

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 647

H. P. 531

House of Representatives, February 24, 1977

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

EDWIN H. PERT, Clerk

Presented by Mrs. Boudreau of Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Enable that City of Portland to Collect its Sewer Assessments over a Period not to Exceed 10 Years.**

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

Sec. 1. P & SL 1891, c. 184, §§ 8 - 16, are enacted to read:

Sec. 8. Stay of foreclosure. The City of Portland is authorized to provide by ordinance for a stay of the foreclosure of lien under section 6. Such ordinance may provide for the payment of interest not to exceed 10% per year, for a late charge, for a term not to exceed 10 years, and for such other conditions as the city shall deem advisable or necessary. Such lien shall continue in full force and effect except that such foreclosure provision shall be stayed. Notice of the stay of foreclosure when recorded in the Cumberland County Registry of Deeds shall constitute notice to all persons of the existence of the lien, whether recorded or unrecorded, and of the terms of such stay.

Sec. 9. Termination of agreement. The agreement to stay foreclosure shall terminate upon either:

1. Conveyance of property. Conveyance of property burdened by the lien to any other person, except:

A. Where such conveyance is solely as security for the loan of money by grantee to grantor;

B. Where such conveyance is of less than a fee interest and the person conveying continues to reside thereon; or

C. To a spouse or minor children, upon the death of the person executing the agreement, but only with regard to the share of such spouse and minor children of the decedent and only during such minority;

2. Payment. Failure, neglect or refusal to pay the full amount of any installment for a period in excess of 30 days after such installment is due and payable, with or without receipt of notice of such installment being due. This condition may be waived by acceptance of later or partial payment, but any such acceptance shall waive this provision only with regard to the installment for which such later or partial payment applied;

3. Payment prior to expiration of agreement. Payment of the balance then due prior to the expiration of the term of the agreement; or

4. Balance remaining. Expiration of the term of the agreement if there is then a balance remaining.

Sec. 10. Termination of agreement to stay foreclosure. Upon termination of the agreement to stay foreclosure, foreclosure shall occur 90 days thereafter unless the balance due, including any interest or late charge, is paid to the city prior to such foreclosure.

Sec. 11. Waiver of payment. The City of Portland is further authorized to provide by ordinance for the waiver of payment of the full amount of estimated assessment prior to entry of a private sewer or drain into a public sewer or drain. Such waiver of payment shall be conditioned upon execution of an agreement to pay the full amount of the estimated assessment in installments. The ordinance may provide for the payment of interest not to exceed 10% per year, for a late charge, for a term not to exceed 10 years, and for such other conditions as the city shall deem advisable or necessary, including the adjustment of the estimated assessment when final costs become known.

Sec. 12. Agreement binding. Any agreement to pay the amount of the estimated assessment shall be the encumbrance upon the land and, when notice of such agreement is recorded in the Cumberland County Registry of Deeds, such agreement shall bind subsequent purchases and all persons in privity of estate with, or claiming through, the person executing the agreement.

Sec. 13. Agreement to pay terminated. The agreement to pay the assessment shall terminate upon the happening of any event enumerated in section 9, or upon creation of a lien under section 5.

Sec. 14. Lien. In the event that a lien is at any time created under section 5, the provisions of that section and of sections 6, 7, 8, 9 and 10 shall then be applicable, but the section 5 lien shall be deemed to relate back in time to the date of execution of the agreement authorized by section 11.

Sec. 15. Existence of lien. Upon termination other than by payment in full or by creation of a lien under section 5, an agreement made pursuant to section 11 shall become a lien upon the property described therein in the amount of the unpaid balance then due and, if the agreement or notice of the agreement was recorded in the Cumberland County Registry of Deeds, such recording shall be deemed to give notice as to the existence of such lien.

**Sec. 16. Foreclosure of lien.** A lien created under section 15 shall be foreclosed in accordance with the provisions contained in section 10. In addition, the city shall have all the remedies provided in section 7 to collect the unpaid balance.

**Sec. 2.** P & SL 1891, c. 184, §§ 8 - 12, as enacted by P & SL 1967, c. 138, § 1, are renumbered to be sections 17 to 21.

**Sec. 3.** P & SL 1891, c. 184, §§ 13 and 14, as renumbered by P & SL 1967, c. 138, § 2, are renumbered to be sections 22 and 23.

#### STATEMENT OF FACT

The present statute does not provide for any payment of sewer assessments over a period of time. New sections 8 to 10 provide for a system of deferred payment and a stay on the foreclosure process, creating a system analogous to that provided in the Revised Statutes, Title 30, section 4453.

Sections 11 to 16 provide for the situation when a sewer connection is desired prior to the fixing of sewer assessments. Under the existing statute, the owner is required to pay the full amount of the estimated sewer assessment prior to such connection. These sections would allow the city to enter into agreements for payment over a 10-year period.

Sections 17 to 23 are sections contained in the statute which have been renumbered to accommodate new sections 11 to 16.