real estate (land and buildings) that can be taxed. The assessor also sets the tax rate and hears applications for abatements (see definition below). See [G.L.c. 59, sec. 21](#). Assessors are supervised by the Massachusetts Department of Revenue, regardless of whether the assessor is elected or appointed by the mayor or select board.
- 2) **Abatement** – If the taxpayer thinks their property is over-assessed or misclassified, they can file for an abatement of taxes with the assessor. This is a request to change the assessed value or classification. Abatements can reduce the amount the property is valued at and will reduce the taxpayer’s tax bill. There are strict rules and deadlines for applying for an abatement. The Land Court has no role in the abatement process. In a tax lien foreclosure case, the Land Court can’t consider challenges to your property’s value or requests for abatement. For more information on the strict deadlines and rules of the tax abatement process, see Part (IV) – Remedies below.
- 3) **Tax Bill** – Bill sent from the town or city assessor to the current owner of the property for property taxes. The property tax rate must be printed on the tax bill. See [G.L.c. 60, sec. 3A](#). After a tax taking (see definition below) the taxpayer’s tax bill usually will not show the owed back taxes. Tax takings can also include water and sewer bills.
- 4) **Collector** – The person from the town or city who sends tax bills, receives payments, and credits them.
- 5) **Treasurer** – After a tax taking, the property account is transferred from the city or town’s collector to the city or town’s treasurer into a tax title account. It earns 8% simple interest annually. Prior to November 1, 2024, tax title accounts gained 16% simple interest annually. After the city or town’s treasurer gets the account, the tax bills usually no longer show the back taxes owed.
- 6) **Municipality** – Another name for a city or town.
- 7) **Private Party** – Any private individual or company that replaces a city or town for further action on a tax title account. If a private party replaces the city or town, their



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interest in the tax title account is recorded with the county's registry of deeds. This is done by filing a Collector's Deed or Instrument of Assignment (see definition below).

- 8) **Instrument of Assignment** – Document that can transfer a tax account and/or a tax title (see below) to a private party.
- 9) **Plaintiff** – In a case to foreclose the right of redemption (see definition below), the plaintiff is a city or town (municipality), or private party who replaces the municipality.
- 10) **Real Estate Tax Lien** – A lien on real estate. A city or town gets it automatically when it assesses real estate taxes and water/sewer bills. A tax lien allows a city, town, or a third party to get the tax title (see below) to the property. After proper proceedings, they can get full ownership of the property. This is to collect unpaid real estate taxes or water/sewer bills.
- 11) **Tax Title** – A limited property ownership that a city, town or third party can get to collect real estate taxes or water/sewer bills. A city, town, or private party can get the tax title to a property in several ways:
  - a) **Tax Taking** – A city or town can make a tax taking by filing an Instrument of Taking with the registry of deeds (see definition below) in the county where the land is located. See [G. L. c. 60, secs. 53-54](#). This provides the city or town with the tax title to the property. The city or town must give the taxpayer 14 days' notice of the plan to make a tax taking.

If the property being taken is certain residential property, the city or town must:

1. mail the 14-day notice to the taxpayer at their home or place of business,
2. post the 14-day notice on the property, and
3. publish the 14-day notice on the city or town website.

Along with the 14-day notice, the city or town must include a notice from the Department of Revenue that includes additional information for the taxpayer and encourages translation if needed.

- b) **Tax Sale** – Instead of making a tax taking, a city or town can hold a public auction that sells a tax title to a buyer. After the auction, the winning bidder files a



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Collector's Deed with the registry of deeds (see definition below) in the county where the land is located. See [G. L. c. 60, secs. 37-43](#). The Collector's Deed states the reason for the sale, the price, the name of the person asked to pay the taxes, and the location where the notice of the sale was given. See [G. L. c. 60, sec. 45](#). It provides the buyer with the tax title to the property. At a tax sale auction, the tax collector might buy the tax title for the city or town. This happens if no bids cover all taxes, interest, and charges owed. See [G. L. c. 60, sec. 48](#).

- c) **Assignment Auction** – If a city or town owns a tax title after a tax taking (see above), it can later sell the tax title at a public auction to the highest bidder. The city or town can give legal ownership of one or a group of tax titles. See [G. L. c. 60, sec. 52](#). The treasurer must notify a local newspaper and post notice in at least two public places at least 14 days before the auction. At least 10 days before the auction, the treasurer must mail notice of the auction to the taxpayer.

If the property being taken is certain residential property, the treasurer must:

1. mail the 10-day notice of the auction to the taxpayer at their home or place of business,
2. post the notice of the auction on the property, and
3. post the notice of the auction in a public place.

The treasurer must include, with the 10-day auction notice, a notice from the Department of Revenue. This notice has information for the taxpayer and encourages translation if needed. The winning bidder at the auction must pay the municipality within 2 weeks of the auction date. When this happens, an Instrument of Assignment (see definition above) is filed with the registry of deeds (see definition below) in the county where the land is located. It must be filed within 60 days of the date it was signed. The Instrument of Assignment includes the redemption amount (see definition below), post-auction interest (from auction date to date Instrument of Assignment is signed), and the premium (amount paid over the amount of back taxes owed), if any.

- d) **Bulk Sale** – If a city or town hasn't taken or sold the tax title to the property, it can assign or transfer the right to collect the tax bill to a private party. This allows the private party to take the tax title as if it were the city or town. The city or town can do this by bundling past-due tax bills and assigning them together through a



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“request for proposal” process. See [G. L. c. 60, sec. 2C](#). A request for proposal process is where cities and towns list properties. They seek bids to assign collection rights to those properties. To do the assignment, an Instrument of Assignment (see definition above) is filed with the registry of deeds (see definition below). It must include the list of owners and parcels of land involved in the assignment. The private party must give notice to the taxpayer of the assignment within 12 days.

If the property is certain residential property, the private party must:

1. mail the notice of assignment to the taxpayer at their home or place of business,
2. post the notice of assignment on the property, and
3. post the notice of assignment in a public place.

With the assignment notice, the private party must include a notice from the Department of Revenue. It has information for the taxpayer and encourages translation if needed. The process is highly controlled by the statute. For information on bulk sale tax assignments and tax lien assignments see: [Informational Guideline Release](#).

- e) **Subsequent Tax Bills** – The municipality may add or “certify” unpaid taxes due later in time to the tax title account. See [G. L. c. 60, secs. 50, 61](#). It is important to know how the private party got the tax title account. Also, taxes for later years can be added onto the redemption amount (see definition below). See *Tallage Lincoln v. Williams*, 459 Mass. 449, 455-460 (2020) (finding [G. L. c. 60 sec. 45](#) purchasers of Collector’s Deed, but not [G. L. c. 60, sec. 52](#) assignees, may include later tax payments in the redemption amount)  
<http://masscases.com/cases/sjc/485/485mass449.html>

- 12) **Right of Redemption** – The taxpayer can prevent a tax foreclosure by paying the real estate tax or water/sewer bill plus interest, fees, and costs (like filing fees, court costs, mailing fees, and other similar costs). This lets them keep the property.
- 13) **Redemption Amount** – The amount the taxpayer must pay to prevent a foreclosure and keep the property. It includes the original amount owed for real estate taxes and/or water/sewer bill, any later taxes certified to the account, interest, legal fees, and costs (like filing fees, court costs, mailing fees, and other similar costs).



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- 14) **Foreclosure of the Right of Redemption** – A Land Court proceeding that ends the taxpayer’s ability to pay the redemption amount (see above) and keep the property. A Judgment of Foreclosure gives full ownership of the property to the municipality or a private party. This is unless the court allows a Motion to Vacate the Judgment for lack of due process or for other legal reasons. A lack of due process occurs where the plaintiff does not follow certain requirements of the law, the Massachusetts Constitution, or the United States Constitution. A taxpayer may claim compensation from the plaintiff for the excess value of the foreclosed property – the “excess equity” (see definition below). This is the excess value of the foreclosed property. If the property is worth more than the tax debt owed, the taxpayer can claim the excess equity, despite no longer owning the property. Massachusetts laws do not give the Land Court power over excess equity compensation claims. Disputes from these excess equity claims must be filed *in the Superior Court* of the county where the property is located.
- 15) **Claimed Right of Redemption** – Usually done in the Answer filed by the property owner or taxpayer with the court. It is a claim of the taxpayer’s right to pay off the redemption amount (see above) and keep the property. See [G. L. c. 60, sec. 68](#). In the Answer, the taxpayer challenges the tax title held by the plaintiff (municipality or private party). They usually point to issues with the procedures the plaintiff followed to enforce the lien or legal claim. See [G. L. c. 60, sec. 70](#).
- 16) **Excess Equity** – The property’s value minus the redemption amount (see definition above) and any other liens.
- 17) **Registry of Deeds** – Land ownership documents are filed with the registry of deeds in the county where the land is located. There are 21 different registry districts in the state of Massachusetts. Some counties have more than one registry district. See [G. L. c. 36, sec. 1](#). Most of the documents filed with the registry of deeds are available online at [Massachusetts Land Records](#). There are two categories of land in Massachusetts – recorded land and registered land. Usually, a piece of land is filed with either the recorded or registered system. But sometimes, it is filed with both. Both systems can be searched online. Title to recorded land is shown by a deed. Title to registered land is shown by a certificate of title.
- 18) **Docket** – Record of all papers filed with the court and actions taken by the court. It is available to the public and can be searched online at [MassCourts](#).
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## II. THE PROCESS (see generally G. L. c. 59 and G. L. c. 60)

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### 1) Tax Taking

- a) **Unpaid Bill** – If a tax bill or water/sewer bill is unpaid for over 30 days, the collector must mail a demand for payment to the taxpayer's last known address. This is required if the collector wants to enforce the lien or legal claim on the property. The demand must include a notice from the Department of Revenue. It includes additional information for the taxpayer and encourages translation if needed. If payment is not made within 14 days of demand, the collector can start the process for a tax taking. Besides a tax taking discussed here, there are other methods collectors can use to collect taxes. They can sue for the amount owed in District Court under [G. L. c. 60, sec. 35](#); seize and sell the owner's personal property under [G. L. c. 60, secs. 24-28](#); withhold payment of any money owed to the owner under [G. L. c. 60, sec. 93](#); and deny or revoke certain local licenses or permits under [G. L. c. 40, sec. 57](#). The collector can choose what to do and can pick more than one method at the same time.
- b) **Notice of Taking/Sale** – If real estate taxes or a water/sewer bill are unpaid for 14 days, the collector gives notice in a local newspaper. This notice will state an intention either to: (1) sell the tax title to the property by public auction or (2) take the tax title to the property. Notice is also posted in two or more public places (like city or town hall, library, etc.). For a general example, see attached sample newspaper Notice of Assignment and sample pre-sale Notice of Assignment to owners. Before the sale or taking, outstanding bills accumulate interest at a rate of 14% each year. The collector must provide notice 14 days before the sale or taking.

If the property at issue is certain residential property, the city or town must:

1. mail the 14-day notice to the taxpayer at their home or place of business,
2. post the 14-day notice on the property, and
3. post the 14-day notice in a public place.

With the 14-day notice, the city or town must include a notice from the Department of Revenue. It has information for the taxpayer and encourages translation if needed.



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c) **Tax Title** – If the city or town takes the property by way of a tax taking, the collector records an Instrument of Taking. See attached sample of Instrument of Taking. If the collector sells the property by way of a tax sale to a private party, the collector records a Collector's Deed. See attached sample Collector's Deed. The buyer must record the Collector's Deed or Instrument of Taking at the registry of deeds where the land is located within 60 days of the sale or taking. The treasurer can assign or transfer the tax title to a private party. That party replaces the municipality for the purpose of additional action on the tax title account. See [G. L. c. 60, sec. 52](#). See attached sample Instrument of Assignment of Tax Title. Before a tax taking or sale is made, the city or town may assign or transfer the right to make a tax taking to a private party. See [G. L. c. 60, sec. 2C](#). If the property at issue is certain residential property, the city or town must give notice of any tax taking or of any sale, assignment, or transfer of the city or town's interest in the property. The city or town must:

1. mail the required notice to the taxpayer at their home or place of business,
2. post the required notice on the property, and
3. post the required notice in a public place.

The city or town must include, with the required noticed, a notice from the Department of Revenue. It has information for the taxpayer and encourages translation if needed.

- d) **Tax Title Account** - Once the collector issues the taking or Collector's Deed, the collector transfers the account to the treasurer or to a private party who holds it. Simple interest then builds up at a rate of 8% or 16% annually, depending on the date. See [G. L. c. 60, sec. 62](#) (which describes paying off the amount due or redeeming *before* a case is brought in the Land Court). See also [G. L. c. 60, sec. 68](#) (which describes paying off the amount due or redeeming *after* a case is brought in the Land Court). In most municipalities, once the account is transferred, the back taxes owed no longer appear on the taxpayer's real estate tax bills.
- e) **Negotiations** –A municipality or a private party might hold a tax title, depending upon the circumstances. The record at the registry of deeds must show the current holder of the tax title account for the land. The taxpayer can contact the municipality or private party as soon as they learn of the tax taking. They should



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ask for the amount owed and discuss the possibility of an installment payment plan. Interest builds up at 8% or 16% annually, based on the date. A municipality cannot enter a payment plan if a private party owns the tax title. If the tax title was assigned or transferred to a private party, the taxpayer should contact the private party.

2) **Complaint to Foreclose Right of Redemption.** See generally [G. L. c. 60](#).

- a) **What is Foreclosure of Right of Redemption?** – It ends the taxpayer’s right to redeem the property (to pay the amount due and keep the property).
- b) **Procedure** –Only the Land Court can accept the filing of cases to foreclose a taxpayer’s right to redeem or keep a property. See attached sample Complaint. Depending on the date of the taking or sale, the case can be brought either 6 or 12 months after the taking or sale. If someone abandons the property or its assessed value drops below the outstanding taxes or water/sewer bill, a city or town can bring a case at any time. See [G. L. c. 60, sec. 65](#). The case can also be brought before this time if the taxpayer consents in writing. There is no end date (statute of limitation) by which foreclosure actions must be filed.
- c) **After Filing of Complaint** – When the plaintiff (municipality or private party) files the Complaint, the Land Court selects an independent title examiner. The title examiner will search to find all people and entities with an interest in the property, such as equity owners and mortgage holders. See [G. L. c. 60, sec. 66](#). The Land Court conducts the first phase of citation (notice) based on the addresses in the Complaint provided by the plaintiff. The Land Court serves the Tax Lien Citation (notice) by certified mail upon those people or entities who have an interest in the property. For addresses outside the United States and its territories, it uses registered mail. See attached Tax Lien Citation and Limited Assistance Representation Information Sheet. The Tax Lien Citation has a deadline for the taxpayer or property owner to answer, called a return date. If the certified mail green card is not returned for the citation, the court must try again in the second phase of citation to find a more current address. This applies to all interested parties. It must then send citation (notice) by certified mail, deputy sheriff (or the equivalent outside of Massachusetts), or newspaper publication. This applies if the party has moved, refused to accept the mail, or died.



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In the second phase of citation, the court expects the plaintiff to provide the contact information. Contact information is needed to give notice to all interested parties. In the second phase of citation, the court will check two things. First, it will see if it has all the current contact information it needs from the plaintiff and the title examination report. Second, it will check to see which interested parties still have not successfully received the citation (notice). The plaintiff may not have any additional contact information for the court. They may have to ask that a newspaper posting be used to notify some parties. Newspaper postings notify interested parties, including unknown owners, deceased parties without allowed Massachusetts probates, terminated trusts, dissolved or defunct business entities, and parties whose whereabouts cannot be determined after a diligent search.

- d) **Answer or Default** – The taxpayer may file an Answer. It will notify the court of the taxpayer's response to the case. A Tax Lien Answer and Certificate of Service form is available at [Land Court Forms](#). See also attached form Tax Lien Answer. The taxpayer does not need to use the form Tax Lien Answer. You can write your own Answer. The Answer must be eFiled, mailed, delivered, or dropped off in person at the Land Court. The Court must receive it by the return date, which is the deadline for the taxpayer to file an Answer (see above). Also, the taxpayer can eFile in Tax Lien cases. For more information on using the court's eFiling system, see [eFiling in the Land Court | Mass.gov](#). The taxpayer must also serve a copy of the Answer by mail to the other parties in the case (or their attorney(s), if they have them). If an Answer is not filed by the return date, the plaintiff can ask the court to declare a default. This means the taxpayer failed to appear. The plaintiff can also ask the court to enter a Judgment of Foreclosure of the Right of Redemption. See [G. L. c. 60, sec. 67](#). If the taxpayer is defaulted, the taxpayer may lose the right to be heard by the court.
- e) **Substance of Answer** – In the Answer, the taxpayer can assert or claim the right to redeem (pay the redemption amount and keep) the property and/or challenge the procedure used by the plaintiff to gain or hold the tax title to the property. See attached form Tax Lien Answer. See also [G. L. c. 60, secs. 68, 70](#).

### 3) Finding

- a) **Request for Finding** – If the taxpayer appears in court, the municipality or private party must file a motion. It asks that the court enter findings regarding the amount of money the taxpayer owes. See attached sample Motion for Entry of Finding with



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Affidavit of Legal Fees. This includes unpaid real estate taxes and/or water/sewer bills plus interest, legal fees, and costs (additional expenses such as filing fees, court costs, mailing fees, and other similar costs). The taxpayer is responsible for all costs and fees. See [G. L. c. 60, sec. 68](#).

- b) **Scheduling** – The taxpayer should get a copy of the Motion for Entry of Finding and notice of the hearing date. The court hears all tax lien cases on Thursdays at 10:00 AM and 2:00 PM. At an average tax session, there are fifteen to twenty matters scheduled. The notice will indicate if the hearing is being held in person at the courthouse, by telephone, or by videoconference. The court allows any party or their attorney to appear by telephone or Zoom videoconferencing. The court also can arrange for a free interpreter to assist a party at the hearing and can make reasonable accommodations for disabilities.
- c) **Finding Hearing** – At the Finding Hearing, the court enters findings regarding the amount of money the taxpayer owes.
  - i) **Tax Lien Finding** – When the court makes a Finding, it sets the “redemption amount” (the total amount of money the taxpayer needs to pay), and a deadline to pay it. See sample Tax Lien Finding. The Finding contains the amount due, costs (additional expenses), and legal fees. Interest continues to build up on the amount due from the date of the Finding until payment. This will increase the amount the taxpayer needs to pay. Before or during the case, a taxpayer can ask the plaintiff the total amount to make full payment.
  - ii) The court cannot reduce the amount of taxes, interests, and costs (additional expenses). See [G. L. c. 60, sec. 68](#). The court also cannot hear any challenge to the assessed valuation of the property. A separate process called “tax abatement” must have addressed this issue. The Land Court has no jurisdiction to review it. For details on the strict timing and procedures of the tax abatement process, see Part (IV), “Remedies,” below.
  - iii) The court has the authority to set the terms of repayment, such as establishing a payment plan. If the taxpayer objects, the court can change the amount of legal fees that the municipality or private party is asking from the taxpayer. See [G. L. c. 60, sec. 65](#). The court can change the amount of legal fees if the court finds that: (1) the attorney's fees are unreasonable ([G. L. c. 60, sec. 68](#)); or (2) the legal fees are not accurate as supported by an affidavit (sworn statement)



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from the plaintiff's lawyer; or (3) the taxpayer does not have the ability to pay the legal fees ([G. L. c. 60, sec. 65](#)). At the Finding Hearing, the taxpayer can make arguments about the reasonableness and accuracy of the legal fees or the taxpayer's ability to pay them.

- iv) The court may also consider the taxpayer's challenge to the tax title that the plaintiff holds, such as whether proper procedures were followed.
- v) The court may continue the case for a short time (postponing it to a later date). This would give the parties more time before the court enters a Finding. If the taxpayer does not show up at the Finding Hearing, they may be defaulted. If the taxpayer is defaulted, the taxpayer may lose the right to be heard by the court.

- d) **Hearing on Motion for Judgment of Foreclosure** – If the taxpayer does not fully pay by the Tax Lien Finding's deadline, the plaintiff can move for a Judgment of Foreclosure. See attached sample Motion for Entry of Judgment of Foreclosure. A hearing will be held on the motion, and these hearings are held every Thursday at 10:00 AM and 2:00 PM. See [G. L. c. 60, sec. 69](#). The court will issue a notice with hearing details. It will state if it is to be held in person at the courthouse, by telephone, or by videoconference. The court allows any party or their attorney to appear by telephone or Zoom videoconferencing. The court can also make reasonable accommodations for disabilities and arrange for a free interpreter to be present to assist any party.

#### 4) **End of case**

- a) **Judgment of Foreclosure if an Interested Party Appears** – This happens if a party with an interest in the property has appeared in court and has not redeemed the property by the finding date. If allowed, this results in the taxpayer losing ownership of the property. The taxpayer still has the right to recover any excess equity in the property after the Land Court case has ended.
- i) **Process Following Judgment of Foreclosure** – After the court allows a Motion for Judgment of Foreclosure and confirms compliance with all of the relevant statutes, a Judgment will appear on the docket (see definition above). The court sends a copy of the Judgment to the plaintiff's attorney who then files it with the registry of deeds in the county where the land is located. See attached sample Judgment in Tax Lien Case. The court also sends a copy of the Judgment to any party with an interest in the property or taxpayer who



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appeared in the case and was not defaulted. See attached sample Notice of Judgment of Foreclosure. Being defaulted can happen if the party stops participating in the case.

- ii) **Judgment of Foreclosure** – The Judgment of Foreclosure gives the plaintiff, a municipality or a private party, full ownership of the property. See [G. L. c. 60, sec. 64](#). A Judgment of Foreclosure wipes out the taxpayer's ownership. It also wipes out junior liens or claims, which include all mortgages. Note that the taxpayer likely still owes the money to the mortgage holder even though the mortgage is wiped out. See attached sample Judgment in Tax Lien Case. If a Judgment of Foreclosure issues, the taxpayer may seek compensation (payment) from the plaintiff for their excess equity (see definition above) in the property, even though they no longer own it. Massachusetts laws do not give the Land Court jurisdiction over excess equity compensation claims. Any disputes arising from excess equity claims must be filed *in the Superior Court* of the county where the property is located. See G. L. c. 60, sec. 64A.
- iii) **Appeal of a Judgment of Foreclosure** – Taxpayers have 30 days after the entry of Judgment to file a notice of appeal. See [Massachusetts Rules of Appellate Procedure, Rule 4\(a\)\(1\)](#). The notice of appeal should be filed with the Land Court within 30 days of the entry of Judgment on the docket (see definition above).
- b) **Judgment of Foreclosure if No Interested Party Appears** – If no interested party has answered or appeared in court by the return date (date set by the court to answer), the plaintiff can immediately file: (1) a Motion for General Default (for failure to appear) and (2) a Military Affidavit. See [G. L. c. 60, sec. 67](#). The case is reviewed, and if appropriate, the Motion for General Default is allowed without a hearing. A Judgment of Foreclosure then enters and interested parties lose all ownership of the property. However, interested parties are still entitled to claim any excess equity in the property.
- c) **Withdrawal of the Case** – This happens where the property has been redeemed so that the taxpayer retains or keeps the property. This is further discussed in Section (5) - Redemption, below.
- d) **Judgment of Dismissal** – Where the court finds that the municipality has made a significant error in assessing or attempting to collect the tax. If this happens, the



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Complaint to Foreclose the Right of Redemption is dismissed, and the taxpayer retains the property.

5) **Redemption** – What if the full redemption amount is paid before entry of Judgment?

- a) If a foreclosure case has been filed, but the court has not yet issued a finding stating the redemption amount, the taxpayer and the plaintiff might agree on the redemption amount themselves; or, the court will have set the redemption amount at the Finding Hearing. Either way, if a taxpayer redeems at any time after a foreclosure case was filed, but before the court enters a judgment of foreclosure, the plaintiff must file a Motion to Withdraw Complaint to Foreclose Rights of Redemption with the court so that the case can be closed. See attached sample Motion to Withdraw Complaint to Foreclose Rights of Redemption. The court then will allow this Motion and provide an attested (authenticated) copy of the Withdrawal to the plaintiff's lawyer for filing with the registry of deeds in the county where the land is located. A Certificate of Redemption from the municipal treasurer or a Deed of Release from the private party will also be issued to whomever paid the tax.
- b) The taxpayer should talk to the municipality or private party and make sure that the Certificate of Redemption or Deed of Release is recorded as soon as possible at the registry of deeds in the county where the land is located. Even if the taxpayer pays the municipality or private party the full redemption amount, a Motion to Withdraw must still be filed in the Land Court to end the case, and an attested (authenticated) copy of the Withdrawal and Certificate of Redemption or Deed of Release must be recorded at the registry of deeds. See attached sample Certificate of Redemption.

### III. WHAT HAPPENS AFTER FORECLOSURE OF THE RIGHT OF REDEMPTION?

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- 1) **Eviction** – After the Land Court's foreclosure Judgment, the property belongs to the municipality or private party. The private party or municipality can start the process to evict whoever is living or running a business at the property.
- 2) **Compensation for Excess Equity** – If there is no redemption and the foreclosure proceeds to Judgment, the taxpayer may seek compensation (payment) from the plaintiff for the excess value of the property (the excess equity), even though the



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taxpayer no longer owns it. Excess equity is any amount remaining 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. Massachusetts laws do not give the Land Court jurisdiction over excess equity compensation claims. Any disputes arising from these excess equity claims must be filed *in the Superior Court* of the county where the property is located.

- 3) **Petition to Vacate** – If allowed, a Petition to Vacate undoes the Judgment. By undoing the Judgment, the situation before the Judgment entered comes back into place. This means the plaintiff no longer owns the property in full, but still has a tax title to the property. If the plaintiff assents or agrees to the filing of the Petition to Vacate, the plaintiff should make that assent or agreement in writing and file it with the court. If the plaintiff does not assent or agree, the parties will need to have a hearing in court on the Petition to Vacate.
  - a) **Filing of Petition to Vacate** – A Petition (or Motion) to Vacate Decree of Foreclosure should be filed by the party who redeemed the property if the total amount due is paid after a Judgment. See attached sample Petition to Vacate Decree of Foreclosure. Petitions to Vacate can also be filed by a taxpayer if the property has not been redeemed and (1) the plaintiff will not accept payment because they say it is too late or (2) any party with an interest argues that there was a lack of due process (see definition in Part I of “Foreclosure of the Right of Redemption”).
    - i) **Petition to Vacate up to One Year After Judgment** – The taxpayer may file a Petition to Vacate the Judgment up to one year after entry of the Judgment. See [G. L. c. 60, sec. 69A](#). The court has discretion to grant a request to vacate filed within one year of the foreclosure Judgment if presented with extraordinary circumstances and if either no innocent purchaser has acquired an interest in the property for value or no claim for excess equity has been paid, unless the court can protect the rights of the purchaser or the person that paid the excess equity. An innocent purchaser for value is someone who paid real value or money for the property and is independent of the plaintiff. The taxpayer can



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file the Petition to Vacate whether or not the taxpayer has paid the redemption amount (see definition above).

ii) **Petition to Vacate Where No Sale to Innocent Purchaser for Value**

**Occurred** – A plaintiff can file a Petition to Vacate at any time as long as there has not been a sale of the property to an innocent purchaser for value. See [G. L. c. 60, sec. 69](#). An innocent purchaser for value is someone who paid real value or money for the property and is independent of the plaintiff. Here, a Petition to Vacate can be filed by the plaintiff even after the year has passed after entry of Judgment. This allows taxpayers to pay the plaintiff for the property even if one year has passed after the entry of Judgment, but only if the plaintiff is willing to accept payment.

iii) **Petition to Vacate One Year after the Entry of Judgment** – After one year, the Judgment is final and can be vacated (undone) only upon a showing of lack of due process (see definition in Part I of “Foreclosure of the Right of Redemption”).

b) **Procedure after Petition to Vacate is Allowed**

- i) Three documents will need to be filed with the registry of deeds in the county where the land is located if a Petition to Vacate is allowed by the court, the taxpayer has redeemed, and the plaintiff is withdrawing the case: (1) Vacation of Judgment, which is the document that undoes the Judgment (see procedure above), (2) Withdrawal, and (3) Certificate of Redemption or Deed of Release.
- ii) After allowing a Petition to Vacate, the court will provide the party who filed the motion with an attested (authenticated) copy of the Vacation of Judgment. The party who receives the Vacation of Judgment should file it as soon as possible with the registry of deeds in the county where the land is located. (See attached sample Vacation of Judgment in Tax Lien Case and sample Withdrawal in Tax Lien Case.)
- iii) If the taxpayer then redeems, the plaintiff files a Motion to Withdraw Complaint to Foreclose Rights of Redemption so that the case can be closed. See attached sample Motion to Withdraw Complaint to Foreclose Rights of Redemption. The court will then allow this motion and provide the plaintiff with an attested (authenticated) copy of the Withdrawal for filing with the registry of deeds in the county where the land is located. A Certificate of



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Redemption from the municipal treasurer or a Deed of Release from the private party also will be issued to whomever paid the tax. The taxpayer should talk to the municipality or private party and make sure that the Certificate of Redemption or Deed of Release is recorded as soon as possible at the registry of deeds in the county where the land is located.

### IV. REMEDIES IF UNABLE TO AFFORD REAL ESTATE TAXES (available to the taxpayer *before* a foreclosure)

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- 1) More resources can be found through the taxpayer's town or city assessor's office and/or the [Massachusetts Department of Revenue](#). The [Housing Consumer Education Centers of Massachusetts](#) also has information (select your location to find your HCEC provider). You may also find helpful information through the [Executive Office of Housing and Livable Communities](#).
- 2) **Abatement** – The taxpayer can challenge the assessed valuation of the property. Generally, the taxpayer needs to prove that the assessed value is inaccurate or unfair. Taxpayers file applications for abatement with the city or town's assessor. There are strict rules and deadlines for applying for an abatement. The Land Court has no role in the abatement process, and cannot change a property's assessed value. More information regarding the abatement process can be found at: [Property Tax Forms and Guides](#) and [Real Estate Tax Appeals: A Helpful Guide for Taxpayers and Assessors](#).
- 3) **Exemption** – The taxpayer may be able to reduce the amount of real estate taxes based on age, disability, income, or personal status (such as veteran status). The taxpayer generally needs to show proof of eligibility. To apply for exemptions, the taxpayer should contact their local assessor.
- 4) **Deferral** – The taxpayer may be able to postpone payments if they meet certain eligibility requirements that are detailed in [G. L. c. 59, sec. 5](#). Taxpayers should contact their local assessor to apply for deferral.
- 5) **Repayment Programs** – The taxpayer may pay the back taxes in installments before a case to foreclose the right of redemption is filed in the Land Court. The taxpayer should negotiate repayment with the city or town treasurer. Once the city or town treasurer accepts any installment payment, the time period during which a case cannot be filed is extended for up to two years beyond the usual time (12 months from the sale or taking (6 months if the sale or taking is prior to November 1, 2024),



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or at any time if the property is abandoned or if the redemption amount exceeds the assessed value of the property). [G. L. c. 60, sec. 62](#).

- 6) **Repayment Agreement** – [G. L. c. 60, sec. 62A](#) allows for payment agreements between the treasurer and taxpayer where the city or town has enacted a bylaw or ordinance to allow for such an agreement. The taxpayer can contact the city or town treasurer to determine if a bylaw or ordinance has been enacted in a specific town. A local reference librarian may also have this information. The agreement must be for a term of ten years or less and may waive (forgive) some or all of the built-up interest on the tax title account. The agreement also must require a minimum payment at the start of the agreement of 10% or more of the amount needed to redeem, depending on the city or town's bylaw or ordinance.
- 7) **Reduction of Principal Owed** – Municipalities may apply to the Commissioner of Revenue to reduce the principal amount owed. [G. L. c. 58, sec. 8](#). The taxpayer should first contact the local collector (if before a tax taking) or treasurer (if after a tax taking), to ask for a reduction of principal. The Commissioner of Revenue will only accept a request for reduction of principal if the request is from a city or town on behalf of a taxpayer.
- 8) **Tax bill** – The tax bill or notice must include the last date to apply for an abatement or exemption. It must also include the last date when payment can be made without interest being due. The tax bill should also include the tax rate, the parcel of land being assessed, the assessed value, and the taxes due. It is again important to note that in most cities and towns, once the account is transferred from the collector to the treasurer into a tax title account, the back taxes owed no longer appear on the taxpayer's real estate tax bills. [G. L. c. 60, secs. 3, 3A](#).

## V. AVAILABLE RESOURCES

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- 1) [Tallage Lincoln v. Williams, 485 Mass. 449 \(2020\)](#) – providing detailed outline of tax foreclosure process in opinion and appendix.
- 2) [Tyler v. Hennepin County, Minnesota, No. 22-166 \(U.S. Supreme Court 2023\)](#) – confirming that taxpayers have a right to claim compensation under the Fifth Amendment of the U.S. Constitution for their equity in a property that was taken and sold in a tax foreclosure. For more information about home equity compensation, review: [Land Court Statement on Tyler v. Hennepin County Minnesota](#)



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### 3) Land Court Contacts

- a) Land Court Recorder's Office, Main No. (617) 788-7470
- b) John R. Harrington, Title Examiner, (617) 788-7480
- c) George A. Karambelas, Title Examiner, (617) 788-7521
- d) Allyson L. Enos, Title Examiner, (617) 788-7465
- e) Beema Pradhan, Sessions Clerk, (617) 788-7487, [beema.pradhan@jud.state.ma.us](mailto:beema.pradhan@jud.state.ma.us)
- f) Panoraia Naseli, Office Manager, (617) 788-7492, [panoraia.naseli@jud.state.ma.us](mailto:panoraia.naseli@jud.state.ma.us)
- g) Ashley Castro, Operations Supervisor, (617) 788-7402, [ashley.castro@jud.state.ma.us](mailto:ashley.castro@jud.state.ma.us)

### 4) **Lawyers Clearinghouse** – If you do not have a lawyer, you may be eligible for FREE legal advice or representation from a lawyer referred through the Tax Lien Foreclosure Legal Assistance Program. Through the program, volunteer lawyers provide free legal advice and representation to people who need, but cannot afford, legal representation. For more information, contact Sean Thekkeparayil at the Lawyers Clearinghouse: [sthekkeparayil@lawyersclearinghouse.org](mailto:sthekkeparayil@lawyersclearinghouse.org) or (617) 544-3434 ext. 110

### 5) **Northeast Legal Aid/Northeast Justice Center** – Northeast Legal Aid provides free legal services to low-income and elderly people of Northeast Massachusetts. It provides these services together with its subsidiary, **Northeast Justice Center**, (978) 458-1465 and 800-336-2262 (toll free)

### 6) **Boston Home Center** – Its mission is to help Boston residents purchase, improve, and keep their homes. (617) 635-4663

### 7) **Greater Springfield Senior Services, Inc.** – Provides resources that support older adults and younger individuals with disabilities in Hampden County. (413) 781-8800 and (800) 649-3641 (toll free)

### 8) **Trial Court Law Libraries** – Provides free research assistance and resources to self-represented litigants statewide.



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- 9) [Greater Boston Legal Services](#) – Provides free legal assistance and representation in civil (non-criminal) matters to needy residents in Boston and 31 surrounding cities and towns. (617) 371-1234 and (800) 323-3205 (toll free)
- 10) [City Life/Vida Urbana](#) - A bilingual, community organization whose mission is to fight for racial, social, and economic justice, and gender equality by building working class power through direct action, coalition building, education, and advocacy. (617) 934-5006 (English) and (617) 397-3773 (Español)
- 11) [Justice Bridge Legal Center](#) – Provides legal services at reduced rates depending on client's income and assets. The Center has offices in Boston and New Bedford. It provides legal consultation and advice, limited scope representation, and full legal representation in a variety of areas. (617) 860-3414
- 12) [Veterans Legal Services](#) – Its mission is to promote self-sufficiency, stability, and financial security to homeless and low-income veterans living in Massachusetts through free and accessible legal services. (857) 317-4474

## VI. APPENDIX OF REFERENCE DOCUMENTS

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- 1) Sample Documents
  - a) Newspaper Notice of Assignment
  - b) Pre-Sale Notice of Assignment to Owners
  - c) Instrument of Taking
  - d) Collector's Deed
  - e) Instrument of Assignment of Tax Title
  - f) Complaint (in blank and completed)
  - g) Tax Lien Citation and Limited Assistance Representation Information Sheet
  - h) Motion for Entry of Finding with Affidavit of Legal Fees
  - i) Tax Lien Finding
  - j) Motion for Entry of Judgment of Foreclosure
  - k) Judgment in Tax Lien Case



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- l) Notice of Judgment of Foreclosure
- m) Motion to Withdraw Complaint to Foreclose Rights of Redemption
- n) Certificate of Redemption
- o) Petition to Vacate Decree of Foreclosure
- p) Withdrawal in Tax Lien Case
- q) Vacation of Judgment in Tax Lien Case
- 2) **Land Court Forms** (found on the [Land Court forms page](#))
  - a) Notice of Appearance
  - b) Notice of Withdrawal of Appearance
  - c) Tax Lien Answer and Certificate of Service
  - d) Tax Lien Motion and Notice of Hearing with Certificate of Service
  - e) Motion to Withdraw Complaint to Foreclose Rights of Redemption
  - f) Military Affidavit
  - g) Motion for General Default