

SENATE No. 1722

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting homeowners from unfair tax lien practices by cities and towns.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>

SENATE No. 1722

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1722) of Mark C. Montigny, Mike Connolly, Mary S. Keefe and Jack Patrick Lewis for legislation to protect homeowners from unfair tax lien practices by cities and towns. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act protecting homeowners from unfair tax lien practices by cities and towns.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 60 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by adding the following paragraph:-

3 The filing fees paid by any municipality for recording any documents pursuant to this
4 chapter shall be \$30.

5 SECTION 2. Subsection (c) of section 2C of said chapter 60, as so appearing, is hereby
6 amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

7 (1) The sale of tax receivables shall be by public sale to the most responsible and
8 responsive offeror taking into consideration the following evaluation criteria: (i) the price
9 proposed by the offeror; (ii) the offeror’s qualifications and experience; (iii) the offeror’s plan for
10 communicating with the taxpayers; (iv) whether the offeror has a regular place of business in the
11 commonwealth; (v) whether the offeror is in good standing with the department of revenue; (vi)
12 only those offerors that are licensed as debt collectors by the commonwealth shall be eligible to

13 participate in this sale; and (vii) other criteria determined by the commissioner and the
14 municipality. The sale shall provide for the option to purchase subsequent tax receivables subject
15 to subsection (h) and any regulations that may be promulgated by the commissioner pursuant
16 thereto.

17 SECTION 3. Said subsection (c) of said subsection 2C of said chapter 60, as so
18 appearing, is hereby further amended by striking out paragraph (9) and inserting in place thereof
19 the following paragraph:-

20 (9) A purchaser owning any tax receivable (“tax purchaser”) shall give notice to a
21 taxpayer within 12 business days of purchasing said tax receivable and to the appropriate
22 municipality of the name, address, telephone number and preferred method of communication
23 with said purchaser and any service agent acting on behalf of said purchaser within 12 business
24 days of purchasing said tax receivable and where the land is residential such notice shall be
25 served in the manner required by law for the service of subpoenas on witnesses in civil cases and
26 shall include a uniform notice approved by the attorney general, in language understandable by a
27 least sophisticated consumer, together with a notice in the 5 most common languages in the
28 commonwealth that this notice affects important legal rights and should be translated
29 immediately and such notice shall state:

30 (i) that a complaint to foreclose the tax title may be filed on or after a specific date;

31 (ii) that the tax title has been sold to a third party;

32 (iii) why the property was taken and that the owner may redeem the property and the date
33 when the redemption period expires;

34 (iv) the components of the amount required to redeem the property and the procedure for
35 redemption;

36 (v) that if a complaint to foreclose the tax title is filed and the owner does not respond by
37 filing an answer the court may enter an order defaulting the order;

38 (vi) that if a complaint to foreclose the tax title is filed, the owner may respond by filing
39 an answer that requests that the court set the terms by which the owner may redeem the property;

40 (vii) that if the property is not redeemed, the town or purchaser is entitled to receive an
41 order from the land court that completes a transfer of ownership of the property to the town or
42 said purchaser and permanently eliminates any rights the owner has in the property;

43 (viii) that if the property is not redeemed, the property may be sold at auction and the
44 owner may lose significant equity in the property, together with the name, address, telephone
45 number and preferred method of communication with said purchaser and any service agent
46 acting on behalf of said purchaser; and

47 (ix) that upon request by the taxpayer, the municipality shall furnish a copy of such
48 information to the taxpayer within 12 business days of receiving such request.

49 Whenever the purchaser or the service agent of such tax receivables shall change, the
50 new purchaser or service agent shall provide the notice required herein within 12 business days
51 of the effective date of such change.

52 SECTION 4. Said section 2C of said chapter 60, as so appearing, is hereby further
53 amended by adding the following subsection:-

54 (k) If the purchaser of a tax receivable on any parcel of real estate subsequently
55 forecloses upon the property, it shall request that the land court approve all reasonable expenses
56 it has incurred and shall provide a notice to the former owner of the right to redeem for this
57 amount within 1 year. If the land is residential such notice shall be served in the manner
58 required by law for the service of subpoenas on witnesses in civil cases and shall include a
59 uniform notice approved by the attorney general, in language understandable by a least
60 sophisticated consumer, together with a notice in the 5 most common languages in the
61 commonwealth that this notice affects important legal rights and should be translated
62 immediately and such notice shall state the following:- (i) that the land has been foreclosed upon
63 and may be redeemed for a specific amount by a date certain that shall be listed, and shall attach
64 all documents filed at land court related to the foreclosure of the property and (ii) that if it is not
65 redeemed it will be sold at public auction.

66 If the land is redeemed, the foreclosing entity shall take whatever action is necessary to
67 vacate and rescind the foreclosure in land court and record that the title has been redeemed by
68 filing a document at the registry of deeds for the district in which the land lies entitled
69 “Satisfaction of Tax Title Liability.”

70 If the land is not redeemed within 1 year, then the foreclosing entity shall publish a notice
71 of auction of the land in each of 3 successive weeks, the first publication of which shall be not
72 less than 21 days before the day of sale, in a newspaper published in the city or town where the
73 land lies or in a newspaper with general circulation in the city or town where the land lies and
74 notice of the sale has been sent by at least 14 days prior to the date of sale by registered mail to
75 the owner or owners of record of the last deed prior to the tax taking, to the address set forth in
76 section 61 of chapter 185, if the land is then registered, or in the case of unregistered land, to the

77 address of the owner or owners as given on the deed or on the petition for probate by which the
78 owner or owners acquired title, if any, or if in either case no owner appears, then mailed by
79 registered mail to the address which the tax collector last sent the tax bill for the premises
80 scheduled to be sold.

81 If the tax purchaser sells the land at auction, the balance of any proceeds above and
82 beyond reasonable expenses as approved by the land court shall be disbursed to the homeowner.
83 A detailed accounting of these expenses will be provided by the tax purchaser within 60 days of
84 such sale.

85 SECTION 5. Section 16 of said chapter 60, as so appearing, is hereby amended by
86 striking out, in lines 2 to 3, inclusive, the words “or arresting him for his tax”.

87 SECTION 6. Said section 16 of said chapter 60, as so appearing, is hereby further
88 amended by striking out the seventh sentence and inserting in place thereof the following
89 sentence:- Demand shall be made by the collector by mailing the same to the last or usual place
90 of business or abode, or to the address best known to him or her, and failure to receive the same
91 shall not invalidate a tax or any proceedings for the enforcement or collection of the same;
92 provided, that if the land is residential a uniform notice approved by the attorney general, in
93 language understandable by a least sophisticated consumer, together with a notice in the 5 most
94 common languages in the commonwealth shall be used that states that this notice affects
95 important legal rights and should be translated immediately, and provides clear notice that the
96 non-payment of property taxes can result in the taking of the property and that the property
97 owner may be eligible for exemptions, abatements and tax deferrals and other assistance and

98 should contact the collector of taxes office together with the address, telephone number, email
99 address, if available, and internet address for further information.

100 SECTION 7. Said chapter 60 is hereby further amended by striking out section 52 and
101 inserting in place thereof the following section:-

102 Section 52. Cities and towns may make regulations for the possession, management and
103 sale of land purchased or taken for taxes, not inconsistent with law, regulations promulgated by
104 the department of revenue or the right of redemption. The treasurer of any city or town holding 1
105 or more tax titles may assign and transfer such tax title or titles, individually or bundled, to the
106 highest bidder after a public auction, after having given 60 days' notice of the time and place of
107 such public auction by publication, which shall conform to the requirements of section 40, and
108 having posted such notice in 2 or more convenient and public places in said city or town,
109 provided that the sum so paid for such assignment is not less than the amount necessary for
110 redemption, and may execute and deliver on behalf of the city or town any instrument necessary
111 therefor. Only those bidders that are licensed as debt collectors by the commonwealth shall be
112 eligible to participate in this sale. Regardless of whether the assignment is pursuant to this
113 section or section 2C, the treasurer shall send notice of the intended assignment to the owner of
114 record of each parcel at his or her last known address not less than 10 days prior to the
115 assignment, where the land is residential such notice shall be served in the manner required by
116 law for the service of subpoenas on witnesses in civil cases and shall include a uniform notice
117 approved by the attorney general, together with a notice in the 5 most common languages in the
118 commonwealth that this notice affects important legal rights and should be translated
119 immediately in language understandable by a recipient with a least sophisticated consumer that
120 the treasurer intends to sell the tax title to the homeowner's property and provides clear notice

121 that the non-payment of property taxes can result in the loss of the property and that the property
122 owner may be eligible for exemptions, abatements and tax deferrals and other assistance and
123 should contact the collector of taxes office together with the telephone number, email address, if
124 available, and internet address for further information.

125 The instrument of assignment shall be in a form approved by the commissioner and shall
126 be recorded within 60 days from its date and if so recorded shall provide a rebuttable
127 presumption as to all facts essential to its validity. The instrument of assignment shall, for each
128 parcel assigned thereunder, state the amount for which the tax title on the parcel could have been
129 redeemed on the date of the assignment, separately stating for each parcel the principal amount
130 and the total interest accrued until the date of assignment. The principal amount shall be the sum
131 of the amounts for which the parcel was taken and amounts subsequently certified under section
132 61 and costs of service if applicable.

133 Except as hereinafter otherwise provided, all provisions of law applicable in cases where
134 the original purchaser at a tax sale is another than the city or town shall thereafter apply in the
135 case of such an assignment, as if the assignee had been a purchaser for the original sum at the
136 original sale or at a sale made at the time of the taking and had paid to the city or town the
137 subsequent taxes and charges included in the sum paid for the assignment. Any extension of the
138 time within which foreclosure proceedings may not be instituted granted by a municipality's
139 treasurer prior to assignment shall be included in the language of sale and be binding upon the
140 assignee. If the land is not redeemed within 1 year, then the foreclosing entity shall publish a
141 notice of auction of the land in each of 3 successive weeks, the first publication of which shall be
142 not less than 21 days before the day of sale, in a newspaper published in the city or town where
143 the land lies or in a newspaper with general circulation in the city or town where the land lies and

144 notice of the sale has been sent by registered mail to the owner or owners of record. If the
145 purchaser sells the land at auction, the balance of any proceeds above and beyond reasonable
146 expenses as approved by the land court shall be equally divided between the owner and the
147 municipality that sold the tax title with a detailed accounting of these expenses within 60 days of
148 such sale.

149 If the land is redeemed, the foreclosing entity shall take whatever action is necessary to
150 vacate and rescind the foreclosure in land court and record that the title has been redeemed by
151 filing a document at the county registry of deeds entitled "Satisfaction of Tax Title Liability".

152 SECTION 8. Section 53 of said chapter 60, as so appearing, is hereby amended by
153 inserting after the word "published," , in line 4, inclusive, the following words:- where the land is
154 residential such notice shall be served in the manner required by law for the service of subpoenas
155 on witnesses in civil cases and published.

156 SECTION 9. Said section 53 of said chapter 60, as so appearing, is hereby further
157 amended by adding the following paragraph:-

158 Where the land is residential all notices sent pursuant to this section shall include a
159 uniform notice approved by the attorney general, together with a notice in the five most
160 common languages in the commonwealth that this notice affects important legal rights and
161 should be translated immediately. Such notice shall state in language understandable by a least
162 sophisticated consumer:

163 (i)That a complaint to foreclose the tax title may be filed on or after a specific date;

164 (ii)That the tax title may be sold to a third party;

165 (iii)Why the property was taken and that the owner may redeem the property and the date
166 when the redemption period expires;

167 (iv)The components of the amount required to redeem the property and the procedure for
168 redemption;

169 (v)That if a complaint to foreclose the tax title is filed and the owner does not respond by
170 filing an answer the court may enter an order defaulting the order;

171 (vi)That if a complaint to foreclose the tax title is filed, the owner may respond by filing
172 an answer that requests that the court set the terms by which the owner may redeem the property;

173 (vii)That if the property is not redeemed, the town or purchaser is entitled to receive an
174 order from the land court that completes a transfer of ownership of the property to the town or
175 purchaser and permanently eliminates any rights the owner has in the property; and

176 (viii)That if the property is not redeemed, the property may be sold at auction and the
177 owner may lose significant equity in the property.

178 SECTION 10. Said chapter 60 is hereby further amended by striking out subsection 62A
179 and inserting in place thereof the following section:-

180 Section 62A. Municipalities may by bylaw or ordinance authorize payment agreements
181 between the treasurer and persons entitled to redeem parcels in tax title. Such agreements shall
182 be for a maximum term of no more than 10 years and may waive not more than 50 per cent of
183 the interest that has accrued on the amount of the tax title account unless someone aged 60 or
184 older or whose primary source of income is disability benefits is on the deed for the parcel and
185 the parcel is his or her primary residence, in which case 75 per cent of the interest that has

186 accrued on the amount of the tax title may be waived, subject to such lower limit as the
187 ordinance or bylaw may specify. An ordinance or bylaw under this section shall provide for such
188 agreements and waivers uniformly for classes of tax titles defined in the ordinance or bylaw. Any
189 such agreement must require a minimum payment at the inception of the agreement of 25 per
190 cent of the amount needed to redeem the parcel unless someone aged 60 or older or whose
191 primary source of income is disability benefits is on the deed for the parcel and the parcel is his
192 or her primary residence, in which case the minimum payment shall be no less than 10 per cent
193 of the amount needed to redeem the parcel of the interest that has accrued on the amount of the
194 tax title may be waived, subject to such lower limit as the ordinance or bylaw may specify.
195 During the term of the agreement the treasurer may not bring an action to foreclose the tax title
196 unless payments are not made in accordance with the schedule set out in the agreement or timely
197 payments are not made on other amounts due to the municipality that are a lien on the same
198 parcel.

199 SECTION 11. Said chapter 60 is hereby further amended by striking out section 64 and
200 inserting in place thereof the following section:-

201 Section 64. The title conveyed by a tax collector's deed or by a taking of land for taxes
202 shall be absolute after foreclosure of the right of redemption by decree of the land court as
203 provided in this chapter. The land court shall have exclusive jurisdiction of the foreclosure of all
204 rights of redemption from titles conveyed by a tax collector's deed or a taking of land for taxes,
205 in a proceeding provided for in sections 65 to 75, inclusive. Except if the title was conveyed to a
206 third party pursuant to section 2C or 52 then the title may be redeemed within 1 year of the
207 foreclosure.

208 SECTION 12. Section 65 of said chapter 60, as so appearing, is hereby amended by
209 striking out, in line 4, the words “after six months,” and inserting in place thereof the following
210 words:- after 12 months.