



Town of Newcastle Tax-Acquired Property Policy

Policy:

It is the policy of the Town of Newcastle Maine (“Town”) to establish a procedure whereby real estate property acquired in accordance with 36 M.R.S. § 942 and 943, as amended, shall be managed, administered, and disposed of by the Town.

Management and Administration

Following statutory foreclosure of a tax lien mortgage, title to the real estate property automatically passes to the municipality. The management of this property rests exclusively with the Select Board, subject to the provisions of state statutes and local municipal ordinances and regulations.

The Select Board shall consider the following when disposing of tax-acquired property and tax-acquired mobile homes:

- A. The Select Board shall determine, by majority vote, whether a tax-acquired property is to be retained for municipal use, sold to the former owner, or disposed of in accordance with the provisions of this policy.
- B. The Town may obtain fire loss insurance for tax-acquired property in a dollar value not less than all outstanding taxes, liens, costs, and other attendant expenses.
- C. The Town may obtain general liability insurance coverage for the tax acquired property sixty (60) days following foreclosure.
- D. If the Town retains the tax-acquired property for municipal use, the municipal officers must procure an appraisal of the property. The appraiser must be licensed to provide appraisals in Maine and may not hold an elected or appointed office in, or otherwise be employed by, the municipality (§943-C (7)).

- E. The Town must calculate whether any excess sale proceeds exist using the appraised value (instead of sale price) and then must provide the notices otherwise required for post-sale distribution of proceeds. The appraisal must be prepared within 120 days before the distribution of excess proceeds, if any. The appraisal fee may be included in the calculation of excess proceeds. (§943-C (4, 8)).
- F. Calculation of the amount of excess sale proceeds to be returned to the former owner is equal to the amount of sales proceeds remaining after the municipality deducts the following amounts (36 M.R.S. §943-C(3)(c)):
1. All taxes owed on the property.
 2. Total property taxes that would have been assessed on the property after foreclosure while the property was owned by the municipality.
 3. All accrued interest.
 4. Fees, including advertising, mailing, recording, property listing and real estate agent's and broker'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, maintaining, or improving the property, including, but not limited to, documented administrative costs and reasonable attorney's fees.
 6. The municipality's lien and foreclosure process costs, including but not limited to, reasonable attorneys' fees.
 7. Unpaid sewer, water, or other utility charges and reasonable fees imposed by the municipality.
- G. In the event the property is to be retained by the town, then the occupants thereof should be evicted. If the property is to be returned to the prior owner or sold, eviction should be avoided.

Disposition of Tax-Acquired Property

- A. Effective August 9, 2024, working within the 90-day notice of impending foreclosure required by 36 M.R.S. §943 must be revised to say: "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.”

- B. Within seven (7) days following the date of foreclosure, the Treasurer shall provide the Select Board with an inventory of all tax-acquired property. The inventory shall include all tax-acquired real estate property from prior years in which the municipality continues to retain an interest.

Following receipt of the inventory list from the Treasurer, the municipal officers may offer the property for sale to the immediate prior owner for all past due taxes, accrued interest and costs, and a \$75.00 cost to cover administrative costs associated with the tax lien foreclosure process. Following acceptance of payment in full, the municipality shall deliver a municipal quitclaim deed without covenants to the immediate prior owner releasing the municipality’s interest in the property. If property is sold to the former owner, the sale procedures and notices required in 36 M.R.S. §943-C do not apply.

- C. If the real estate property is not sold to the former owner(s), a pre-sale notice must be issued 90-days prior to listing property for sale the municipal officers must send a written notice, (a Maine Revenue Service form should be used to provide the notice), to the last known address of the former owner(s) by U.S. Postal Service certified mail, return receipt requested and by first-class mail, notifying the former owner(s) of the sale process required by 36 M.R.S. §943-C.
- D. The municipal officers must list the property for sale with a real estate agent or broker licensed in Maine, at the highest reasonable price at which the property is anticipated to sell. Licensed real estate agents or brokers may not hold an elected or appointed office in the municipality nor be employed by the municipality. The municipality must allow at least 12 months after listing for the property to sell.
- E. If the municipal officers are unable to list the property with a real estate agent or broker (after three tries) or to sell the property within 12 months after listing with an agent or broker, the municipal officers may proceed to sell the property

as otherwise allowed, provided that the former owner must still receive any excess sale proceeds.

- F. If the property is to be sold, and unable to be listed with a real estate agent or broker, then the municipal officers shall cause a public notice of an impending public sale of tax-acquired property to be posted and advertised for two (2) successive weeks in the newspaper(s) generally used by the towns for legal advertisements. A bid package shall be prepared by the Treasurer describing in detail the subject property, bid requirements and a bid form. The municipal officers shall require the following for proper submission:
 - 1. A bid sheet containing the bid price in United States currency and proposed use of the property.
 - 2. That all bids be received by the town office in a sealed envelope clearly marked “**Tax-Acquired Property Bid.**”
- G. The Town 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 chapter. Bids received from delinquent taxpayers of Newcastle shall be rejected. Should the Town reject all bids, the property may be offered again for public sale without notice.
- H. The Town shall notify, via mail, any successful bidder.
- I. The Town shall require payment in full from any successful bidder within thirty (30) calendar days following the date when bids are opened, read, and accepted. Should the bidder fail to pay the full balance, the municipality may offer the property to the next bidder or restart the sale process, whichever is in the best interest of the Town.
- J. The Town shall issue only a quitclaim deed without covenants to convey title to tax-acquired property.
- K. If excess proceeds exist, at least 30 days before the Treasurer distributes the proceeds to the former owner(s), the Town must provide notice of the

proceeds to (1) the former owner(s), and (2) any recorded holder of interest in the property. Notice must be sent by first class mail and certified mail, return receipt requested. The former owner(s) may request a written accounting of the amount of excess sale proceeds, and an itemization of any deductions allowed in 36 M.R.S. §943-C(3)(c).

- L. If the former owner(s) cannot, after reasonable diligence, be located in order for the Town to send the written notice of intent to distribute proceeds, the Town may publish notice once a week for three (3) consecutive weeks in a newspaper of general circulation in the county. The published notice must contain the name of the former owner, a description of the property, the amount of excess proceeds, and the date by which the proceeds must be claimed. If the owner fails to claim the excess proceeds within 30 days after the final notice is published, the proceeds must be transferred to the Unclaimed Property Fund in the State Treasurer's office.
- M. Within 10 days after distributing excess proceeds are paid to a former owner, the municipality must record a notice in the county registry of deeds documenting its compliance with the law (36 M.R.S. §943-C (11)). A template of the recorded notice shall be provided by the Maine Revenue Service. The notice will contain name of former owner(s) to whom excess proceeds paid; the amount of excess proceeds; the date proceeds were paid to the former owner, or State Treasurer; a description of property, and a statement that the former owner's receipt of excess proceeds is deemed to be a waiver of the former owner's right to commence a challenge to the foreclosure pursuant to 36 M.R.S. §946-B. The municipality may include the names of those with a recorded interest in the property and the date that the notice of intent to distribute proceeds was sent to those parties.

Date of Adoption: 8/26/2024

Karen Paz
Chair

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Tor Glendinning
Vice Chair

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Thomas Kostenbader

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Rufus Percy

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Ben Frey

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Legislative History

08-26-2024 - Originally enacted.