

Massachusetts legislation to reform state law to prevent unjust deprivation from homeowners

“Legislation to protect Massachusetts homeowners from unjust home equity theft practices by private, for-profit corporations has been refiled.

The bill seeks to prevent foreclosures on municipal tax liens which result in a homeowner losing 100 percent of their earned equity. Municipalities currently sell tax liens to private companies who then seek to recoup the outstanding debt, plus exorbitant fees, or pursue foreclosure through land court. In several instances, Massachusetts homeowners have lost their residence and the entirety of their earned equity.

The practice has been dubbed “legal larceny” by legal experts and public interest law firms because it robs a property owner of their rightful equity through antiquated state law and land court practices. Only a few states, including Massachusetts, allow cities and towns to take the entire value of a property even when the unpaid tax bill is for a much lower amount.

In August 2022, New Bedford resident Deborah Foss settled a lawsuit against Tallage Davis LLC after losing all of the equity in her home. Foss was unfairly deprived of over \$100,000 in equity due to a tax lien worth one tenth of that amount. Pacific Legal Foundation, a public interest law firm, took up her case in an attempt to have the statute declared an unconstitutional government taking without compensation. Foss settled the case to receive urgently needed funds. Two similar cases are currently pending before the U.S. Supreme Court.

SD2129 An Act protecting homeowners from unfair tax lien

practices by cities and towns will eliminate a municipality's ability to take a property owner's earned equity beyond what is owed in unpaid taxes. This would also apply to private companies that buy the tax liens from cities and towns. Additionally, the legislation ensures that homeowners behind on their tax bill will receive written notice in easy-to-understand language that they have an outstanding tax debt, how to settle the debt, and the consequences for failing to address the matter. Currently, homeowners receive notices filled with legalese that is difficult to understand without an attorney.

"Permitting private, profit-driven companies to prey upon the misfortunes of homeowners, robbing them of every cent of their equity, is unconscionable," said Senator Mark Montigny. "What happened to Deborah Foss in New Bedford and others across Massachusetts is simply wrong. Homeowners must be provided with enhanced protections so that their residences are not stolen under the guise of a bureaucratic process, and that they have every opportunity to settle their debt. Pushing out senior citizens, people with disabilities, and those facing tremendous personal challenges is atrocious. Local officials who have allowed this should reverse their decision and provide restitution to anyone who suffered from this predatory practice. Prospectively, I hope my bill to protect homeowners will be expedited through the legislative process and signed by the Governor so that we can put an end to this shameless profiteering."

The bill can be accessed on the General Court's website: <https://malegislature.gov/Bills/193/SD2129>."