

36 MRSA § 4641-B

Sec. A-1. 36 MRSA §4641-B, sub-§6 is amended to read:

6. Transfer of tax on deeds of foreclosure or in lieu of foreclosure. Notwithstanding subsection 4-B, the State Tax Assessor shall monthly pay to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection the revenues derived from the tax imposed on the transfer of real property by section 4641-C, subsection 2, paragraphs A and C by deeds that convey real property back to a lender holding a bona fide mortgage that is genuinely in default, either by deeds from a mortgagor to a mortgagee in lieu of foreclosure or by deeds from a mortgagee to itself at a public sale pursuant to Title 14, section 6323.

Sec. A-2. 36 MRSA §4641-B, sub-§7 is enacted to read:

7. Assignment of rights in or connected with foreclosed real property. A person assigning rights in or connected with title to foreclosed real property for which a deed is not given, including rights as high bidder at the public sale pursuant to Title 14, section 6323, shall report the assignment to the register of deeds in the county or counties in which the real property is located within 30 days of the assignment on a return in the form of an affidavit furnished by the State Tax Assessor. Tax shall be collected in the same manner as in subsection 1 as if the assignment were a transfer of real property by deed. The return must be signed by both the transferor and the transferee and accompanied by payment of the tax due. When the real property is located in more than one county, the tax must be divided among the counties in the same proportion in which the real property is distributed among the counties. Disputes between 2 or more counties as to the proper amount of tax due to them as a result of a particular transaction must be decided by the State Tax Assessor upon the written petition of an official authorized to act on behalf of any such county. This subsection shall apply to assignments made during the time between the judgment of foreclosure and the transfer of the foreclosed real property by deed.

Sec. A-3. 36 MRSA §4641-C, sub-§2 is repealed and the following enacted in its place:

2. Mortgage deeds. Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds.

A. For the purposes of this subsection, only the mortgagor is exempt from the tax imposed for a deed in lieu of foreclosure.

B. In the event of a transfer, by deed, assignment or otherwise to a 3rd party at a public sale held pursuant to Title 14, section 6323, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of sale that exceeds the sums required

to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds.

C. In the event of a transfer, by deed, assignment or otherwise, from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the mortgagee or its servicer if the servicer is the selling entity is considered to be both the grantor and grantee for purposes of section 4641-A.

D. In the event of a deed in lieu of foreclosure and a deed from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the tax applies to the value of the property as that term is defined in section 4641, subsection 3.

For the purposes of this subsection, "servicer" means a person or entity that acts on behalf of the owner of a mortgage debt to provide services related to the mortgage debt, including accepting and crediting payments from the mortgagor, issuing statements and notices to the mortgagor, enforcing rights of the owner of a mortgage debt and initiating and pursuing foreclosure actions;