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No. 759

H.P. 539

House of Representatives, March 2, 2017

An Act To Clarify the Financial Authority of Sewer and Sanitary Districts

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative O'CONNOR of Berwick.
Cosponsored by Senator WOODSOME of York and
Representatives: DAUGHTRY of Brunswick, HANLEY of Pittston, HARVELL of
Farmington, TUCKER of Brunswick, WADSWORTH of Hiram, Senators: CARSON of
Cumberland, COLLINS of York, CUSHING of Penobscot.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §1033, sub-§1, ¶¶G and H,** as enacted by PL 2013, c. 555,
3 §6, are amended to read:

4 G. Section 1048, subsection 1, paragraph B and subsection 5; ~~and~~

5 H. Section ~~1051~~. 1050; and

6 **Sec. 2. 38 MRSA §1033, sub-§1, ¶I** is enacted to read:

7 I. Section 1051.

8 **Sec. 3. 38 MRSA §1033, sub-§2, ¶C,** as enacted by PL 2013, c. 555, §6, is
9 repealed.

10 **Sec. 4. 38 MRSA §1050, sub-§3,** as enacted by PL 2013, c. 555, §6, is amended
11 to read:

12 **3. Collection.** The treasurer of the qualified sewer district ~~may~~ has full and complete
13 authority and power to collect rates and all rates must be committed to the treasurer fees
14 established under section 1048 or otherwise authorized by law. The treasurer may, after
15 demand for payment, sue in the name of the qualified sewer district in a civil action in
16 any court of competent jurisdiction for any rates remaining unpaid. In addition to other
17 methods established by law for the collection of rates and without waiver of the right to
18 sue for the collection of rates, the lien created under subsection 2 may be enforced in the
19 following manner.

20 A. ~~When rates have been committed to the treasurer of the qualified sewer district~~
21 ~~for collection, the~~ The treasurer may, after the expiration of 3 months and within one
22 year after the date when the rates became due and payable, give to the owner of the
23 real estate served, leave at the owner's last and usual place of abode or send by
24 certified mail, return receipt requested, to the owner's last known address a notice in
25 writing signed by the treasurer or bearing the treasurer's facsimile signature, stating
26 the amount of the rates due, describing the real estate upon which the lien is claimed
27 and stating that a lien is claimed on the real estate to secure the payment of the rates
28 and demanding the payment of the rates within 30 days after service or mailing, with
29 \$1 added to the demanded rate for the treasurer and an additional fee to cover mailing
30 the notice by certified mail, return receipt requested. The notice must contain a
31 statement that the qualified sewer district is willing to arrange installment payments
32 of the outstanding debt.

33 B. After the expiration of 30 days and within one year after giving notice pursuant to
34 paragraph A, the treasurer of the qualified sewer district shall record in the registry of
35 deeds of the county in which the property of the person is located a certificate signed
36 by the treasurer setting forth the amount of the rates due, describing the real estate on
37 which the lien is claimed and stating that a lien is claimed on the real estate to secure
38 payment of the rates and that a notice and demand for payment has been given or
39 made in accordance with this section and stating further that the rates remain unpaid.
40 At the time of the recording of the certificate in the registry of deeds, the treasurer

1 shall file in the office of the qualified sewer district a true copy of the certificate and
2 shall mail a true copy of the certificate by certified mail, return receipt requested, to
3 each record holder of any mortgage on the real estate, addressed to the record holder
4 at the record holder's last and usual place of abode.

5 C. The filing of the certificate in the registry of deeds creates a mortgage held by the
6 qualified sewer district on the real estate described in the certificate that has priority
7 over all other mortgages, liens, attachments and encumbrances of any nature, except
8 liens, attachments and claims for taxes, and gives to the qualified sewer district all the
9 rights usually possessed by mortgagees, except that the qualified sewer district as
10 mortgagee does not have any right to possession of that real estate until the right of
11 redemption has expired.

12 D. If the mortgage created under paragraph C, together with interest and costs, has
13 not been paid within 18 months after the date of filing the certificate in the registry of
14 deeds in accordance with paragraph B, the mortgage is foreclosed and the right of
15 redemption expires. The filing of the certificate in the registry of deeds is sufficient
16 notice of the existence of the mortgage. In the event that the rate, with interest and
17 costs, is paid within the period of redemption, the treasurer of the qualified sewer
18 district shall discharge the mortgage in the same manner as provided for discharge of
19 real estate mortgages.

20 E. The owner of the real estate shall pay the sum of the fees for receiving, recording
21 and indexing the lien, or its discharge, as established by Title 33, section 751, plus
22 \$13, plus all certified mail, return receipt requested, fees.

23 F. Not more than 45 days or less than 30 days before the foreclosing date of the
24 mortgage created under paragraph C, the treasurer of the qualified sewer district shall
25 notify the party named on the mortgage and each record holder of a mortgage on the
26 real estate in a writing signed by the treasurer or bearing the treasurer's facsimile
27 signature and left at the holder's last and usual place of abode or sent by certified
28 mail, return receipt requested, to the holder's last known address of the impending
29 automatic foreclosure and indicating the exact date of foreclosure. For sending this
30 notice, the qualified sewer district is entitled to receive \$3 plus all certified mail,
31 return receipt requested, fees, which must be added to and become a part of the
32 amount due under paragraph E. If notice is not given in the time period specified in
33 this paragraph, the person not receiving timely notice has up to 30 days after the
34 treasurer provides notice as specified in this paragraph in which to redeem the
35 mortgage. The notice of impending automatic foreclosure must be substantially in
36 the following form:

37 **STATE OF MAINE**
38 **..... SEWER DISTRICT**
39 **NOTICE OF IMPENDING AUTOMATIC FORECLOSURE**
40 **SEWER LIEN**
41 **M.R.S.A., Title 38, section 1050**
42 **IMPORTANT: DO NOT DISREGARD THIS NOTICE**

1 **YOU WILL LOSE YOUR PROPERTY UNLESS**
2 **YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH**
3 **A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE**
4 **..... SEWER DISTRICT.**

5 **TO:**

6 **IF THE LIEN FORECLOSES,**
7 **THE SEWER DISTRICT WILL OWN**
8 **YOUR PROPERTY, SUBJECT ONLY TO**
9 **MUNICIPAL TAX LIENS.**

10 **.....**

11 **District Treasurer**

12 G. The qualified sewer district shall pay the treasurer \$1 for the notice, \$1 for filing
13 the lien certificate and the amount paid for certified mail, return receipt requested,
14 fees. The fees for recording the lien certificate must be paid by the qualified sewer
15 district to the register of deeds.

16 H. A discharge of the certificate given after the right of redemption has expired,
17 which discharge has been recorded in the registry of deeds for more than one year,
18 terminates all title of the qualified sewer district derived from that certificate or any
19 other recorded certificate for which the right of redemption expired 10 years or more
20 prior to the foreclosure date of this discharge lien, unless the qualified sewer district
21 has conveyed any interest based upon the title acquired from any of the affected liens.

22 **Sec. 5. 38 MRSA §1055**, as enacted by PL 2013, c. 555, §6, is amended to read:

23 **§1055. Investments**

24 A sewer district may invest its funds, including sinking funds, reserve funds and trust
25 funds, to the same extent ~~that the term of any instrument creating the funds does not~~
26 ~~prohibit the investment, in shares of an investment company registered under the federal~~
27 ~~Investment Company Act of 1940, whose shares are registered under the United States~~
28 ~~Securities Act of 1933, only if the investments of the investment company are limited to~~
29 ~~obligations of the United States or any agency or instrumentality, corporate or otherwise,~~
30 ~~of the United States or repurchase agreements secured by obligations of the United States~~
31 ~~or any agency or instrumentality, corporate or otherwise, of the United States~~ as
32 municipalities are authorized under Title 30-A, chapter 223, subchapter 3-A. This section
33 is in addition to, and not in limitation of, any power of a sewer district to invest its funds.

34 **Sec. 6. 38 MRSA §1164**, as enacted by PL 1993, c. 651, §7, is amended to read:

35 **§1164. Investments**

36 A sanitary district may invest its funds, including sinking funds, reserve funds and
37 trust funds, to the same extent ~~that the terms of any instrument creating the funds do not~~

1 ~~prohibit the investment, in shares of an investment company registered under the federal~~
2 ~~Investment Company Act of 1940, whose shares are registered under the United States~~
3 ~~Securities Act of 1933, only if the investments of the investment company are limited to~~
4 ~~obligations of the United States or any agency or instrumentality, corporate or otherwise,~~
5 ~~of the United States or repurchase agreements secured by obligations of the United States~~
6 ~~or any agency or instrumentality, corporate or otherwise, of the United States~~ as
7 municipalities are authorized under Title 30-A, chapter 223, subchapter 3-A. This section
8 is in addition to, and not in limitation of, any power of a sanitary district to invest its
9 funds.

10

SUMMARY

11 This bill clarifies the authority of sewer districts and sanitary districts to administer
12 financial resources. It allows sewer districts and sanitary districts to invest their funds in
13 the same way as municipalities. It clarifies that sewer districts have full authority to
14 collect rates and fees.