



New Hampshire Municipal Association

April 29, 2020

EMERGENCY ORDER #25

TAX COLLECTION – INTEREST ABATEMENTS, TAX DEEDS & TAX LIENS

On April 3, 2020 Governor Sununu issued [Emergency Order #25](#), Temporary Modification of interest penalty for late payment of property taxes. The general purpose of this Order is to ease the financial burdens on property taxpayers during the State of Emergency. The Order permits relief from interest charged on property taxes and suspends the issuance of tax deeds. NHMA's interpretation of Emergency Order #25, based in part on advice provided by the Attorney General's Office, is as follows:

Abatements of Interest Charged on Property Tax Payments:

Paragraph 1 of Emergency Order 25 permits the granting of blanket abatements by the select board or assessors on interest charged on all property taxes pursuant to RSA 76:16. The Order further provides that individual applications for abatements are not required, and that the ability to grant interest abatements will continue for the duration of the State of Emergency. Because the Order uses the phrase "blanket abatements" this permits either the select board or assessors to abate the interest on all past due property tax payments, which could include interest that accrued before the State of Emergency. Under the terms of this Order, the select board or assessors can exercise as a local option the ability to declare that any interest accrued on presently delinquent property tax payments will be waived. This authority to grant blanket assessments permits the select board or assessor to set conditions, time limits and amounts on the interest that can be waived, provided those conditions are uniform and all property taxpayers are treated on equal terms.

Moratorium on Issuance of Tax Deeds:

Emergency Order #25 Paragraph 2 extended the temporary prohibition on foreclosures as provided in [Emergency Order #4](#) to include late payment of property taxes. The last sentence of paragraph 2 effectively "stays" the issuance of any Tax Collector Deeds for the duration of the State of Emergency. Although RSA 80:76 tells the Tax Collector to issue a tax deed after two (2) years from the execution of the real estate tax lien, that statute is now stayed due to Emergency Order #25, and no tax deeds can be issued by New Hampshire Tax Collectors during the State of

Emergency. When the State of Emergency is lifted, municipalities may resume issuing tax deeds. However, they should do so only after conducting an updated title search and issuing new Notices of Intent to Deed as required by RSA 80:76, III.

Effect of Emergency Order #25 on Recording Tax Liens:

Emergency Order #25 does not explicitly prohibit the recording of tax liens under RSA 80:60 - :61. The recording of a tax lien perfects the automatic 18-month lien under RSA 80:19 and does not “foreclose” the property interests of the owner. However, the recording of the lien does increase the interest charged on the unpaid property tax due from 8% to 14%. Whether to proceed with recording of tax liens while Emergency Order #25 is still in effect is a decision tax collectors should make only after consulting the municipality’s regular legal counsel. A temporary delay in recording tax liens will not defeat the eventual recording of the tax lien, provided that notices of impending tax liens are mailed by no later than August 31, 2020 and tax liens are recorded by no later than September 30th.