

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 837

H. P. 620

House of Representatives, January 25, 1961.

Referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Burns of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Relating to Charges and Real Estate Liens by Westbrook Sewerage District.

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

Sec. 1. P. & S. L., 1955, c. 176, § 10, amended. Section 10 of chapter 176 of the private and special laws of 1955 is amended by adding a new sentence at the end of the 2nd paragraph, to read as follows:

‘All such charges, so established by the trustees, shall first be filed with the Public Utilities Commission for the State of Maine before the same shall become effective and applicable.’

Sec. 2. P. & S. L., 1955, c. 176, § 10-A, additional. Chapter 176 of the private and special laws of 1955 is amended by adding a new section to be numbered 10-A, to read as follows:

‘Sec. 10-A. Liens; how applied and perfected. There shall be a lien on real estate served by the sewers of the district, or as to which such service is available, to secure payment of the rates and charges established by the trustees and due which shall take precedence over all other claims on such real estate, excepting only claims for taxes.

The trustees of the district shall have full and complete authority and power to collect the rates and charges as may be determined by them. Said trustees, or either of the officers of the district as may be determined by the trustees, may, after demand for payment, sue in the name of the district for any rate or charge now remaining due and unpaid or hereafter becoming due and unpaid in any court of competent jurisdiction, and no trial justice or judge of any court

before whom such suit is brought shall be incompetent to try the same by reason of his residence in the district. Suit may also be brought for any rates or charges which shall become due after this section becomes effective and which shall remain due and unpaid for a period of 90 days or more thereafter and shall include in the amount sued for all reasonable costs of collection and attorney's fees incurred by the district in effecting collection of such rates and charges. Within 60 days after this section shall become effective, all billings of said district shall have clearly printed on them excerpts of this section for the information of all users of the district's services.

In addition to other methods established by law for the collection of rates and charges and without waiver of the right to sue for the same as aforesaid, the lien hereby created may be enforced as hereafter in this section provided. The trustees, when a rate or other charge has become due and payable, may cause, after expiration of 3 months and within one year after the date when the same become due and payable, in the case of a person resident within the district, to be given to such person, or leave at his last and usual place of abode, a notice in writing signed by the treasurer or other officer designated by the trustees, stating the amount of such rate or charge, describing, but only sufficiently to identify the same, the real estate upon which the lien is claimed, and stating that a lien is claimed on said real estate to secure the payment of said rate or charge, and demanding payment of said rate or charge within 30 days after the service of such notice as aforesaid. In the case of a nonresident of the district the aforesaid notice shall be given by registered mail addressed to his last known address or by publication in a newspaper of general circulation within the district once a week for 2 successive weeks, and shall demand payment within 30 days after the mailing thereof or the first publication of notice thereof as aforesaid. After the expiration of said period of 30 days and within one year thereafter, the trustees may record in the registry of deeds for the County of Cumberland, a certificate signed by the treasurer or other officer designated by them, setting forth the amount of such rate or charge, describing, but only sufficiently to identify the same, the real estate on which the lien is claimed, and stating that a lien is claimed on such real estate to secure the payment of said rate, or charge, and that a notice and demand for payment of the same has been given or made in accordance with this section, and stating further that said rate or charge remains unpaid. At the time of recording any such certificate in the registry of deeds as heretofore provided, the trustees or any other officer designated by them, shall file in the office of the district a true copy of such certificate, and shall mail a true copy thereof by registered mail to each record holder of any mortgage on such real estate, addressed to such record holder at his last and usual place of abode. The fee to be charged by the district to the rate payer for such notice and filing and recording shall not exceed \$1.50, and the fee to be charged to the district by the register of deeds for such filing and recording shall not exceed 50c, provided that in the event of unusual circumstances requiring services and research not usually required in this process the district may charge a reasonable fee in addition thereto the total of which shall not exceed 1% of the amount due and in such unusual cases the register of deeds may charge in addition, making a total charge equal to the recording fee usually charged for similar documents.

The filing of the aforesaid certificate in the registry of deeds as aforesaid shall be deemed to create, and shall create, a mortgage on the real estate therein described to the district which shall have priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and shall give to the district all the rights usually possessed by a mortgagee, except that the district as mortgagee shall not have any right of possession of said real estate until the right of redemption hereafter provided for shall have expired. If the mortgage, together with interests and costs, shall not have been paid within 18 months after the date of filing of said certificate in the registry of deeds as herein provided, the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired. The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage hereby provided for. In the event that said rate or charge, together with interest and costs as aforesaid, shall be paid within 18 months after the filing of said certificate in the registry of deeds, the trustees shall cause the mortgage to be discharged in the same manner as is provided for discharge of real estate mortgages.'