



# TAX LIEN FORECLOSURE INFORMATIONAL OUTLINE

## Tax Lien Foreclosure Cases in the Land Court

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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 can result in you losing your property entirely, 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 if you no longer own it. For more information about home equity compensation, review: [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 is intended to provide a general overview to self-represented litigants, taxpayers, and attorneys on the tax lien process. The outline provides a summary of the process, from the collection of the real estate tax or water/sewer bills to steps that parties can take after the court issues a Judgment. The outline also contains a definitions section in the beginning, and available 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 be able to provide information to taxpayers both before and after a case is filed at the Land Court. The outline also provides information on remedies that might be available to taxpayers before a tax lien foreclosure if the taxpayer is not able to afford their real estate taxes.

The processes, legal requirements, and deadlines in tax lien foreclosure cases are very technical and complicated. This guide does 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, if possible. More information is available on 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 believes the property is over-assessed (not valued fairly compared to other similar properties) or not classified correctly, the taxpayer can file for an abatement of taxes with the assessor to change the assessed value or classification. Abatements can reduce the amount the property is valued and so 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 is not able to consider challenges to the valuation of your property or requests for an 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, amongst other requirements, must be printed on the tax bill. See [G. L. c. 60, sec. 3A](#). Once a tax taking (see definition below) is made, the back taxes owed usually no longer appear on the taxpayer’s tax bill. Water and sewer bills can also be included in tax takings.
- 4) **Collector** – The person from the town or city who prepares and sends tax bills, receives payments, and credits payments.
- 5) **Treasurer** – After a tax taking is made, the property account is transferred from the city or town’s collector to the city or town’s treasurer into a tax title account where it gains 16% simple interest annually. Once the account is transferred to the city or town’s treasurer, the back taxes owed usually no longer appear on the taxpayer’s real estate tax bills.
- 6) **Municipality** – Another name for a city or town.



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- 7) **Private Party** – Any private individual or company that takes the place of a city or town for purposes of further action on a tax title account. Where a private party takes the place of the city or town, the private party’s interest in the tax title account is recorded with the registry of deeds in the county where the property is located 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 that asks the court to foreclose the right of redemption (see definition below), the plaintiff is a city or town (municipality) or a private party who takes the place of the municipality.
- 10) **Real Estate Tax Lien** – A lien on real estate that a city or town automatically gets when it assesses real estate taxes and water/sewer bills. A tax lien allows a city, town, or sometimes a third party to get the tax title (see below) to the property, and after proper proceedings, to get full ownership of the property to enforce the collection of real estate taxes or water/sewer bills.
- 11) **Tax Title** – A type of limited property ownership that a city, town or third party can get to enforce the collection of real estate taxes or water/sewer bills. A city, town, or private party can get the tax title to a property in a number of ways:
  - a) **Tax Taking** – A city or town can make a tax taking by filing an Instrument of Taking (document) 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.
  - 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, a Collector’s Deed is filed 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 why the sale occurred, the purchase price, the name of the person who was asked to pay the taxes, and where notice of the sale was provided. See [G. L. c. 60, sec. 45](#). It provides the buyer with the tax title to the property. (Sometimes, at a tax sale auction, the tax title might be bought for the city or town by the tax collector if there are no bids sufficient to cover all tax, interest, and charges owed. See [G. L. c. 60, sec. 48](#))



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- c) **Assignment Auction** – If the city or town has made a tax taking (see above) and itself owns a tax title, the city or town still can assign (sell/give) legal ownership of the tax title at a later time to the highest bidder at a public auction. 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 give notice of the auction in 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. 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 within 60 days of the date it was signed. The Instrument of Assignment includes the redemption amount (see definition below), post-auction interest (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 has not 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, which allows a private party to make a taking of 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 “request for proposal” process. See [G. L. c. 60, sec. 2C](#). A request for proposal process is a process where cities and towns list the property or properties for which they are offering to assign collection rights, and ask for bids. To carry out the assignment, an Instrument of Assignment (see definition above) is filed with the registry of deeds (see definition below), which includes the list of owners and parcels of land involved in the assignment. The process is highly controlled by the statute. Additional information regarding bulk sale tax assignments and tax lien assignments can be found here:  
<https://www.mass.gov/files/documents/2017/09/26/igr05-208.pdf>
- 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 obtained the tax title account and whether taxes for later years can be added onto the redemption amount (see definition below). See *Tallage Lincoln v. Williams*, 459 Mass. 449 (2020) (finding [G. L. c. 60 sec. 45](#) purchasers of Collector’s Deed, but not [G. L. c. 60, sec. 52](#) assignees, may include



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subsequent tax payments in the redemption amount)

<https://www.mass.gov/files/documents/2020/08/19/a12847.pdf>

- 12) **Right of Redemption** – The taxpayer’s ability to prevent a tax foreclosure by paying off the real estate tax or water/sewer bill along with interest, fees, and costs (additional expenses such as filing fees, court costs, mailing fees, and other similar costs) and keep the property.
- 13) **Redemption Amount** – Amount the taxpayer needs to pay to prevent a foreclosure and keep the property, which includes the outstanding real estate taxes and/or water/sewer bill, interest, legal fees, and costs (additional expenses such as filing fees, court costs, mailing fees, and other similar costs).
- 14) **Foreclosure of the Right of Redemption** – A legal proceeding in the Land Court that ends the taxpayer’s ability to pay off the redemption amount (see definition above) and keep the property. When the court enters a Judgment of Foreclosure, the municipality or private party has full ownership of the property (unless the court allows a Motion to Vacate the Judgment due to a 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 “equity” (see definition below) – if the property is worth more than the tax debt owed, even though the taxpayer no longer owns the property. Massachusetts laws do not give the Land Court jurisdiction over compensation claims.
- 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 definition above) and keep ownership to property. See [G. L. c. 60, sec. 68](#). In the Answer, the taxpayer may also question the validity of the tax title held by the plaintiff (municipality or private party) usually by identifying issues with the procedures the plaintiff followed to enforce the lien or legal claim. See [G. L. c. 60, sec. 70](#).
- 16) **Equity** – The value of the property minus the redemption amount (see definition above) and any other liens.
- 17) **Registry of Deeds** – Documents related to the ownership of land are filed with the registry of deeds in the county where the land is located. There are 21 different



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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 <https://www.masslandrecords.com/>. 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 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 <http://www.masscourts.org>.

## 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 more than 30 days, the collector mails a demand for payment to the last, best address for the taxpayer if the collector wants to enforce the lien or legal claim on the property. If payment is not made within 14 days, the collector can start the process for a tax taking. In addition to a tax taking discussed here, there are other methods collectors can use to collect taxes, such as suing for the amount owed in District Court under [G. L. c. 60, sec. 35](#); seizing and selling the owner’s personal property under [G. L. c. 60, secs. 24-28](#); arresting the owner under [G. L. c. 60, sec. 29](#); withholding payment of any money owed to the owner under [G. L. c. 60, sec. 93](#); and denying or revoking 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 payment of real estate taxes or a water/sewer bill is not made within 14 days, the collector gives notice in a local newspaper of the 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 2 or more public places (examples 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. Outstanding bills gain interest at a rate of 14% annually. Notice has to be provided 14 days before the sale or taking.
- 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 Instrument of



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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 Collector's Deed or Instrument of Taking must be recorded at the registry of deeds where the land is located within 60 days of the sale or taking. The treasurer also can assign or transfer the tax title to a private party who takes the place of 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](#).

- d) **Tax Title Account** - Once the taking or Collector's Deed is made, the account is transferred from the collector to the treasurer or held by a private party. Simple interest then builds up at a rate of 16% annually. See [G. L. c. 60, sec. 62](#) (which describes paying of the amount due or redeeming before a case is brought in the Land Court). See also [G. L. c. 60, sec. 68](#) (which describes the terms of paying off the amount due or redeeming after a case is brought in the Land Court). In the majority of municipalities, once the account is transferred, the back taxes owed no longer appear on the taxpayer's real estate tax bills.
- e) **Negotiations** - Depending on the circumstances, a tax title might be held by either a municipality or a private party. Information regarding the current holder of the tax title account must appear on the record at the registry of deeds where the land is located. The taxpayer can contact the municipality or private party as soon they find out about the tax taking to determine the amount owed and to discuss the possibility of accepting payment on an installment basis. As a reminder, interest builds up at 16% annually. A municipality cannot enter into a payment plan if the tax title already has been assigned or transferred to a private party. 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 off the amount due and keep the property).
- b) **Procedure** - Cases to foreclose a taxpayer's right to redeem or keep a property can only be filed in the Land Court. See attached sample Complaint. The case can be brought six months after the taking, unless the property is abandoned or the



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assessed value of the property is less than the outstanding taxes or water/sewer bill, in which case 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 the six months have passed 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 names a title examiner to conduct an abbreviated search to identify all people and entities who have an interest in the property (such as equity owners and mortgage holders). See [G. L. c. 60, sec. 66](#). The Land Court then serves the Tax Lien Citation upon those people or entities who have an interest in the property by certified mail (or by registered mail for addresses outside the United States and its territories). 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 citation is not signed for by all parties who have an interest, for whatever reason (the party has moved, refused to accept the mail, or died), the court must try again, at a more current address, by certified mail, deputy sheriff (or the equivalent outside of Massachusetts), or newspaper publication. Plaintiffs are expected to provide the contact information needed to make service on (give notice to) all interested parties. Interested parties that may require notice by newspaper publication include 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 providing notice to the court of the taxpayer's response to the case. A Tax Lien Answer and Certificate of Service form is available at <https://www.mass.gov/lists/land-court-forms>. See also attached form Tax Lien Answer. The taxpayer must answer, but does not need to use the form Tax Lien Answer. The Answer should be eFiled, mailed, delivered, or dropped off in person at the Land Court so that it is received by the return date, which is the deadline for the taxpayer to file an Answer (see above). 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](#). A copy of the Answer also must be served 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 default the taxpayer





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(to find that the taxpayer failed to appear) and can ask that 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 files a motion asking that the court enter findings regarding the amount of money the taxpayer owes. See attached sample Motion for Entry of Finding with Affidavit of Legal Fees. This amount includes the outstanding real estate taxes and/or water/sewer bills, 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 to the date of the payment, which will increase the amount of money the taxpayer needs to pay. At any time before or during the case, a taxpayer can ask the plaintiff how much is owed in total to make full payment to the plaintiff.



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- 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; 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 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 makes an objection, the court can also change the amount of legal fees that the municipality or private party is asking that the taxpayer pay. 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) 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](#)). The taxpayer can make arguments about the reasonableness and accuracy of the legal fees or the taxpayer's ability to pay the legal fees at the Finding Hearing.
- iv) The court also may consider the taxpayer's challenge to the validity of the tax title held by the plaintiff, such as whether proper procedures were followed.
- v) The court may briefly continue the case (postpone it to a later date), which 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 make full payment by the deadline in the Tax Lien Finding for making payment, 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 details of the hearing, including whether it will 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.



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### 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.
- i) **Process Following Judgment of Foreclosure** – After the court allows a Motion for Judgment of Foreclosure and ensures that all of the relevant statutes have been complied with, a Judgment will appear on the docket (see definition above). The court sends a copy of the Judgment to the plaintiff's attorney who 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 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 (municipality or private party) full ownership of the property. See [G. L. c. 60, sec. 64](#). A Judgment of Foreclosure wipes out the taxpayer's ownership, and also junior liens or claims, which include all mortgages. See attached sample Judgment in Tax Lien Case. The taxpayer may seek compensation from the plaintiff for their equity (see definition above) in the property if a judgment of foreclosure issues, even though the taxpayer no longer owns the property. Massachusetts laws do not give the Land Court jurisdiction over compensation claims.
- 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 party with an interest 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) Military Affidavit. See [G. L. c. 60, sec. 67](#). The case is



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reviewed, and if appropriate, the Motion for General Default is allowed without a hearing. A Judgment of Foreclosure then enters.

- c) **Withdrawal of the Case** – 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 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 off 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 counsel 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 whoever 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.



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

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- 1) **Eviction** – Once the Land Court has entered the foreclosure judgment, the municipality or private party owns the property outright. The private party or municipality can start the process to evict whoever is living or running a business at the property.
- 2) **Compensation for Equity** – 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 paid, even though the taxpayer no longer owns the property. Massachusetts laws do not give the Land Court jurisdiction over compensation claims. For more information about home equity compensation, review: [Land Court Statement on Tyler v. Hennepin County Minnesota](#)
- 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: 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. The taxpayer can file the Petition to Vacate whether or not the taxpayer has paid the redemption amount (see definition above).



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- 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 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



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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.  
<https://www.mass.gov/lists/property-tax-forms-and-guides>. The Housing Consumer Education Centers of Massachusetts also has information.  
<https://www.masshousinginfo.org/resources?resource=1>.
- 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 assessors. 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:  
<https://www.mass.gov/lists/property-tax-forms-and-guides> and  
<https://www.mass.gov/info-details/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, taxpayers should contact their local assessors.
- 4) **Deferrals** – The taxpayer may be able to postpone payments if they meet certain eligibility requirements that are detailed in [G. L. c. 59, sec. 5](#). The taxpayer should contact their local assessors to apply for deferrals.
- 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 (6 months from



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the sale or taking, 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 five years or less and may not waive (forgive) more than 50% 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 25% of the amount needed to redeem.
- 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 town, 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*, 459 Mass. 449 (2020) – providing detailed outline of tax foreclosure process in opinion and appendix.  
<http://masscases.com/cases/sjc/485/485mass449.html>
- 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) Beema Pradhan, Sessions Clerk, (617) 788-7487, [beema.pradhan@jud.state.ma.us](mailto:beema.pradhan@jud.state.ma.us)
    - e) Panoraia Naseli, Office Manager, (617) 788-7492, [panoraia.naseli@jud.state.ma.us](mailto:panoraia.naseli@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. <https://www.northeastjusticecenter.org>, (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. <https://www.boston.gov/departments/neighborhood-development/boston-home-center> (617) 635-4663
  - 7) **Greater Springfield Senior Services, Inc.** – Provides resources that support older adults and younger individuals with disabilities in Hampden County. <https://www.gsssi.org> (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. [www.mass.gov/orgs/trial-court-law-libraries](http://www.mass.gov/orgs/trial-court-law-libraries).
  - 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. <https://www.gbls.org> (617) 371-1234 and (800) 323-3205 (toll free)
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- 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. <http://www.clvu.org> (617) 934-5006
- 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. <https://www.justice-bridge.org> (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. <https://veteranslegalservices.org> (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
  - l) Notice of Judgment of Foreclosure
  - m) Motion to Withdraw Complaint to Foreclose Rights of Redemption



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- 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 at <https://www.mass.gov/lists/land-court-forms>)
- 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