

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 350

H. P. 293

House of Representatives, February 9, 1977

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

EDWIN H. PERT, Clerk

Presented by Mr. Mahany of Easton.

Cosponsor: Mr. Peterson of Caribou.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Clarify the Borrowing Capacity of the Fort Fairfield Utilities District and to Provide for the Imposition of Liens to Secure Payment of Sewer Rates of the District.

Emergency Preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Fort Fairfield Utilities District and The Great Atlantic & Pacific Tea Company have entered into an agreement for the construction, operation and maintenance of a municipal and industrial waste treatment facility in the Town of Fort Fairfield under the auspices of United States Public Law 92-500 (Federal Water Pollution Control Act), the same being funded in part with federal funds, in part with State of Maine funds and in part with funds to be raised by said district; and

Whereas, the district's application for said project has been approved by the Environmental Protection Agency of the United States and the Department of Environmental Protection of the State of Maine and said construction is now in process; and

Whereas, in order to insure the completion and success of said municipal-industrial waste treatment facility, it is necessary for the Fort Fairfield Utilities District to produce sufficient moneys with which to provide for interim financing for construction costs and other related costs; and

Whereas, the district's charter provides for a debt limit of \$3,000,000 and it is deemed by bond counsel that it is necessary and appropriate to have the charter clarified so as to make it certain that said debt limit refers to the

amount of indebtedness which at one time may be outstanding in an amount not to exceed said \$3,000,000 and the need for such clarification is pressing; and

Whereas, the District does not now have in its charter any provisions for imposing liens upon real estate served by its sewers to secure payment of rates and such need for such power to impose liens constitutes an immediate necessity so that the district will have such lien powers as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. P&SL 1947, c. 148, § 12, 1st sentence, as last amended by P&SL 1973, c. 179, is further amended to read:

For accomplishing the purposes of this Act, said district, through its trustees, is authorized to borrow money temporarily in an amount not to exceed \$3,000,000 at any one time in the aggregate outstanding, and to issue therefor the interest-bearing negotiable notes of the district, and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under this Act, including the expenses incurred in the creation of the district, in reimbursing said town, in acquiring the aforesaid properties, privileges and franchises of the Frontier Water Company and the Fort Fairfield Sewer Company and the individual owners of other private sewers and the Fort Fairfield Light and Power Company, by purchase or otherwise, of securing sources of supply, taking water and land, paying damages, laying pipes, erecting poles and wires, constructing and maintaining and operating a water, sewerage and drainage, and light and power distribution system, and making extensions, additions and improvements to the same, the said district, through its trustees, may from time to time issue bonds of the district to an amount necessary in the judgment of the trustees therefor, maturing at one time or in uniform or varying installments with or without call provisions and at or without any premium.

Sec. 2. P&SL 1947, c. 148, § 22 is enacted to read:

Sec. 22. Lien to secure payment of rates; procedure. There shall be a lien on real estate served, directly or indirectly, by the sewers of the district to secure the payment of rates established and due under the provisions of section 15, which shall take precedence of all claims on such real estate, excepting only claims for taxes. Real estate for the purposes of this Act shall bear the same definition as given in the Revised Statutes of 1964, Title 36, sections 551 and 552.

The treasurer of the district shall have the authority and power to collect the rates, and he is empowered to exercise the authority hereinafter set forth in enforcing the collection of any rates due and payable to the district.

In addition to other methods previously established by law for the collection of the rates, the lien herein created may be enforced in the following manner. The treasurer, when a rate has become due and payable, may, after the expiration of 3 months and within one year after the date said rate becomes due and payable, in the case of a person resident in the town where the rate is assessed, give to the person against whom the rate is assessed or leave at his last and usual place of abode, a notice in writing signed by the officer stating the amount of such rate, describing the real estate upon which the lien is claimed, alleging that a lien is claimed on the real estate to secure the payment of the rate and demanding the payment of the rate within 10 days after the service of such notice. After the expiration of the 10 days and within 10 days thereafter, in the case of a resident, and in all other cases within a year from the date, the treasurer shall record in the registry of deeds of Aroostook County a certificate signed by the officer setting forth the amount of such rate, a description of the real estate on which the lien is claimed and an allegation that a lien is claimed on the real estate to secure the payment of the rate, that a demand for payment of the rate has been made in accordance with the provisions of this section and that the rate remains unpaid. In the case of a nonresident, the aforesaid notice of lien and demand for payment shall be given by registered mail or by publication in a newspaper published in the Town of Fort Fairfield once a week for 2 successive weeks, and after the expiration of 10 days from the date of mailing said notice or after the expiration of 10 days from the last publication of said notice and within 10 days after said expiration periods, the treasurer shall record said certificate. At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases such treasurer shall file in the office of the district a true copy of the certificate and also at the time of recording as aforesaid, the officer shall mail by registered letter to each record holder of a mortgage on said real estate, addressed to him at his last and usual place of abode, a true copy of the certificate. The fee to be charged to the ratepayer for such notice and filing shall not exceed \$5 and the fee to be charged by the register of deeds for such filing shall not exceed \$3.

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 to the district, having 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 incident to a mortgagee, except that the mortgagee shall not have any right of possession of the real estate until the right of redemption herein provided for shall have expired.

If the mortgage, together with interest and costs, shall not have been paid within 12 months after the date of filing of the 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 herein provided for.

In the event that the rate, interest and costs shall be paid within the period of redemption herein provided for, the treasurer of the district shall discharge

the mortgage in the same manner as is provided for discharge of real estate mortgages.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.