

HOUSE No. 4624

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 9, 2024.

The committee on Revenue, to whom were referred the petition (accompanied by bill, Senate, No. 921) of Joanne M. Comerford, Mindy Domb, Thomas M. Stanley, James B. Eldridge and others for legislation to protect equity for homeowners facing foreclosure, the petition (accompanied by bill, Senate, No. 1774) of Cynthia Stone Creem for legislation relative to the surplus from a tax title sale, the petition (accompanied by bill, Senate, No. 1794) of Lydia Edwards and Sal N. DiDomenico for legislation to support residents and communities in resolving tax, the petition (accompanied by bill, Senate, No. 1876) of Mark C. Montigny, Christopher M. Markey, Antonio F. D. Cabral, Christopher Hendricks and other members of the General Court for legislation to protect homeowners from unfair tax lien practices by cities and towns, the petition (accompanied by bill, Senate, No. 1953) of Bruce E. Tarr for legislation relative to force sale of property by tax lien, the petition (accompanied by bill, House, No. 2883) of John J. Mahoney and Daniel M. Donahue relative to the collection, assignment or transfer of delinquent property taxes by cities and towns, the petition (accompanied by bill, House, No. 2907) of Tram T. Nguyen and James K. Hawkins relative to notices and protections in the process for collecting delinquent property taxes and the petition (accompanied by bill, House, No. 2937) of Jeffrey N. Roy, Tommy Vitolo and others relative to tax deeds and protecting equity for homeowners facing foreclosure, reports recommending that the accompanying bill (House, No. 4624) ought to pass.

For the committee,

MARK J. CUSACK.

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The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to municipal tax lien procedures and protections for property owners in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 60 of the General Laws, as so appearing in the 2022
2 Official Edition, is hereby amended by inserting after the definition of “Collector” the following
3 definition:-

4 “Excess equity”, any remaining surplus amount above the taxes, interest, fees and
5 charges of keeping, as reflected in the tax title account balance as of the date of the foreclosure
6 judgment and the fees, expenses, charges, and costs actually and reasonably incurred in selling or
7 appraising the property in accordance with section 64A of this chapter following a final
8 judgment of foreclosure. Where the property is sold in accordance with section 64A, the excess
9 equity shall be determined by deducting from the gross sale proceeds the tax title balance as of
10 the date of the foreclosure judgment and any documented post-judgment costs incurred by the
11 judgment holder from the sale of the property, including but not limited to broker and/or real
12 estate agent fees or commissions, listing fees, marketing and advertising costs, legal fees, closing
13 costs, transfer fees, auctioneer fees, publication costs, and other fees directly related to the

14 marketing and sale of the property. Where the property is retained by the judgment holder in
15 accordance with section 64A, the excess equity shall be determined by deducting the tax title
16 account balance as of the date of the foreclosure judgment and any documented post-judgment
17 costs of appraisal incurred by the judgment holder from the appraised highest and best use value
18 of the property as of the date of the final judgment of foreclosure.

19 SECTION 2. Subsection (c) of section 2C of chapter 60, as so appearing, is hereby
20 amended by striking out paragraph (9) and inserting in place thereof the following paragraph:-

21 (9) A purchaser owning any tax receivable shall give notice to a taxpayer, and to the
22 appropriate municipality, within 12 business days of purchasing said tax receivable. The notice
23 shall have the name, address, telephone number and preferred method of communication with
24 said purchaser and any service agent acting on behalf of said purchaser. Whenever the purchaser
25 or the service agent of such tax receivables shall change, the new purchaser or service agent shall
26 provide the notice required herein within 12 business days of the effective date of such change.
27 Where the land is class one residential property, as defined in section 2A of chapter 59, such
28 notice shall be mailed by certified mail and addressed to the taxpayer at their last known
29 residence and usual place of abode, or place of business; shall be posted upon the class one
30 residential property; shall be posted in a convenient and public place; and shall include a uniform
31 notice prepared by the commissioner of revenue, in language understandable by a least
32 sophisticated consumer, together with a notice in the 7 most common languages in the
33 commonwealth that this notice affects important legal rights and should be translated
34 immediately, and such notice shall state:

35 (i) That a complaint to foreclose the tax title may be filed on or after a specific date;

36 (ii) That the tax title has been sold to a purchaser of tax receivables;

37 (iii) Why the property was taken, and that the owner may redeem the property up until
38 the property is foreclosed by a judgment issued on a proceeding before the land court;

39 (iv) The components of the amount as of the date of the notice, subject to accumulating
40 taxes, fees and charges, required to redeem the property and the procedure for redemption;

41 (v) That if a complaint to foreclose the tax title is filed and the owner does not respond by
42 filing an answer, the court may enter an order defaulting the owner;

43 (vi) That if a complaint to foreclose the tax title is filed, the owner may respond by filing
44 an answer that requests that the court set the terms by which the owner may redeem the property;

45 (vii) That if the property is not redeemed, the purchaser is entitled to receive a judgment
46 from the land court that transfers title to the property to the town or purchaser and permanently
47 eliminates any title rights the owner has in the property; and

48 (viii) That following a foreclosure of the property, the former owner shall be entitled to
49 any excess equity in the property, upon written request to the municipality or purchaser of tax
50 receivables, pursuant to section 64A.

51 SECTION 3. Chapter 60, as so appearing, is hereby amended by striking out section 16
52 and inserting in place thereof the following section:-

53 Section 16. The collector shall, before selling the land of a resident, or non-resident, or
54 distraining the goods of any person, or arresting him for his tax, serve on him a statement of the
55 amount thereof with a demand for its payment. If two or more parcels of land are assessed in the
56 name of a resident, or non-resident, the statement of the aggregate amount of the taxes thereon

57 may be made in one demand. Such demand may also include taxes due on account of tangible
58 personal property and any motor vehicle excise tax. If the heirs of a deceased person, co-partners
59 or two or more persons are jointly assessed, service need be made on only one of them. Such
60 demand for the tax upon land may be made upon the person occupying the same on January first
61 of the year in which the tax is assessed. No demand need be made on a mortgagee, unless he has
62 given notice under section thirty-eight, in which case no demand need be made on the owner or
63 occupant. Demand shall be made by the collector by mailing the same to the taxpayer by
64 certified mail that is addressed to them at their last known residence and usual place of abode, or
65 place of business, or to the address best known by the collector, and failure to receive the same
66 shall not invalidate a tax or any proceedings for the enforcement or collection of the same;
67 provided, that if the land is class one residential property, as defined in section 2A of chapter 59,
68 the demand shall include a uniform notice prepared by the department of revenue, in language
69 understandable by a least sophisticated consumer, together with a notice in the 7 most common
70 languages in the commonwealth that this notice affects important legal rights and should be
71 translated immediately, and providing clear notice that the non-payment of property taxes can
72 result in the taking of the property and that the property owner may be eligible for exemptions,
73 abatements, and tax deferrals and other assistance, and should contact the collector of taxes
74 office, together with the address, telephone number, email address, if available, and internet
75 address for further information.

76 SECTION 4. Section 25 of chapter 60, as so appearing, is hereby amended by inserting,
77 in line 6 after the word "thereto." the following words:-

78 The notice posted shall be prepared by the department of revenue, in language
79 understandable by a least sophisticated consumer, together with a notice in the 7 most common

80 languages in the commonwealth that this notice affects important legal rights and should be
81 translated immediately.

82 SECTION 5. Section 52 of chapter 60, as so appearing, is hereby amended by inserting,
83 in line 17 after the word “assignment.” the following words:-

84 Where the land is class one residential property, as defined in section 2A of chapter 59,
85 such notice shall be mailed by certified mail and addressed to the taxpayer at their last known
86 residence and usual place of abode, or place of business; shall be posted upon the class one
87 residential property, shall be posted in a convenient and public place, and shall include a uniform
88 notice prepared by the department of revenue, in language understandable by a least
89 sophisticated consumer, together with a notice in the 7 most common languages in the
90 commonwealth, that this notice affects important legal rights and should be translated
91 immediately. The notice shall state that the treasurer intends to sell the tax title to the owner’s
92 property, that the non-payment of property taxes can result in the loss of the property, and that
93 the property owner may be eligible for exemptions, abatements, and tax deferrals and other
94 assistance, and should contact the collector of taxes’ office, together with the telephone number,
95 email address, if available, and internet address for further information.

96 SECTION 6. Section 53 of chapter 60, as so appearing, is hereby amended by inserting,
97 in line 4, after the word “notice”, the following words:-

98 “where the land is class one residential property, as defined in section 2A of chapter 59,
99 such notice shall be mailed by certified mail and addressed to the taxpayer at their last known
100 residence and usual place of abode, or place of business; and such notice shall be posted upon the
101 class one, residential property and published, any properties not class one residential”

102 SECTION 7. Said section 53 of chapter 60, as so appearing, is hereby amended by
103 inserting, in line 9 after the word “places.” the following words:-

104 The notice posted shall be prepared by the department of revenue, in language
105 understandable by a least sophisticated consumer, together with a notice in the 7 most common
106 languages in the commonwealth, that this notice affects important legal rights and should be
107 translated immediately.

108 SECTION 8. Said section 53 of said chapter 60, as so appearing, is hereby amended by
109 adding, at the end of the section, the following paragraph:-

110 Where the land is class one residential property, as defined in section 2A of chapter 59,
111 all notices sent pursuant to this section shall include a uniform notice prepared by the department
112 of revenue, together with a notice in the 7 most common languages in the commonwealth that
113 this notice affects important legal rights and should be translated immediately. Such notice shall
114 state in language understandable by least sophisticated consumer:

115 (i) What taxes or other municipal costs remain unpaid;

116 (ii) The taxpayer’s right to redeem full ownership of the property, and the components of
117 the amount required to redeem the property;

118 (iii) That a complaint to foreclose the tax title may be filed on or after a specific date;

119 (iv) That the tax title may be sold to a purchaser of tax receivables;

120 (v) That if a complaint to foreclose the tax title is filed and the owner does not respond by
121 filing an answer, the court may enter an order defaulting the owner;

122 (vi) That if a complaint to foreclose the tax title is filed, the owner may respond by filing
123 an answer that requests that the court set the terms by which the owner may redeem the property;

124 (vii) That if the property is not redeemed, the town or purchaser is entitled to receive a
125 judgment from the land court that transfers title of the property to the town or purchaser and
126 permanently eliminates any title rights the owner has in the property; and

127 (viii) That following a foreclosure of the property, the former owner shall be entitled to
128 any excess equity in the property, upon written request to the municipality or purchaser of tax
129 receivables, pursuant to section 64A.

130 SECTION 9. Section 62A of chapter 60, as so appearing, is hereby amended by striking
131 out in line 4 the words, “5 years” and inserting in place thereof the following:-

132 “10 years”

133 SECTION 10. Section 62A of chapter 60, as so appearing, is hereby amended by striking
134 out in in line 12, the words “25 per cent” and inserting in place thereof the following:-

135 “10 per cent”

136 SECTION 11. Chapter 60, as so appearing, is hereby amended by striking out section 64,
137 and inserting in place thereof the following section:-

138 Section 64. The land court shall have exclusive jurisdiction of the foreclosure of all rights
139 of redemption from titles conveyed by a tax collector's deed or a taking of land for taxes, in a
140 proceeding provided for in sections sixty-five to seventy-five, inclusive. The title conveyed by a
141 tax collector's deed or by a taking of land for taxes shall be absolute after foreclosure of the right
142 of redemption by judgment of the land court as provided in this chapter. The entry by the land

143 court of a judgment of foreclosure of the right of redemption shall not, however, impair or limit
144 the right of the owner of the land at the time of foreclosure, and of those holding an interest in
145 the land at the time of foreclosure, and their heirs, successors and assigns, to receive any excess
146 equity and subject to the requirements of section 64A of this chapter. Any sale or retention of
147 property by a municipality or other foreclosing entity pursuant to this chapter, shall be subject to
148 the duties and requirements set forth in section 64A.

149 SECTION 12. Said chapter 60, as so appearing, is hereby further amended by inserting
150 after section 64 the following section:-

151 Section 64A. Claim for excess equity after judgment foreclosing right of redemption

152 This section shall apply to every sale or retention of property by a municipality or a
153 purchaser of tax receivables following a final judgment of the land court foreclosing the right of
154 redemption. Within 14 days of entry of judgment foreclosing the right of redemption becoming
155 final, with either no appeal having been taken within the applicable time limit, or any appeal
156 taken having resulted in the entry of judgment pursuant to the rescript of the Supreme Judicial
157 Court or Appeals Court, the judgment holder shall elect either to (a) retain possession of the
158 property or (b) sell the property. The judgment holder shall notify the former owner(s) of the
159 property and all others known to hold the right of redemption in the property at the time
160 judgment entered of the petitioner's election by mailing notice of the judgment holder's election
161 and the rights and procedures for claiming excess equity set forth in this section, by certified
162 mail, to their last known address or place of business.

163 If selling the property, the judgment holder shall use reasonable best efforts to market the
164 property for sale within 120 days of the final judgment of the land court, unless a later date is

165 agreed to by the judgment holder and any party(ies) entitled to claim excess equity under this
166 section. If the property is to be retained, rather than sold, the judgment holder shall use
167 reasonable best efforts to have the property appraised, as set forth in this section, within 120 days
168 of the final judgment of the land court, unless a later date is agreed to by the judgment holder and
169 any party(ies) entitled to claim excess equity under this section.

170 Where a property is retained rather than sold by the judgment holder, the judgment holder
171 shall have the property appraised for its highest and best use. The appraisal shall be performed
172 by a licensed Massachusetts appraiser. The appraised highest and best use value of the property
173 as of the date of the final judgment of foreclosure shall be used to establish the amount of excess
174 equity above the taxes, interest, fees, and charges of keeping accrued before foreclosure, as well
175 as any post-foreclosure charges permitted under this chapter. Such excess equity shall be paid to
176 any party(ies) who make a valid claim for excess equity as set forth in this section.

177 A property shall not be considered retained by a judgment holder that has elected to sell
178 the property and which, in good faith, has used reasonable best efforts to sell a foreclosed
179 property without success. When the property has not been sold within 1 year of being marketed
180 for sale, the judgment holder shall notify any party(ies) entitled to claim excess equity of their
181 intention to continue the sale to another date and not to retain the property. Such notice shall be
182 mailed, by certified mail, to any party(ies) entitled to claim excess equity, or their successors in
183 interest, to their last known address or place of business. In each successive year after the first
184 attempt at sale, the judgment holder shall use reasonable best efforts to market the property for
185 sale. If no sale is completed within 5 years from the date of the attempted first sale of said
186 property, the property is considered retained and the excess equity shall be determined in
187 accordance with the appraisal provisions set forth in this section.

188 Upon a sale or appraisal of the property, the judgment holder shall prepare a written
189 itemized accounting setting forth, as appropriate, the disposition of the proceeds arising from the
190 sale, including without limitation the sale price, legal fees, marketing fees, auctioneer fees,
191 advertising costs, appraisal fees, and any excess equity due to any party(ies) entitled to claim
192 excess equity, or their successors in interest, as set forth in this section. Such written itemized
193 accounting shall be mailed by certified mail, to their last known address or place of business,
194 within 30 days of the sale of the property, or within 30 days of receipt of the appraisal of the
195 property where it is retained rather than sold, as set forth in this section. The notice shall state
196 that the former owner(s) of the property and all others known to hold the right of redemption in
197 the property at the time judgment of foreclosure entered in the land court, or their successors in
198 interest, are entitled to claim excess equity from the sale or retention of the property, and that
199 such claims must be submitted in writing to the judgment holder within 18 months of the receipt
200 of the notice. The excess equity claim must be delivered by personal service, receipt of which is
201 acknowledged by the judgment holder, or by certified mail, return receipt requested. The excess
202 equity claim shall contain the claimant's name, telephone number, mailing address, the property
203 address or parcel number, a description of their interest in the property, and shall include any
204 other persons or entities actually known to the claimant, to have an interest in the property at the
205 time of the final judgment of foreclosure, including any other former owners, mortgagees,
206 lienholders, heirs, or other individuals or entities who held a right to redeem, or their successors
207 in interests.

208 If no valid claim for excess equity is made by anyone entitled thereto within the
209 prescribed 18-month period, the excess equity shall be retained by the judgment holder.

210 Any excess equity shall be held in escrow by the judgment holder in a segregated
211 interest-bearing account until such time as it is paid to a claimant or it is deemed retained by the
212 judgment holder in accordance with this section. Excess equity plus any accrued interest shall be
213 paid to claimants within 90 days of the receipt of the written claim, unless a different time is
214 agreed to by the claimant and judgment holder, or unless a reasonable dispute arises and such
215 dispute is brought before the superior court, in which case any excess equity plus accrued interest
216 shall continue to be held in such segregated interest-bearing account and paid only in accordance
217 with the court's order.

218 If a reasonable dispute arises between or among the judgment holder and any former
219 owners, mortgagees, lienholders, heirs, or other individuals or entities who, at the time of the
220 final judgment of the land court, held an interest in the property and right to redeem, or their
221 successors in interest, and who are claiming excess equity hereunder, including, but not limited
222 to disputes regarding the valuation of the property, the sale process, the amount of excess equity,
223 its distribution, or any other aspect of this section, any such party may seek a determination of
224 the dispute by filing a written complaint in the superior court. Any such complaint shall be filed
225 within 12 months of the date of the notice of written itemized accounting following sale or
226 appraisal of the property, as set forth in this section. A complaint brought under this section shall
227 name all parties adversely interested who are known to the plaintiff, and process shall issue and
228 service be made in accordance with the Massachusetts Rules of Civil Procedure. All matters
229 pertaining to the litigation shall be heard by the superior court department, and the parties shall
230 be granted the right to a trial before a jury, unless all parties waive that right and file a written
231 agreement requesting a trial without a jury.

232 A former owner or other previous holder of the right of redemption of property, or their
233 successors in interest, whose right of redemption was foreclosed upon by a final judgment of
234 foreclosure entered on or after May 25, 2021, but before the date of the passage of this Act, may
235 file a written complaint in the superior court for the return of excess equity in accordance with
236 this section, within 12 months of the date of the passage of this Act. No claim for the return of
237 excess equity may be asserted by any party where a land court judgment of foreclosure was
238 entered, and not appealed, on or before May 24, 2021.

239 SECTION 13. Section 69A of chapter 60, as so appearing, is hereby amended by striking
240 out section 69A, and inserting in place thereof the following section:-

241 Section 69A. The land court may, in its discretion, grant a motion to vacate a decree of
242 foreclosure brought by any interested person other than the petitioner under section 65 within
243 one year after the final entry of the decree only if (1) the property has not been sold to an
244 innocent purchaser for value or (2) no claim for excess equity has been paid pursuant to section
245 64A, unless in either case the court makes appropriate equitable orders to protect the rights of the
246 purchaser of the property or the payor of the excess equity. If said foreclosure petition was filed
247 for an unoccupied or abandoned building as set forth in sections 1 and 81A, or there has been a
248 certification pursuant to section 81B that the redemption amount as determined pursuant to
249 section 62 exceeds the assessed value of the parcel, no petition to vacate a decree of foreclosure
250 entered under section 69 and no proceedings at law or equity for reversing or modifying such a
251 decree shall be commenced by any person other than the petitioner except within 90 calendar
252 days after the final entry of the decree, or within one year of the final entry of the decree, if the
253 decree was entered prior to the effective date of this section. For any decree relating to a property
254 for which record title stands in the name of a deceased person or person under guardianship or

255 conservatorship, a petition may be maintained for reversal or modification of such decree up to
256 one year from the date of decree.

257 No motion to vacate a decree of foreclosure and no proceeding at law or in equity for
258 reversing or modifying such a decree shall be commenced by any person other than the petitioner
259 under section 65 after one year, except upon a showing that the moving party's due process
260 rights have been violated.

261 If a decree of foreclosure is vacated pursuant to this section, all rights and obligations set
262 forth in section 64A shall be suspended, and any proceedings instituted in the superior court
263 regarding excess equity shall be dismissed.

264 SECTION 14. Section 75 of chapter 60, as so appearing, is hereby amended by inserting,
265 in line 9 after the word "recorded." the following words:-

266 The notices shall be prepared by the department of revenue, in language understandable
267 by a least sophisticated consumer, together with a notice in the 7 most common languages in the
268 commonwealth, that this notice affects important legal rights and should be translated
269 immediately.

270 SECTION 15. Section 77B of chapter 60, as so appearing, is hereby amended by
271 inserting, in line 19 after the word "sale." the following words:-

272 The notice shall also include the affirmative statement that the custodian will, following a
273 completed sale, provide to such owner a written notice containing an itemized accounting of the
274 disposition of the proceeds arising from the sale, including the sale price, legal fees, auctioneer

275 fees and advertising costs, other fees, and any excess equity due to the owner, within 30 days
276 after the receipt of such funds.

277 SECTION 16. Said section 77B of said chapter 60, as so appearing, is hereby amended
278 by inserting, in line 36 after the word “law” the following words:-

279 “, so long as the accounting provisions of this section and section 64A are satisfied”

280 SECTION 17. Said section 77B, as so appearing, is hereby amended by striking out
281 paragraph (4), lines 55-61.

282 SECTION 18. Chapter 60, as so appearing, is hereby amended by inserting after section
283 106, the following section:-

284 Section 107. Tax Lien Commission

285 There is hereby established a special commission to conduct a comprehensive study
286 relative to current law and practice around the collection of delinquent property tax revenue by
287 cities and towns in the Commonwealth.

288 The commission shall consist of the House and Senate chairs of the joint committee on
289 revenue or the chairs’ designees, who shall serve as co-chairs of the commission; the
290 Commissioner of the Department of Revenue or the Commissioner’s designee; the Chief Justice
291 of the Massachusetts Land Court or the Chief Justice’s designee; the Chief Justice of the
292 Massachusetts Superior Court or the Chief Justice’s designee; one member who shall be
293 appointed by the President of the Senate; one member who shall be appointed by the Speaker of
294 the House; one member who shall be appointed by the House Minority Leader; one member who
295 shall be appointed by the Senate Minority Leader; one member who shall be appointed by the

296 Governor; a representative of the Office of the Attorney General; a representative of the
297 Massachusetts Municipal Association; a representative of the Massachusetts Collectors and
298 Treasurers Association; a representative of third-party purchasers of tax-receivables; and a
299 representative on property owners' rights.

300 The commission shall file a report that will include, but not be limited to:

301 (i) An examination and assessment of the current local property tax collection processes,
302 including property owner notification and communication, property tax deferral options, or
303 exemptions that exist for special classes, third-party investor and any subsequent foreclosure
304 proceedings;

305 (ii) An examination of the role of purchasers of tax receivables, including third-party
306 purchasers of tax receivables, on the collection of delinquent property tax revenue, and any
307 recommended changes to said practice;

308 (iii) Recommended changes to the current statutory interest rate for delinquent property
309 taxes, if any, and the effect said changes would have on municipal operations and finances;

310 (iv) An examination of the revenue impact on cities and towns from former owners
311 seeking to recover lost equity to which they may be entitled following the Supreme Court ruling
312 in Tyler v. Hennepin County;

313 (v) Recommended changes to the statute of limitations for such claims, if any;

314 (vi) The collection and analysis of data which may include the number of foreclosures of
315 properties following a tax taking which resulted in the loss of excess equity by former property
316 owners for the three years preceding the Supreme Court ruling in Tyler v. Hennepin County;

317 (vii) Best practices in other states; and

318 (viii) Any other recommendations that the commission finds to be in the interest of
319 property owners and municipalities in the Commonwealth.

320 The commission shall file its final report and its recommendations for legislation with the
321 clerks of the house of representatives and the senate, the joint committee on revenue, and the
322 house and senate committee on ways and means, not later than December 31, 2025.

323 SECTION 19. To uphold the language access and inclusion notice requirements, pursuant
324 to sections 2-4 inclusive, and sections 6, 8, 11, and 14, the department of revenue shall evaluate
325 every 10 years the 7 most common languages of the commonwealth utilizing the most recent
326 data from the decennial federal census. The department shall update and prepare notices in
327 language understandable by a least sophisticated consumer and the 7 most common languages in
328 the commonwealth, as established by the most recent census data.

329 SECTION 20. For the purposes of this act, language understandable by a least
330 sophisticated consumer is the standard for evaluating truth and deception under the federal Fair
331 Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq., as summarized in *Jeter v. Credit*
332 *Bureau, Inc.*, 760 F.2d 1168 (11th Cir. 1985).