

Minnesota's Tax Forfeiture System

Minnesota tax laws provide mechanisms for collecting past-due/unpaid property taxes, as well as providing for relief mechanisms for financial hardship. County governments are given the responsibility of managing the tax forfeiture process on behalf of all local governments along with the state.

When a tax forfeiture occurs, the property is transferred to the state to be held in trust for local taxing districts. Counties are required to manage these properties—which is often costly, especially for contaminated or unsafe properties—and return them to productive use. In cases where properties are sold back into private ownership, state statute dictates what must be done with the proceeds, including apportionment to local taxing districts.



Impact of U.S. Supreme Court Ruling

In spring 2023, the U.S. Supreme Court ruled that Minnesota's tax forfeiture system was unconstitutional because revenue from tax-forfeited sales in excess of the total tax debt owed was not returned to the property owner, violating the *Takings Clause* of the U.S. Constitution's Fifth Amendment.

While there are sales of tax-forfeited property that yield excess/net value, many tax-forfeited properties result in excessive, publicly-funded costs to manage and clean up the property on top of net uncollected taxes. The Court's decision is expected to increase costs to manage these properties according to state law and should not be borne by local taxpayers. Counties remain increasingly concerned that the ability for local government to fund these state obligations will be severely impacted and delayed if the state does not identify a new foreclosure process along with a mechanism to assist counties in funding property clean-up and eliminating unsafe conditions that can negatively impact communities.

For decades, Northern counties have maintained over \$2.8 million acres of tax-forfeited property. These lands serve the timber and mining industry while providing recreation and environmental benefits. Protection of this land is critical.



Minnesota Must Respond

The Legislature must revise state tax forfeiture laws to comply with the U.S. Supreme Court ruling.

Minnesota should create a new process that provides homeowners with ample opportunities to remain in their homes while also affording local governments flexibility to respond and pay for blighted and unsafe conditions.

This process must address the ability to return equity in situations where sales result in value greater than costs and taxes owed or where the government opts to hold the property.

This process must protect the legacy land base held by northern counties for the benefit of the state.

The state should also support a settlement with claimants with a responsible window for past claims and a clear, efficient timeline to file for absolution.

This one-time, state-funded settlement process should be part of any forfeiture revision legislation and be paid for by the state.

April 8, 2024

Chair Hansen and Members of the House Environment and Natural Resources Finance and Policy Committee:

Thank you for the opportunity to submit written testimony on Rep. Feist's HF 4822, modifying distribution of excess proceeds from sales of tax-forfeited property.

Minnesota Realtors® (MNR) was founded in 1919 and is a business trade association with a membership of over 21,000 real estate professionals statewide active in all aspects of the real estate transaction.

In *Tyler v. Hennepin County*, an elderly homeowner lost her condominium to foreclosure and alleged that the county violated the constitutional ban on takings without just compensation when it kept the excess proceeds from the sale of her property that exceeded the tax debt owed. MNR, along with the National Association of Realtors® and the American Property Owners Alliance, filed an amicus brief in support of the property owner's entitlement to the surplus equity, arguing the state statute results in an unconstitutional taking of private property under the Fifth Amendment.

The U.S. Supreme Court ruled unanimously in favor of the homeowner.

MNR supports the passage of legislation this session that responds to the U.S. Supreme Court's decision in *Tyler* and ensures homeowners receive the surplus equity following tax-forfeiture to which they are entitled. MNR also believes the process should be as simple as possible for the homeowner.

MNR has concerns with the process in HF 4822 for returning surplus equity to the homeowner, which would require the homeowner to provide notice by written statement that the homeowner believes the value of their interest in the property may exceed the total amount of the delinquent taxes, fees, and penalties. This requirement may not be understood or followed by some homeowners in tax forfeiture resulting in those homeowners not receiving the equity to which they are entitled.

MNR looks forward to working with Rep. Feist and other interested parties as this bill moves forward.

Thank you again for the opportunity to provide written testimony on HF 4822.

Sincerely,



Paul Eger
Senior Vice President, Governmental Affairs
Minnesota Realtors®



PACIFIC LEGAL FOUNDATION

April 8, 2024

**Statement before Minnesota House in Support of HF 4822DE2
Committee on Environment and Natural Resources Finance and Policy**

Re: Testimony—Reforming Minnesota’s Tax Foreclosure Process

To: Chair Hansen, Vice-Chair Jordan, and Members of the Committee on Environment and Natural Resources Finance and Policy

Thank you for your time today. My name is Kileen Lindgren, and I am legal policy manager for Pacific Legal Foundation. The Foundation is a nonprofit, public interest law firm with 17 U.S. Supreme Court wins on behalf of Americans’ constitutional rights—including 3 last year. We are dedicated to defending and promoting property rights, proper separation of powers, and opportunity and equality under the law in courtrooms and capitols around the country.

One of the Foundation’s 2023 Supreme Court wins was in a case from Minnesota, *Tyler v. Hennepin County*, where we represented a now 95-year-old Minnesota resident who lost her greatest asset—equity in her home—due to the state’s unconstitutional and unconscionable predatory tax foreclosure process. In this instance, a grandmother who experienced harassment on the streets near her condo began to feel unsafe and rented an apartment in a senior living community, where she felt safer. With the cost of rent at her new home, Ms. Tyler fell behind on her condo’s property taxes. She owed only \$2,311 in property taxes, but had almost \$13,000 in added penalties, interest, and fees. To collect the \$15,000 debt, Hennepin County seized her condo, valued at \$93,000, sold it for \$45,000, and pocketed it all—a \$25,000 windfall at Ms. Tyler’s expense.

In its *Tyler* decision, the Supreme Court held that Minnesota’s tax foreclosure system violated Ms. Tyler’s constitutional rights. The Court unanimously held that the government violates the Fifth Amendment’s Takings Clause when it uses “the toehold of the tax debt to confiscate more than it [is] due.” The Court noted that Minnesota’s statute violated the purpose of the Takings Clause, which “was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.”

HF 4822DE2 addresses this problem, specifically by improving notice requirements and requiring the sale of property and provision of proceeds to former property owners. This amendment clarifies the redemption and claim processes for property owners and provides clear procedural guidelines to counties. We request your support for this amendment and will support HF 4822 if amended in this manner. Thank you,

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AARP MN Written Testimony

Submitted to the House Environment Committee

April 8th, 2024 House File 4822- Delete-All Amendment

Chair Hansen and Members of the Committee, my name is Mary Jo George, and I am the State Director of Advocacy for AARP Minnesota. On behalf of our 620,000 members statewide, we thank you for the opportunity to testify on Representative Feist's delete-all amendment to HF 4822.

First, we want to begin by thanking Representing Feist for listening to our concerns and incorporating changes to the bill that will make it much easier for homeowners, especially older vulnerable homeowners to recover their equity in cases of tax forfeiture.

Under the new delete-all amendment, the new process makes it much easier for homeowners to file a claim for the excess surplus after the sale of their home. It does this by providing more time, now up to 60 days from 6 weeks to file a claim, it provides better notification to a homeowner to understand the claims process including having a certified letter mailed to them and it takes the guesswork out of what is due to them after the sale of the home through a public auction. So, we are very appreciative of these changes and again want to thank Representative Feist for hearing our concerns.

However, we would encourage additional changes in two areas:

First, under Subd. 2 Definitions we would recommend including "or heirs where the prior owner of the property is deceased" in the definition of "interested party," We believe counties should be required to do more to notify the heirs of the property when a homeowner has passed away. Heirs of a deceased homeowner have ownership rights even if the estate has not been probated and they aren't on the deed. This is important as home equity is one of the best ways to build generational wealth.

Second, under Subd. 8, Expiration of surplus, we would recommend the proceeds be transferred to the state's unclaimed property fund where former owners can access the funds per that division's policies. Otherwise, it is a very short window of time to claim the proceeds before they are lost forever. A loss of equity can have a devastating impact on the financial security of lower-income homeowners, particularly for older adults who depend most heavily on this equity for their economic survival.

Thank you again for making the changes in this bill and for the committee's consideration in supporting our other suggestions.