

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

S.P. 67 - L.D. 192

**An Act To Clarify the Law Governing the Collection of Unpaid Sanitary
District Charges**

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 30-A MRSA §3406, sub-§2, as amended by PL 2013, c. 197, §1, is further amended to read:

2. Lien. There is a lien on real estate served or benefited by a municipal sewer or sewer system or storm water disposal system to secure the payment of service charges and interest on delinquent accounts established under this chapter. This lien arises and is perfected as services are provided and takes precedence over all other claims on the real estate, excepting only claims for taxes.

Sec. 2. 30-A MRSA §5405, sub-§2, ¶D, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

D. There ~~shall be~~ is a lien on real estate served or benefitted by a water system, sewer system or water and sewer system to secure the payment of rates, fees or charges established under this chapter. This lien arises and is perfected as services are provided and takes precedence over all other claims on the real estate, excepting only claims for taxes. The treasurer of the municipality may collect these rates, fees and charges in the same manner as provided in Title 38, section 1208 for treasurers of sanitary sewer districts with respect to rates established and due under Title 38, section 1202.

Sec. 3. 38 MRSA §1050, sub-§2, as enacted by PL 2013, c. 555, §6, is amended to read:

2. Lien. There is a lien on real estate served or benefited by the sewers of the qualified sewer district to secure the payment of the qualified sewer district's rates. The lien established under this section arises and is perfected as services are provided and takes precedence over all other claims on such real estate, except claims for taxes.

Sec. 4. 38 MRSA §1208, first ¶, as enacted by PL 1965, c. 310, is amended to read:

There ~~shall be~~ is a lien on real estate served or benefited by the sewers of any district formed under this chapter to secure the payment of rates established and due under section 1202, ~~which shall take~~ arises and is perfected as services are provided and takes precedence over all other claims on such real estate, excepting only claims for taxes.

Sec. 5. 38 MRSA §1208, 2nd ¶, as amended by PL 2011, c. 104, §3, is further amended to read:

The treasurer of the district has full and complete authority and power to collect the rates, tolls, rents and other charges established under section 1202 ~~and the rate, toll, rent or other charge must be committed to the treasurer.~~ The treasurer may, after demand for payment, sue in the name of the district in a civil action for any rate, toll, rent or other charge remaining unpaid in any court of competent jurisdiction. In addition to other methods established by law for the collection of rates, tolls, rents and other charges, and without waiver of the right to sue for the rate, toll, rent or other charge, the lien created may be enforced in the following manner. The treasurer, ~~when a rate, toll, rent or other charge has been committed to the treasurer for collection,~~ may, after the expiration of 3 months and within one year after the date when the rate, toll, rent or other charge became due and payable, give to the owner of the real estate served, or leave at the owner's last and usual place of abode, or send by certified mail, return receipt requested, to the owner's last known address, a notice in writing signed by the treasurer or bearing the treasurer's facsimile signature, stating the amount of that rate, toll, rent or other charge, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or other charge and demanding the payment of the rate, toll, rent or other charge within 30 days after service or mailing, with \$1 for the treasurer for mailing the notice together with the certified mail, return receipt requested, fee. The notice must contain a statement that the district is willing to arrange installment payments of the outstanding debt. For the purpose of this section, a mobile home is defined as real estate. After the expiration of a period of 30 days and within one year thereafter, the treasurer shall record in the registry of deeds of the county in which the property of such person is located a certificate signed by the treasurer or bearing the treasurer's facsimile signature setting forth the amount of such rate, toll, rent or other charge, describing the real estate on which the lien is claimed, and stating that a lien is claimed on the real estate to secure payment of the rate, toll, rent or other charge and that a notice and demand for payment of the rate, toll, rent or other charge has been given or made in accordance with this section and stating further that such rate, toll, rent or other charge remains unpaid. At the time of the recording of any such certificate in the registry of deeds as provided, the treasurer shall file in the office of the district a true copy of such certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real

estate, addressed to such record holder at the record holder's last and usual place of abode. If the notice described in this paragraph was not provided to all persons who were record owners of the real estate at that time, the treasurer shall mail a true copy of the lien certificate by certified mail, return receipt requested, to any such record owner who was not provided a notice, addressed to the record owner at the record owner's last known address, as well as to any new record owner as of the date the lien certificate was recorded.

Sec. 6. 38 MRSA §1208, 3rd ¶, as amended by PL 2011, c. 104, §4, is further amended to read:

The filing of the certificate in the registry of deeds creates a mortgage on the underlying real estate to the district that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the district all the rights usually possessed by mortgagees, except that the district as mortgagee does not have any right to possession of the real estate until the right of redemption has expired. If the mortgage, together with interest and costs, has not been paid within 18 months after the date of filing of the certificate in the registry of deeds, the mortgage is deemed to be foreclosed and the right of redemption to have expired. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage created in this paragraph. If the rate, toll, rent or other charge, with interest and costs, is paid within the period of redemption, the treasurer of the district shall discharge the mortgage in the same manner as for the discharge of tax lien mortgages pursuant to Title 36, section 943. After the expiration of the 18-month period of redemption, in the event a copy of the certificate has not been provided to a mortgage holder of record or an owner of record as required by this section, the mortgage holder of record or the owner of record who did not receive a notice has the right to redeem the real estate within 3 months after receiving actual knowledge of the recording of the lien certificate by payment or tender of the amount of the sewer lien mortgage, together with interest and costs, and to have the lien discharged.