



DLS

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Informational Guideline Release

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TAX TITLE COLLECTION REVOLVING FUNDS

(G.L. c. 60, § 15B)

This Informational Guideline Release (IGR) explains a local acceptance statute that lets cities and towns adopt one or more revolving funds for costs, charges, and fees to be used by the tax collector, treasurer or treasurer-collector to pay out-of-pocket expenses, without appropriation, related to tax takings, redemptions and foreclosures of tax titles.

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TAX TITLE COLLECTION REVOLVING FUNDS

(G.L. c. 60, § 15B)

SUMMARY:

These guidelines explain a local acceptance section of G.L. c. 60, which governs the collection of local taxes. If G.L. c. 60, § 15B is accepted, the city or town may establish tax title collection revolving funds for its tax collector, treasurer or treasurer-collector. The funds can be established by bylaw, ordinance or vote of annual town meeting or other legislative body, upon recommendation of the selectboard, mayor, manager or other chief executive officer.

The funds will be credited with certain costs, charges, and fees incurred by the tax collector or treasurer and collected upon redemption of tax titles or sales of real property acquired through foreclosures of tax titles. Monies in the fund may be spent, without appropriation, by the tax collector to pay out of pocket expenses associated with making a tax taking and by the treasurer to pay out of pocket expenses incurred in connection with a redemption or tax title foreclosure proceeding. The purpose is to provide tax collectors and treasurers with funds to secure the municipality's liens for delinquent real estate tax receivables and to foreclose tax titles after reasonable efforts to work with taxpayers on payment of amounts outstanding. Monies in the fund may be used in addition to any monies appropriated in the annual departmental budget for the tax collector and treasurer for these expenses.

This statute may be accepted, and a fund established, to take effect for fiscal years beginning on or after July 1, 2015.

GUIDELINES:

A. LOCAL ACCEPTANCE

1. Acceptance Procedure

Acceptance of G.L. c. 60, § 15B is by vote of the municipality's legislative body, subject to charter. (See attached sample acceptance vote.)

2. Revocation of Acceptance

Acceptance may be revoked, but the city or town must wait until at least three years after acceptance. Revocation is also by vote of the municipality's legislative body, subject to charter.

BUREAU OF ACCOUNTS

MARY JANE HANDY, DIRECTOR

3. **Effective Date**

A tax title collection revolving fund can begin operation no earlier than the fiscal year that begins the July 1 after acceptance and establishment of the fund. See Section B-1 below. Revocation of the statute terminates all tax title collection revolving funds at the end of the fiscal year in which the revocation is voted.

4. **Notification of Acceptance or Revocation**

The city or town clerk must notify the Municipal Databank if the tax title collection revolving fund statute is accepted or revoked. (See "Notification of Acceptance or Revocation.") The notification should be made **as soon as possible** after the vote.

B. **TAX TITLE COLLECTION REVOLVING FUND**

1. **Establishment**

A city or town that accepts G.L. c. 60, § 15B may establish a tax title collection revolving fund for one or more of the following officers: (a) tax collector; (b) treasurer; or (c) treasurer-collector.

Each fund is established by (a) by-law; (b) ordinance; or (c) a vote of the legislative body upon the recommendation of the chief executive officer. The by-law, ordinance or vote should include the fiscal year the fund will begin operating. If not, the fund will begin operation on the fiscal year that begins the July 1 after it is established.

2. **Account**

The accounting officer must establish and maintain a separate account for each tax title collection revolving fund established by the city or town. The balance in each fund carries forward from fiscal year to fiscal year.

3. **Revenues**

The statutory charges, costs and fees that may be credited to a tax title collection revolving fund for an officer are those the officer is required to pay into the city or town treasury, not those the officer may retain as compensation.

a. **Tax Collector's Fund**

Upon redemption of a tax title or sale of real property acquired by the city or town through foreclosure of a tax title, a tax collector's tax title collection revolving fund is to be credited with all of the following statutory charges, costs and fees added to the tax by the tax collector as part of the tax taking:

- Charge for issuing the demand. G.L. c. 60, § 15(2).
- Per parcel charge for preparing the newspaper advertisement of intent to take or sell. G.L. c. 60, § 15(3).
- Legal fees for searching title in preparation for a taking or sale. G.L. c. 60, § 15(3).
- Cost of advertising the intent to take or sell in the newspaper. G.L. c. 60, § 15(4).
- Per parcel charge for posting the notice of intent to take or sell. G.L. c. 60, § 15(5).
- Per parcel charge for preparing the tax collector's affidavit of proceedings. G.L. c. 60, § 15(6).
- Per parcel cost of recording tax collector's affidavit of proceedings. G.L. c. 60, § 15(7).
- Charge for preparing the deed or instrument of taking. G.L. c. 60, § 15(8).
- Cost of serving a demand and notice of intent to take by subpoena. G.L. c. 60, § 15(17); G.L. c. 60, § 53.
- Cost of mailing a demand and notice of intent to take by registered mail. G.L. c. 60, § 15(18).
- Cost of recording the instrument of taking. G.L. c. 60, § 15(19); G.L. c. 60, § 55.

Collector's interest added to the tax belongs to the general fund. G.L. c. 59, §§ 57 and 57C. It may not be credited to a tax collector's tax title collection revolving fund.

b. Treasurer's Fund

Upon redemption of a tax title or sale of real property acquired by the city or town through foreclosure of a tax title, a treasurer's tax title collection revolving fund is to be credited with all of the following statutory fees, charges and costs added to the tax by the treasurer as part of managing and foreclosing the tax title:

- Cost of recording an instrument of tax title redemption. G.L. c. 60, § 62.
- Cost of foreclosing a tax title by a land of low value auction, including the statutory legal fee. G.L. c. 60, § 79.
- Cost of foreclosing a tax title in Land Court, including legal fees awarded by the court. G.L. c. 60, § 65.
- Cost for having a petition to foreclose a tax title heard in land court (title exam expenses, mailing costs, advertising and publication costs, etc.). G.L. c. 60, §§ 68 and 73.

Treasurer's interest added to the tax title account belongs to the general fund. G.L. c. 60, § 62. It may not be credited to a treasurer's tax title collection revolving fund.

c. Treasurer-Collector's Fund

Upon redemption of a tax title or sale of real property acquired by the city or town through foreclosure of a tax title, a treasurer-collector's tax title collection revolving fund is to be credited with all statutory fees, charges and costs listed in Sections B-3-a and B-3-b above.

Collector's interest added to the tax and treasurer's interest added to the tax title account belongs to the general fund. G.L. c. 60, § 62. It may not be credited to a treasurer-collector's tax title collection revolving fund.

4. Investment and Interest

The treasurer is the custodian of a tax title collection revolving fund. The treasurer may invest the charges, costs and fees credited to a fund in the same manner as general funds under G.L. c. 44, §§ 55, 55A and 55B. The treasurer may pool the cash and does not have to establish a separate bank account for a fund.

Interest earned on a tax title collection revolving fund balance belongs to the general fund.

5. Expenditures

a. Allowable Purposes

The officer in charge of a tax title collection revolving fund may spend from the fund balance, without appropriation, to pay expenses incurred by the officer under G.L. c. 60 to make a tax taking or foreclose a tax title. These include, but are not limited to the costs and fees of recording or filing documents and instruments, searching and examining titles, mailing, publishing or advertising notices or documents, petitioning the Land Court, serving court filings and documents and paying legal fees.

b. Limitations

Expenditures cannot be made from a tax title collection revolving fund, nor liabilities incurred, in excess of the amount of the balance of the fund. In addition, expenditures cannot be made in excess of any limitation set forth in the by-law, ordinance, or legislative body vote establishing the fund.

The officer must use the same process used for payment of other departmental expenses to obtain payment of all bills being charged to the revolving fund. G.L. c. 41, §§ 52 and 56. A payment voucher with appropriate supporting documentation is submitted to the accounting officer for placement of the bill on the treasury warrant.

6. **Supplemental Appropriations**

Appropriations may be made from other municipal funding sources, such as the tax levy, free cash or other available funds, in the departmental budgets for the tax collector and treasurer to supplement the monies available for tax taking and tax title foreclosure expenses. However, monies from these sources may not be appropriated directly into a tax title collection revolving fund. Annual departmental appropriations for these expenses would close out at the end of the fiscal year.

7. **Fund Termination**

If the city or town revokes its acceptance of G.L. c. 60, § 15B, or terminates a tax title collection revolving fund by vote, or repeal or amendment of the by-law or ordinance establishing it, the accounting officer is to close the fund balance to the general fund at the end of the fiscal year.

C. **ANNUAL REPORTING REQUIREMENT**

The officer in charge of a tax title collection revolving fund must submit an annual report to the selectboard, mayor, manager or chief administrative or executive officer.

The report must be made by the date set forth in the by-law, ordinance, or legislative body vote establishing the fund. It must detail the total amount of receipts and expenditures from the tax title collection revolving fund for the prior fiscal year and include any other information required by the by-law, ordinance, or legislative body vote establishing the fund.