

LEGISLATIVE CHANGES TO TAX TITLE INTEREST RATE  
UNDER M.G.L. CHAPTER 60;  
EFFECT OF LAND COURT DECISION IN  
*LEOMINSTER V. CORBETT*, 22 TL 000447; AND  
UNCLAIMED EXCESS EQUITY

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# Tyler v. Hennepin County, 598 U.S. 631 (2023)

- Taking Without Just Compensation - 5<sup>th</sup> Amendment
  - The taxpayer “must render unto Caesar what is Caesar’s, but no more.”
- Excessive Fines - 8<sup>th</sup> Amendment (Concurrence)
  - The loss of property serves as a deterrent to tax delinquents;
  - Such penalties “are fines by any other name” and they cannot be excessive under the Constitution.
- Result: Struck down Minnesota law that allowed taking of Plaintiff’s property without opportunity to claim compensation for loss of equity above delinquent taxes.
- Did not specify alternative framework for states to adopt

# Legislation Enacted in Response to Tyler

- Chapter 140 of the Acts of 2024 modified various aspects of Chapter 60;
  - Demands - G.L. c. 60, § 16
  - Pre-Assignment Notices - G.L. c. 60 § 52
  - Pre-Taking Notices - G.L. c. 60, § 53
  - Post-Receiveable Sale Notices - c. 60, § 2C
  - Tax Title Interest Rate - G.L. c. 60, § 62
  - Payment Plans - G.L. c. 60, § 62A
  - Delay in Land Court Filing - G.L. c. 60, § 65
  - Vacation of Judgments - G.L. c. 60, § 69A
  - Excess Equity - New Section 64A

# Legislation Enacted in Response to Tyler

- Chapter 140 of the Acts of 2024 modified various aspects of Chapter 60:
  - Tax Title Interest Rate - G.L. c. 60, § 62
  - Excess Equity - New Section 64A
    - Chapter 60, § 64(e) - unclaimed excess equity

# Real Estate Tax Interest Rates

- Ch. 59, § 57 - Pre-taking Interest Rate: 14%
- Ch. 60, § 62 - Tax Title Interest Rate: Now 8% (reduced from 16%)
- Ch. 60, § 68 - Post-Land Court Interest Rate: 16%
- Ch. 60, § 61 - Subsequent Taxes?

# DOR Guidance

- Indicated that interest rate change is prospective and only effects tax title accounts created on or after effective date of act. See BUL-2024-6.
- “[T]he reduced interest rate is only applicable for tax titles entered into on or after the effective date of this section of the Act, which is November 1, 2024. Any property already in tax title before November 1, 2024 will continue to accrue interest at a rate of 16%.”

# *Leominster v. Corbett*, Land Court Case No. 22 TL 000447, April 3, 2025

- “[T]o calculate the redemption amount, the court applies the interest rate of § 62, as amended, up until the filing of the foreclosure petition.
- After the foreclosure petition is filed, the court calculates the redemption amount for the period from the filing of the petition until the date of the finding using the interest rate under § 68 only.
- Under § 68, interest on the original sum accrues at a rate of sixteen percent starting from the filing of the foreclosure petition, while the interest on subsequent taxes and costs, continues to accrue at the rate set forth in § 62 and incorporated into § 68.
- The interest rate under § 62, is of course, sixteen percent up until October 31, 2024, and eight percent beginning November 1, 2024...”

## *Leominster v. Corbett (cont'd)*

- Further, “The eight percent interest rate in § 62 shall apply prospectively from the effective date of the amendment, November 1, 2024, to all pending and new tax takings; the sixteen percent interest rate in § 62 before the amendment shall apply through October 31, 2024.
- From the date of the filing of the tax foreclosure action, the sixteen percent interest rate in § 68 applies on the original sum, costs, and interest, while the applicable rate in § 62 applies to all subsequent taxes, cost and interest.”

## Land Court Memo dated April 18, 2025

Prior to Finding hearing, Plaintiffs must file updated principal and interest balance of the tax title account, setting forth:

- 1) The original sum of the tax taking (which includes original costs); plus
- 2) Interest accruing on the original sum, from the date of the tax taking until the day before the complaint to foreclose the right of redemption was filed, at the rate of 16% per annum pursuant to G.L. c. 60, § 62; plus
- 3) Interest accruing on the original sum, from the date the complaint to foreclose the right of redemption was filed through the date of finding, at the rate of 16% per annum pursuant to G.L. c. 60, § 68; plus
- 4) Subsequent taxes certified to the tax title account pursuant to G.L. c. 60, § 61; plus
- 5) Subsequent costs added to the tax title account; plus
- 6) Interest accruing on the subsequent sum (subsequent taxes plus subsequent costs), from the date of certification by the collector to the treasurer until October 31, 2024, at the rate of 16% per annum pursuant to G.L. c. 60, § 62; plus
- 7) Interest accruing on the subsequent sum, from November 1, 2024, through the date of finding, at the rate of 8% per annum pursuant to G.L. c. 60, § 62.

# What's Next?

- Possible appellate challenge
- Possible legislative changes
  - SB2575, Section 87: “sections 62 and 65 of chapter 60 of the General Laws as amended by sections 88 and 94 of chapter 140 of the acts of 2024 and section 24 shall only apply to land purchased or taken under a tax title on or after November 1, 2024.”
  - New Section 24 (ref. above) reduces G.L. Ch. 60, § 68 Interest Rate to 8%

# Additional Pending Legislation

- HB3205 & SB1929: Amends Section 62 by striking out the figure 8 and replacing it with the following:- “16 per cent for land taken or sold prior to November 1, 2024, and at 8 per cent for land taken or sold on or after November 1, 2024.”
  - Both bills referred to the Joint Committee on Revenue

## Unclaimed Excess Equity

Ch. 60, § 64A(e) provides:

- Excess equity shall be held in escrow by the judgment holder in a segregated interest-bearing account, in which all excess equity funds from all foreclosures are deposited and separately accounted for on the books and records of the municipality. Excess equity that has not been claimed within 19 months of a sale or appraisal of a property shall be disposed of pursuant to chapter 200A.

# Chapter 200A - Disposition Of Unclaimed Property

## Section 9A: Disposition of abandoned funds by city or town

- ▶ Local acceptance
- ▶ (b) Any funds held may be presumed to be abandoned unless claimed within 1 year after the date prescribed for payment or delivery
- ▶ (c) Requires posting of a notice specifying the names of persons who appear to be entitled to the funds, a description of the method for claiming the funds and a deadline for doing so (not less than 60 days after the date the notice was either postmarked or first posted); the treasurer may 'post' the notice: (1) by first class mail, postage prepaid, to the last known; or (2) by posting the notice conspicuously on the website for not less than 60 days.

## Chapter 200A, § 9A (cont'd)

- (d) In the event that the funds are \$100 or more and the deadline as provided in the notice has passed and no claim has been made, the treasurer must publish the notice in a newspaper of general circulation in the county in which the city, town or district is located;

The notice shall provide an extended deadline of at least 1 year from the date of publication of the notice.

- (e) Once the final deadline has passed under subsection (d), the funds owed shall escheat to the city, town or district and the treasurer thereof shall record the funds as revenue in the General Fund of the city, town or district;

The municipality shall not be liable for payment of those funds or for the underlying liability for which the funds were originally intended.

## Chapter 200A, § 9A (cont'd)

- Contains hearing procedure for claims;
- Requires written indemnification agreement upon disbursement of funds;
- Claimants may appeal adverse decisions to the district, municipal or superior court

## Questions?

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