BUDGET, FINANCE & PERSONNEL

RESOLUTION NO. 2025058

RE: ADOPTION OF DISPOSITION PLAN FOR REAL PROPERTY ACQUIRED BY DUTCHESS COUNTY THROUGH THE "IN REM" DELINQUENT TAX LIEN FORECLOSURE PROCESS AND REPEAL OF RESOLUTION NO. 244 of 1997

Legislators CASWELL, D'AQUANNI, MC HOUL, and VERSACI offer the following and move its adoption:

WHEREAS, the Dutchess County Legislature approved a Land Disposition Policy by Resolution No. 244 of 1997, and

WHEREAS, after a review of the Land Disposition Policy and following recent amendments made to the NYS Real Property Tax Law, the Dutchess County Department of Finance has suggested that the Land Disposition Policy be amended and adopted as the Disposition Plan for Real Property Acquired by Dutchess County through the "In Rem" Foreclosure Process (hereinafter the "Plan"), and

WHEREAS, this Plan incorporates the elements of the 1997 Land Disposition Policy, but is revised to reflect new requirements in the NYS Real Property Tax Law, and

WHEREAS, the proposed Plan is annexed hereto and made a part hereof, now therefore, be it

RESOLVED, that the Dutchess County Legislature hereby approves the proposed Disposition Plan for Real Property Acquired by Dutchess County through the "In Rem" Foreclosure Process, and be it further

RESOLVED, that Resolution No. 244 of 1997 is hereby repealed in its entirety upon the adoption of this resolution.

CA-035-25
EMW/CEB/rjw
G-1220
03/06/25
Fiscal Impact: See Attached

APPROVED
Susan Serino
SUSAN J. SERINO
COUNTY EXECUTIVE
Date 4/21/2025

STATE OF NEW YORK
ss:
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess, have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 14th day of April 2025, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 14th day of April 2025.

DUTCHESS COUNTY SEAL

Leigh Wager

LEIGH WAGER, CLERK OF THE LEGISLATURE

SUE SERINO
COUNTY EXECUTIVE

HEIDI SEELBACH
COMMISSIONER

DUTCHESS COUNTY GOVERNMENT

DEPARTMENT OF FINANCE

MEMORANDUM

TO: **Jess White, Budget Director**

FROM: **Heidi Seelbach, Commissioner of Finance** HS

DATE: **February 18, 2025**

RE: **RESOLUTION REQUEST TO Repeal Resolution 244 of 1997 and replace with the 'Disposition Plan for Real Property Acquired by Dutchess County Through the "In Rem" Delinquent Tax Lien Foreclosure Process.'**

Attached please find a Resolution Request Form and Fiscal Impact Statement to repeal the existing Land Disposition Policy adopted via Resolution 244 of 1997 and adopt a Disposition Plan for Real Property Acquired by Dutchess County through the "In Rem" Foreclosure Process.

It is the intent of this policy to bring Dutchess County in compliance with amendments made to multiple Real Property Tax Laws. Changes to these laws were the result of the May 2023 United States Supreme Court decision in *Tyler v Hennepin* County where it was decided the sale of real property through the in-rem foreclosure process could result in surplus proceeds. It was further decided the prior property owners were entitled to these surplus proceeds.

The new Disposition Plan includes items outlined in the 1997 Land Disposition Policy as well as new requirements in NYS Real Property Tax law. It also includes language which enables the county to transfer properties to the Dutchess-Poughkeepsie Land Bank if appropriate. This will enable the Land Bank to further its mission which in part includes the rehabilitation of vacant, abandoned, and underutilized properties in Dutchess County.

Some of the changes in the Real Property Tax Law include additional notices being sent to Homeowners, additional time given to homeowners to redeem their property and the right to pay the delinquent taxes up until the public auction begins.

In addition to these changes the county is requesting authorization for homeowners to have the ability to enter into Installments Payment Agreements for their delinquent taxes. This Local Law is to be voted on at the April 2025 meeting. This local law authorizes installment agreements for homeowners, which gives them time to avoid foreclosure.

A copy of any "surplus proceeds" reports required in State Law will be forwarded to the County Legislature when submitted to the Court.

FISCAL IMPACT STATEMENT

☑ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost $ 0

Total Current Year Revenue $ 0
and Source

Source of County Funds *(check one)*: ☐ Existing Appropriations, ☐ Contingency,
☐ Transfer of Existing Appropriations, ☐ Additional Appropriations, ☐ Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount $ _____
Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:

This resolution request is put forth to repeal the existing Land Disposition Polciy which was adopted via Resolution # 244 of 1997. This resolution will be replaced with a Dispositon Plan for Real Property Acquired by Dutchess County through the "In Rem" Foreclosure Process.

The intent of this policy is to bring the county into compliance with amendments made to NYS Real Property Tax Law.

Prepared by: Heidi Seelbach Prepared On: 2/25/25

Dut pdf

Dutchess County Manual of Policies and Procedures	Disposition Plan for Real Property Acquired by Dutchess County through the "In Rem" Delinquent Tax Lien Foreclosure Process
	Policy xx.xx
Effective/Revised Date: 3/1/2025	Page 1 of 5

Policy Statement:

Disposition Plan for Real Property Acquired by Dutchess County Through the "In Rem" Delinquent Tax Lien Foreclosure Process. The May 2023 United States Supreme Court decision in *Tyler v Hennepin County* resulted in State law amendments via Article VII bills addressing distribution of "surplus proceeds" of sale, previously not required by that law. In furtherance of such amendments, this updated Plan provides direction for general conveyance of title for property(ies) acquired via "In Rem" delinquent real property tax lien foreclosure. Any proposed disposition of property(ies) shall consider the impact of potential equity loss, and resulting potential post-sale liability to the County taxpayer. Additionally, an aim of this policy is to permit County municipalities and public authorities such as the Dutchess-Poughkeepsie Land Bank, to acquire tax delinquent properties not sold at public auction in a manner that serves a public purpose or restores tax-delinquent, vacant, abandoned, or underutilized parcels to productive reuse.

Definitions:

1. In-Rem Foreclosure: A legal process in which a municipality forecloses on a property due to unpaid property taxes in accordance with Article 11 of the Real Property Tax Law (hereafter "RPTL"). This type of foreclosure is against the property itself, rather than the property owner, i.e., if the property owner fails to pay the owed taxes, the municipality can take legal action to claim the property.
2. Quitclaim deed: A legal document used to transfer ownership interest in a property from one person (the grantor) to another person (the grantee) without any warranties or guarantees. A quitclaim deed does not assure that the property is free of encumbrances or that the grantor has a valid title. It simply conveys whatever interest the grantor has in the property, if any.
3. Dutchess County-Poughkeepsie Land Bank: A not-for-profit corporation formed pursuant to Dutchess County Local Law No. 3 of 2020 as a partnership between the County of Dutchess and the City of Poughkeepsie under Article 16 of the "Land Bank Act" whose mission is to acquire tax-delinquent, vacant, abandoned, or underutilized parcels and to restore them to productive use.
4. Surplus Proceeds: The excess amount generated from the sale of a foreclosed property beyond what is needed to satisfy the outstanding delinquent taxes, interest, penalties and fees.
5. County Costs: Interest, penalties and fees associated with the tax delinquent parcels subject to in-rem foreclosure.

References:

1. Section 1166 of the New York State ("NYS") RPTL.
2. Section 231 of the NYS Real Property Actions and Proceeding Law ("RPAPL"). Nothing contained in this Disposition Plan shall prohibit consideration of sales which the County has determined in its sole judgment and discretion will best benefit public use or community benefit as a result of such disposition.

Standards:

1. Per County Legislative Resolution No. 30 of 1978, the County proceeds under the prescribed procedures in Article 11 of the New York State Real Property Tax Law, as amended.

2. This Policy provides direction for general conveyance of title for property(ies) acquired via "In Rem" delinquent real property tax lien foreclosure. Any proposed disposition of property(ies) shall consider the impact of potential equity loss and resulting potential post-sale liability to the County taxpayer.

3. Following approval by the Dutchess County Legislature, this updated County Real Property Disposition Plan replaces all prior versions of the Land Disposition Policy, including but not limited to Resolution No. 244 of 1997. The County shall henceforth convey all properties acquired via "In Rem" delinquent real property tax lien foreclosure proceedings in the following preferential order, subject to these conditions.

Procedures:

1. **Payment By Former Owner Post-Redemption and Pre-Auction Pursuant To RPTL 1136:**

   A. Where a former owner provides certified funds and required NYS transfer forms (i.e. NYS TP-584, RP-5217) to the Commissioner of Finance in the amount of delinquent taxes, interest, applicable fees after the Redemption Period has expired but before bidding commences on the Auction Date, that parcel shall be conveyed back to them.

   B. Following the County having been awarded Judgment of Foreclosure by a Court of competent jurisdiction and a Deed having been filed in accordance thereto with the County Clerk, a list of foreclosed parcels shall be forwarded by the County Commissioner of Finance to the County Legislature for review.

   C. The listing shall contain assessment roll records with its listed owner(s)' names, the parcel address, and tax map number, as well as any other relevant information requested by the Legislature.

2. **Public Auction Sales:**

   A. Where no reacquisition request exists, the County Legislature may approve any, all, or none of the parcels so listed, for sale at Public Auction. Parcels approved for sale via public auction in this manner shall proceed under the following conditions:

      i. Parcels approved for auction shall not require additional legislative review and approval per NYS RPTL 1166, as amended.

ii. The approved parcels shall be publicly listed by the County's Commissioner of Finance, or his/her designee, for a minimum of thirty (30) days. Auction sales shall be conducted in accordance with RPAPL 231. The two highest bids shall be recorded.

iii. All parcels offered for auction shall be offered, at least once, for the amount of taxes, fees and interest extinguished by the foreclosure, together with any costs that have been incurred by the County since foreclosure. The County may bid that amount for each parcel listed.

iv. Auction Parcels shall be sold to the highest qualified bidder. Closings shall be performed by the County Department of Law, or their designee, at the direction of the County's Commissioner of Finance. Deeds shall be recorded by the County.

B. It is the intent of the County for a public auction sale to establish "full value" as defined under NYS RPTL 1197(2)(a).

C. Where no bid advances above the County's bid, the County may take a deed to the parcel in consideration of the County's payment of taxes, fees, interest, and costs, and no "surplus proceeds" will be due to the former owner or other interested parties from future County conveyance of the property(ies).

3. **Private Sales, Conservation, Community Benefit and Public Use Transfers:**

A. Following the County's award of judgment of foreclosure, written notice will be provided to the municipality in which the parcel is located to provide the municipality an opportunity to consider acquiring the property as set forth herein.

B. If by 5:00 PM the day before bidding commences on Auction Day, the municipality provides the County Commissioner of Finance and the Clerk of the Dutchess County Legislature with a resolution of its governing body evincing its intent to purchase the parcel for a legitimate public purpose, such resolution setting forth the purpose or municipal need for the property, then such parcel shall be withdrawn from the public auction. Within 60 days of the receipt of such resolution from the municipality, the municipality must provide payment in full to the Commissioner of Finance. Transfer of the property shall be subject to the approval of the Legislature. If transfer does not occur, the property will be offered at the next available Public Auction. Withdrawal from the auction for municipal interest shall not extend the former landowner's right to reacquire.

C. Properties may be conveyed for public use and/or community benefit via separate Resolution adopted by the Dutchess County Legislature.

D. Certified funds in the amount offered shall be deposited with the Commissioner of Finance prior to County Legislative action to authorize conveyance.

4. **Private Sales, Economic Development and Job Creation:**

A. Properties may be conveyed to the Dutchess-Poughkeepsie Land Bank, or other entity, via separate Resolution adopted by the County Legislature.

B. Certified funds in the amount offered shall be deposited with the Commissioner of Finance prior to County Legislative action to authorize conveyance.

C. Written notice will be provided to the municipality in which the parcel is located when offered for sale.

5. **Valuation Of Parcels Transferred Other Than At Public Auction:**

A. Where the County retains property(ies) for public use, or transfers property via a process other than Public Auction, the surplus shall be established via the process outlined in RPTL 1196: using the full value of the property as shown on the most recent tax roll, a certified appraisal, or such other valuation method as the Commissioner of Finance reasonably determines will result in just compensation to the former owner and other parties to determine surplus.

B. Any surplus shall be judicially distributed per the existing provisions of Article 11, Title 6 of the Real Property Tax Law in effect at that time.

6. **General Provisions:**

A. All County sales and conveyances of properties, title to which has been acquired by the County through the "In Rem" delinquent real property tax lien foreclosure process, are discretionary, and the County Executive, Commissioner Finance and/or County Legislature may, to the extent of their power and for any reason, approve, reject, request or rescind any sale.

B. No claims for surplus may arise from conveyances for properties with a value at or below taxes, interests, penalties and costs as defined by RPTL 1196.

7. **Sale and Conveyance of County-owned surplus real property:**

A. County-owned surplus real property, which was not acquired by the "In Rem" delinquent real property tax lien foreclosure, shall continue to be disposed of by the County subject to County legislative approval.

8. **Closing Procedure - All Properties:**

   A. Closings will proceed only after receipt of the certified County Resolution adopted by the Legislature authorizing that conveyance.

   B. Closings shall proceed under the direction of the County Department of Law, or its designee.

   C. Dutchess County has acquired title to these properties through delinquent real property tax foreclosure proceedings "In Rem" in accordance with Article 11, Title 3 of the Real Property Tax Law of the State of New York. Every deed given pursuant to Article 11 shall be presumptive evidence that the proceeding and all proceedings therein and prior thereto, and all notices required by law, including the assessment, were regular and in accordance with law. After two years, such presumption will become conclusive from the date of the recording of the deed thereof to the purchaser.

   D. The deed conveying title to the purchaser will be a quit claim deed from the County of Dutchess containing the assessment roll description of the parcel as it appeared on the delinquent tax roll for the year upon which the County acquired title by foreclosure and not a metes and bounds description, per existing law.

   E. All sales shall be final, absolute and without recourse, and in no event shall Dutchess County be or become liable for any defects in title or for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, successors, or assigns, against Dutchess County arising from such sales.

9. **Reporting:**

   A. A copy of any "surplus proceeds" reports required in State Law will be forwarded to the County Legislature when submitted to the Court.

Budget, Finance, and Personnel Committee Roll Call

District	*Name*	*Yes*	*No*
District 7 - Hyde Park and Pleasant Valley	Truitt*	✓	
District 25 - Amenia, Washington, Pleasant Valley & Millbrook	Houston*		
District 3 - LaGrange	Polasek*		
District 16 - Fishkill and Beacon	Valdés Smith*		
District 9 - City of Poughkeepsie	Atkins*	Absent	
District 2 - LaGrange, Pleasant Valley & Town of Poughkeepsie	Travelpiece (VC)		
District 5 - Town of Poughkeepsie	D'Aquanni		
District 8 - City and Town of Poughkeepsie	Brendli		
District 10 - City of Poughkeepsie	Johnson	Absent	
District 12 - East Fishkill	Metzger		
District 17 - Town and Village of Fishkill	McHoul		
District 21 - East Fishkill	Caswell (C)	Absent	

Present: 9 Resolution: ✓ Total : 9 (Yes) 0 (No)

Absent: 3 Motion: ____

Vacant: 0 Abstentions: ____

2025058 ADOPTION OF DISPOSITION PLAN FOR REAL PROPERTY ACQUIRED BY DUTCHESS COUNTY THROUGH THE "IN REM"DELINQUENT TAX LIEN FORECLOSURE PROCESS AND REPEAL OF RESOLUTION NO. 244 of 1997

APRIL 10, 2025

Roll Call Sheets

District	Last Name	YES	NO
District 7 - Hyde Park and Pleasant Valley	Truitt	✓	
District 25 - Amenia, Washington, Pleasant Valley & Millbrook	Houston		
District 3 - LaGrange	Polasek		
District 16 - Fishkill and Beacon	Valdés Smith		
District 9 - City of Poughkeepsie	Atkins		
District 1 - Town of Poughkeepsie	Gorman		
District 2 - LaGrange, Pleasant Valley & Town of Poughkeepsie	Travelpiece		
District 4 - Hyde Park and Town of Poughkeepsie	Lawler		
District 5 - Town of Poughkeepsie	D'Aquanni		
District 6 - Town of Poughkeepsie	Kaul		
District 8 - City and Town of Poughkeepsie	Brendli		
District 10 - City of Poughkeepsie	Johnson		
District 11 - Clinton, Pleasant Valley, and Rhinebeck	Kearney		
District 12 - East Fishkill	Metzger		
District 13 - East Fishkill and Wappinger	Paoloni		
District 14 - Wappinger and Town of Poughkeepsie	Versaci	Absent	
District 15 - Wappinger	Faust		
District 17 - Town and Village of Fishkill	McHoul	Absent	
District 18 - City of Beacon and Fishkill	Page	Absent	
District 19 - North East, Stanford, Pine Plains, Milan & Red Hook	Drago		
District 20 - Red Hook, Tivoli, and Rhinebeck	Munn		
District 21 - East Fishkill	Caswell		
District 22 - Beekman and Union Vale	Garito		
District 23 - Pawling, Beekman and East Fishkill	Rolison		
District 24 - Dover and Pawling	House	Absent	

Present: 21
Absent: 4
Vacant: 0

Resolution: ✓
Motion: ___

Total : 21 (Yes) 0 (No)
Abstentions: 0

2025058 ADOPTION OF DISPOSITION PLAN FOR REAL PROPERTY ACQUIRED BY DUTCHESS COUNTY THROUGH THE "IN REM"DELINQUENT TAX LIEN FORECLOSURE PROCESS AND REPEAL OF RESOLUTION NO. 244 of 1997

APRIL 14, 2025