

**TOWN OF BOWDOINHAM
POLICY FOR
DISPOSITION OF TAX ACQUIRED PROPERTY**

Article 1. General

- 1.1 The purpose of this Policy is to establish procedures for the efficient and fair management, administration and disposition of real property acquired under the tax lien procedures set forth in ~~Title 36 M.R.S.A. Sections 942~~ State Law. Nothing in this policy shall be interpreted to give additional substantive or procedural rights to owners or former owners of properties forfeited for non-payment of taxes.

Article 2. Actions Concerning Tax-Acquired Property Pending Final Disposition

- 2.1 Each year the Treasurer shall prepare a list of properties acquired due to non-payment of property taxes and foreclosure of tax liens.
- 2.2 The Town Manager, and as necessary in consultation with the Town Attorney, shall review each property identified on the list and determine:
- A. The potential liabilities (environmental, structural safety, health or other hazards associated with the property) that the Town might assume by taking possession or by operating the property and whether the Town's interests in light of such potential liabilities would be best served by immediately disposing of the property or retaining it;
 - B. The level of insurance required to protect the Town's interest in the property and to protect the Town from liability in the event that the property is retained; and
 - C. Whether the property is currently occupied and the likelihood of requiring legal assistance (and estimated costs of the same) to require the occupants to quit the premises.
- 2.4 In the event that a tax-acquired property remains or becomes vacant for 60 consecutive days following the date of foreclosure of the tax liens under which the Town becomes the owner of a property, the Town Manager shall obtain liability coverage for the property.

Article 3. Review and Disposition of Tax-Acquired Properties

3.1 The Town Manager shall summarize the results of his or her review of each such property as per Section 2.3 of this Policy and make one of the following recommendations to the Select Board:

1. Retain the property for a particular purpose. The Town Manager, in consultation with the Town Attorney shall review and pursue, if appropriate or required, judicial confirmation of the Town's right, title or interests in the subject property ~~under 36 M.R.S.A. section 946~~; or
2. Sell the property with or without conditions.
3. Take no action. In order to allow the owner to continue making payments on balance of past due and currently due taxes, interests, and costs.

3.2 The Town Manager shall forward his or her reviews, recommendations and determinations regarding each property to the Select Board. The Select Board shall make the final decision on whether to retain or sell the property.

3.3 Retention of tax-acquired property. If the Town chooses to retain a tax-acquired property for municipal use, the procedures of 36 M.R.S.A. section 943-C must be followed.

~~3.34 If the municipality chooses to sell a property to someone other than the former owner, than the municipal officers or their designee shall notify the former owner(s) of the right to require the municipality to use the sale process as required per 36 M.R.S.A. section 943-C. under subsection 3. For the purpose of this section, "former owner" means the owner or owners of record at the time of foreclosure or, if deceased, the former owner's heirs, devisees or personal representatives and "tax acquired property" means real property taken by a municipality for nonpayment of property taxes. The notice must be sent by United States Postal Service certified mail, return receipt requested, and first-class mail to the last known address of the former owner. If the municipality agrees to sell the property back to the former owner, the alternative sale process under this section does not apply. If the sale to the former owner is not completed, the requirements of this section are reinstated.~~

- ~~1. Notification; appeal. At least 90 days prior to listing property for sale, the municipal officers or their designee shall send a written notice to the last known address of the former owner by United States Postal Service certified mail, return receipt requested, and first class mail, of the right to require the sale process described in subsection 2. The State Tax Assessor shall prepare application forms, notices and instructions that must be used by municipalities to inform former owners of their right to apply for the sale process provided under subsection 2.~~
- ~~2. Sale process requirements. If the former owner submits a written demand within 90 days after the notification in subsection 1 that the sale process of this subsection be used, the municipal officers or their designee shall:~~

- ~~a) List the property for sale with a real estate broker licensed under Title 32, chapter 114 who does not hold an elected or appointed office in the Town and is not employed by the Town; and~~
- ~~b) Sell the property via quitclaim deed to the successful buyer at the highest price at which the property is able to sell, or the price at which the property is anticipated by the real estate broker to sell within 6 months after listing; and-~~
- ~~c) Pay to the former owner any sale proceeds in excess of:

 - ~~1. The sum of all taxes owed on the property;~~
 - ~~2. Property taxes that would have been assessed on the property during the period following foreclosure when the property is owned by the Town;~~
 - ~~3. All accrued interest;~~
 - ~~4. Fees, including property listing and real estate broker's or agents fees; and~~
 - ~~5. Any other expenses incurred by the Town in selling or, maintaining or the property, including, but not limited to, an administrative fee equal to 10% of the property taxes owed and reasonable attorney's fees;~~
 - ~~6. The cost to the municipality of the lien and foreclosure process, including, but not limited to, reasonable attorney's fees; and~~
 - ~~7. Unpaid sewer, water or other utility charges and fees imposed by the municipality.~~~~

~~If the municipal officers are unable to list or sell the property under the requirements of paragraphs a and b, or if the property tax payer does not request that the property be sold according to the sale process in this subsection, the municipal officers may sell the property according to section 3.4, if the municipal officers pay the former owner any excess sale proceeds as calculated in paragraph c.~~

If, after 3 attempts, a municipality is unable to contract with a real estate broker or agent for the sale of the property as described or the broker or agent is unable to sell the property within 12 months after listing, the municipal officers may sell the property per section 3.5 and in any manner authorized by the municipality's legislative body.

- 3. ~~Quitclaim deed and Waiver of former owner. As a condition of disbursement of excess sale proceeds to the former owner under subsection 2, paragraph c, the municipal officers may require the former owner to execute a quitclaim deed without covenant conveying any interest of the former owner in the property to the municipality and to deliver that deed before conveyance by the municipality to the buyer. Receipt of such excess sale proceeds by the former owner is deemed to be a waiver of any right of the former owner to commence any action pursuant to section 946-B.~~

- 3.45 ~~If the Select Board chooses to sell a property that does not meet~~ sell the property as required in Section 3.34 above, then the tax acquired property may be disposed of through a public sale. The Board may offer the property to the person(s) leasing and living on the property, or may offer land to abutters prior to selling the property through public sale. The terms of such offer shall be at the discretion of the Select Board.
1. A public notice of an impending public sale of the tax-acquired property should be posted within the Town Office, on the Town's website and advertised in a newspaper generally used by the Town for legal advertisements.
 2. The Select Board shall set the minimum bid to include an administrative fee to cover the costs of property sale in addition to the accrued outstanding tax and lien cost, at a minimum.
 3. A certified cashier's check or postal money order, in an amount not less than ten percent (10%) of the bid price, must be included as a deposit on the bid. Failure to submit a deposit shall cause the bid to be automatically rejected.
 4. Bids must be made in an amount certain, conditional bids will not be accepted.
 5. The Select Board shall retain the right to accept or reject any and all bids submitted and shall cause the same disclaimer to be noted in any public notice soliciting bids in accordance with this policy. Should the Select Board reject all bids, the property may be offered again for public sale.
 6. Successful bidders must execute a Purchase and Sale Agreement substantially in the form provided by the Town within the Bid Package within 10 days of the Town's acceptance of their bid. If a successful bidder does not timely execute the Purchase and Sale Agreement within 10 days of being awarded the bid the Town shall retain the successful bidder's deposit check.
 7. Upon the identification of the successful bidders, other bidders may then elect to withdraw their bids by providing written notice of the withdrawal to the Town. Unsuccessful bidders who elect to withdraw and not continue their bids after the successful bidders have been identified shall receive back their deposit checks.
 8. If a successful bidder fails to timely execute the required Purchase and Sale Agreement, the Town may, in its discretion, award a bid to another qualified bidder who has not withdrawn his or her bid. New successful bidders shall execute the required Purchase and Sale Agreement within 10 days of the date of being awarded the bid or the Town will retain their deposit check.
 9. Upon transfer of property that is sold, the Town will return all remaining bid checks to unsuccessful bidders by mail to the address they included on their bid forms.

10. Conveyance of all properties will be by a quitclaim deed without covenants.
Transfers shall be subject to any and all encumbrances, other liens of record and tenancies or occupancies as of the date of the conveyance.

3.6 Payment of Proceeds. The Town shall pay the former owner excess sales proceeds as required per 36 M.R.S.A. section 943-C.

Adopted by the Bowdoinham Select Board on February 14, 2012 replacing the “Town of Bowdoinham 45 Day Property Redemption Policy” adopted on September 9, 1998.

Amended by the Bowdoinham Select Board on July 23, 2013.

Amended by the Bowdoinham Select Board on July 23, 2019.

Amended by the Bowdoinham Select Board on January 25, 2022.

Amended by the Bowdoinham Select Board on August 30, 2022.

Amended by the Bowdoinham Select Board on August 8, 2023.

Amended by the Bowdoinham Select Board on June 11, 2024.

Select Board
Town of Bowdoinham, Maine

Joanne Joy, Chair

Debra Smith, Vice-Chair

Witness to all:

Nicole Briand
Town Manager

Peter Feeney

Allen Acker

Mark Favreau

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 - B. The level of insurance required to protect the Town's interest in the property and to protect the Town from liability in the event that the property is retained; and
 - C. Whether the property is currently occupied and the likelihood of requiring legal assistance (and estimated costs of the same) to require the occupants to quit the premises.
- 2.4 In the event that a tax-acquired property remains or becomes vacant for 60 consecutive days following the date of foreclosure of the tax liens under which the Town becomes the owner of a property, the Town Manager shall obtain liability coverage for the property.

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- 3.3 Retention of tax-acquired property. If the Town chooses to retain a tax-acquired property for municipal use, the procedures of 36 M.R.S.A. section 943-C must be followed.
- 3.4 If the municipality chooses to sell a property to someone other than the former owner, -than the municipal officers or their designee shall use the sale process as required per 36 M.R.S.A. section 943-C.

If, after 3 attempts, a municipality is unable to contract with a real estate broker or agent for the sale of the property as described or the broker or agent is unable to sell the property within 12 months after listing, the municipal officers may sell the property per section 3.5 and in any manner authorized by the municipality's legislative body.

- 3.5 If the Select Board does not sell the property as required in Section 3.34 above, then the tax acquired property may be disposed of through a public sale. The Board may offer the property to the person(s) leasing and living on the property or may offer land to abutters prior to selling the property through public sale. The terms of such offer shall be at the discretion of the Select Board.
1. A public notice of an impending public sale of the tax-acquired property should be posted within the Town Office, on the Town's website and advertised in a newspaper generally used by the Town for legal advertisements.
 2. The Select Board shall set the minimum bid to include an administrative fee to cover the costs of property sale in addition to the accrued outstanding tax and lien cost, at a minimum.
 3. A certified cashier's check or postal money order, in an amount not less than ten percent (10%) of the bid price, must be included as a deposit on the bid. Failure to submit a deposit shall cause the bid to be automatically rejected.
 4. Bids must be made in an amount certain, conditional bids will not be accepted.
 5. The Select Board shall retain the right to accept or reject any and all bids submitted and shall cause the same disclaimer to be noted in any public notice soliciting bids in accordance with this policy. Should the Select Board reject all bids, the property may be offered again for public sale.
 6. Successful bidders must execute a Purchase and Sale Agreement substantially in the form provided by the Town within the Bid Package within 10 days of the Town's acceptance of their bid. If a successful bidder does not timely execute the Purchase and Sale Agreement within 10 days of being awarded the bid the Town shall retain the successful bidder's deposit check.
 7. Upon the identification of the successful bidders, other bidders may then elect to withdraw their bids by providing written notice of the withdrawal to the Town. Unsuccessful bidders who elect to withdraw and not continue their bids after the successful bidders have been identified shall receive back their deposit checks.
 8. If a successful bidder fails to timely execute the required Purchase and Sale Agreement, the Town may, in its discretion, award a bid to another qualified bidder who has not withdrawn his or her bid. New successful bidders shall execute the required Purchase and Sale

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Agreement within 10 days of the date of being awarded the bid or the Town will retain their deposit check.

9. Upon transfer of property that is sold, the Town will return all remaining bid checks to unsuccessful bidders by mail to the address they included on their bid forms.
10. Conveyance of all properties will be by a quitclaim deed without covenants. Transfers shall be subject to any and all encumbrances, other liens of record and tenancies or occupancies as of the date of the conveyance.

3.6 Payment of Proceeds. The Town shall pay the former owner excess sales proceeds as required per 36 M.R.S.A. section 943-C.

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STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

H.P. 1452 - L.D. 2262

**An Act to Amend the Process for the Sale of Foreclosed Properties Due to
Nonpayment of Taxes**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §4422, sub-§1, ¶C, as amended by PL 2021, c. 382, §2, is further amended to read:

C. That portion of the proceeds from any sale of property or any money returned to the former owner of property, pursuant to the provisions of Title 36, section 943-C, that is exempt under this section is exempt for a period of 12 months from the date of receipt of such proceeds for purposes of reinvesting in a residence within that period.

Sec. 2. 36 MRSA §943, 6th ¶, as amended by PL 2017, c. 288, Pt. A, §41, is further amended to read:

Beginning with taxes that are assessed after April 1, 1985, the notice of impending automatic foreclosure must be substantially in the following form:

STATE OF MAINE
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE
Title 36, M.R.S.A. Section 943

IMPORTANT: DO NOT DISREGARD
THIS NOTICE. YOU WILL LOSE
YOUR PROPERTY UNLESS YOU PAY
YOUR 20 PROPERTY TAXES,
INTEREST AND COSTS.

TO:

You are the party named on a tax lien certificate filed on _____, 20____, and recorded in Book _____, Page _____ in the County Registry of Deeds. This filing has created a tax lien mortgage on the real estate described therein.

On _____, 20____, the tax lien mortgage will be foreclosed and your right to recover your property by paying the taxes, interest and costs that are owed will expire.

IF THE TAX LIEN FORECLOSES,
THE MUNICIPALITY WILL OWN
YOUR PROPERTY AND MAY SELL IT
AND RETURN EXCESS SALE PROCEEDS
TO YOU, IF ANY, PURSUANT TO THE
MAINE REVISED STATUTES, TITLE 36, SECTION 943-C.

If you cannot pay the property taxes you owe please contact me to discuss this notice.

Municipal Treasurer

Sec. 3. 36 MRSA §943-C, as amended by PL 2023, c. 523, Pt. A, §8, is further amended to read:

§943-C. Sale of foreclosed properties

Notwithstanding any provision of law to the contrary, after the foreclosure process under sections 942 and 943 or sections 1281 and 1282 is completed and the right of redemption has expired, if a municipality chooses to sell to someone other than the former owner, the municipal officers or their designee shall ~~notify the former owner of the right to require the municipality to use the sale process under subsection 3.~~ For the purpose of this section, "former owner" means the owner or owners of record at the time of foreclosure or, if deceased, the former owner's heirs, devisees or personal representatives. ~~The notice must be sent by United States Postal Service certified mail, return receipt requested, and first-class mail to the last known address of the former owner and "tax-acquired property" means real property taken by a municipality for nonpayment of property taxes.~~ real property taken by a municipality for nonpayment of property taxes. If the municipality agrees to sell the property back to the former owner, the alternative sale process under this section does not apply. If the sale to the former owner is not completed, the requirements of this section are reinstated.

1-A. Subject property. This section governs the sale of all tax-acquired property through the tax lien mortgage foreclosure process under sections 942 and 943 or sections 1281 and 1282.

2. Notification; appeal. At least 90 days prior to listing property for sale, the municipal officers or their designee shall send a written notice to the last known address of the former owner, by United States Postal Service certified mail, return receipt requested, and first-class mail, of ~~the right to require the sale process described in subsection 3.~~ The State Tax Assessor shall prepare notices that must be used by municipalities to inform former owners of ~~their right to apply for the sale process provided under subsection 3.~~

3. Sale process requirements. ~~If the former owner submits a written demand within 90 days after the notification in subsection 2 that the sale process of this subsection be used~~ When selling a tax-acquired property, the municipal officers or their designee shall:

A. List the property for sale at the highest reasonable price at which the property is anticipated to sell with a real estate broker or agent licensed under Title 32, chapter 114 who does not hold an elected or appointed office in the municipality and is not employed by the municipality;

B. ~~Sell~~ Convey the property via quitclaim deed to the successful buyer at the highest price at which the property is able to sell, ~~or the price at which the property is anticipated by the real estate broker to sell~~ within 6 12 months after listing; and

C. Pay to the former owner any sale proceeds in excess of:

- (1) The sum of all taxes owed on the property;
- (2) ~~Property~~ The sum of all taxes that would have been assessed on the property during the period following foreclosure when the property is owned by the municipality;
- (3) All accrued interest;
- (4) Fees, including advertising, mailing, recording, property listing and real estate broker's or agent's fees, to the extent that those fees are not included in the broker or agent fee agreement;
- (5) Any other expenses incurred by the municipality in selling ~~or,~~ maintaining or improving the property, including, but not limited to, ~~an administrative fee equal to 10% of the property taxes owed~~ documented administrative costs and reasonable attorney's fees;
- (6) The cost to the municipality of the lien and foreclosure process, including, but not limited to, reasonable attorney's fees; and
- (7) Unpaid sewer, water or other utility charges and reasonable fees imposed by the municipality; and

D. Provide to the former owner a written accounting of the amount of excess sale proceeds itemizing any deductions made pursuant to paragraph C, subparagraphs (1) to (7) at the former owner's request.

~~If the municipal officers are unable to list or sell the property under the requirements of paragraphs A and B, or if the property tax payer does not request that the property be sold according to the sale process in this subsection, the municipal officers may sell the property in any manner authorized by the municipality's legislative body, if the municipal officers pay the former owner any excess sale proceeds as calculated in paragraph C.~~

4-A. Effect of inability to contract or sell property. If, after 3 attempts, a municipality is unable to contract with a real estate broker or agent for the sale of the property as described in subsection 3 or the broker or agent is unable to sell the property within 12 months after listing, the municipal officers may sell the property in any manner authorized by the municipality's legislative body, as long as the municipality pays the former owner any excess sale proceeds as calculated in subsection 3, paragraph C.

5. Property in the unorganized territory. With regard to the sale of property acquired by the State through tax lien foreclosure in the unorganized territory, the State Tax Assessor has the obligations of a municipality under this section.

~~6. Quitclaim deed and waiver~~ Waiver of former owner. ~~As a condition of disbursement of excess sale proceeds to the former owner under subsection 3, paragraph C, the municipal officers may require the former owner to execute a quitclaim deed without covenant conveying any interest of the former owner in the property to the municipality and to deliver that deed before conveyance by the municipality to the buyer. Receipt of~~

such excess sale proceeds by the former owner pursuant to this section is deemed to be a waiver of any right of the former owner to commence any action pursuant to section 946-B. Failure of a municipality to file the notice required by subsection 11 does not nullify or otherwise affect the validity of the waiver under this subsection. This subsection may not be construed to prevent the former owner from commencing an action for damages relating to the effective conveyance of excess sale proceeds or the amount of excess sale proceeds.

7. Retention of tax-acquired property. If a municipality chooses to retain a tax-acquired property for municipal use, the municipality shall procure an appraisal report from an appraiser licensed to provide real estate appraisals in this State showing the value of the tax-acquired property being retained. The appraiser may not hold an elected or appointed office in the municipality or be otherwise employed by the municipality. The municipal officers, after providing the notice required by subsection 8, shall pay the former owner any excess sale proceeds as calculated in subsection 3, paragraph C, substituting the value of the tax-acquired property as shown in the appraisal report, which must be prepared within 120 days before the time the excess sale proceeds are paid, for the selling price of the tax-acquired property.

8. Notice of intent to pay excess sale proceeds. If after the sale of a tax-acquired property there exist any excess sale proceeds as described in subsection 3, paragraph C, at least 30 days prior to disbursement of those excess sale proceeds to the former owner the municipal officers shall send written notice of the municipality's intent to pay the former owner the excess sale proceeds. The notice must be sent by first-class mail and certified mail, return receipt requested, to the last known address of the former owner and the last known address of each record holder of an interest in the tax-acquired property. This notice does not limit the right of a lienholder to pursue any claims to the excess sale proceeds against the former owner otherwise available by law.

9. Notice by publication. If the municipality is unable, after reasonable diligence, to locate the former owner of a tax-acquired property in order to send the notice required in subsection 8, the municipality, once a week for 3 consecutive weeks, shall place a notice in a newspaper of general circulation in the county in which the tax-acquired property is located. The notice must include the name of the former owner, a description of the tax-acquired property that was sold, the amount of the excess sale proceeds and the date by which the excess sale proceeds must be claimed.

10. Transfer of proceeds. If, after provision of notice under subsection 9, a former owner fails to claim the excess sale proceeds within 30 days of the final published notice, the municipality shall transfer the excess sale proceeds to the Unclaimed Property Fund under Title 33, section 2141.

11. Notice of payment of proceeds. A municipality, within 10 days of payment of any excess sale proceeds to the former owner under this section, shall record in the registry of deeds of the county or registry district where the tax-acquired property is located a notice signed by the municipal officers. The notice must include the name of the former owner to whom the excess sale proceeds were paid, the amount of the excess sale proceeds, the date on which the excess sale proceeds were paid to the former owner, a description of the tax-acquired property that was sold and a statement that receipt of the excess sale proceeds by the former owner is deemed to be a waiver of the former owner's right to commence any action challenging the taking pursuant to section 946-B.

The State Tax Assessor shall prescribe the form of the notice to be used by municipalities under this subsection.