

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1682

7 H.P. 1185

House of Representatives, December 18, 1985

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

10 Received by the Clerk of the House on December 18, 1985. Referred to
the Committee on Taxation and 1,600 ordered printed pursuant to Joint Rule
14.

EDWIN H. PERT, Clerk

11 Presented by Representative Macomber of So. Portland.

Cosponsored by Representative McPherson of Eliot

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Require Provision of Notice of
18 Condemnation to Certain State and
19 Local Governments and to Clarify the
20 Status of Tax Liens on Condemned
21 Property.
22

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

25 Sec. 1. 23 MRSA §154, 3rd ¶ from end is amended
26 to read

27 In case there is a mortgage, tax lien of record,
28 state or local property tax assessment, municipal
29 sewer and drain assessment and charge or other encum-
30 brance covering any of said that land, a copy of the
31 notice of condemnation shall be sent forthwith by
32 registered or certified mail to the holder of record
33 of said the mortgage, tax lien, state or local prop-
34 erty tax assessment, municipal sewer and drain
35 assessment or other encumbrance addressed to his of-
36 fice or place of abode if known, otherwise to the of-

1 fice, abode or address as set forth in said the
2 record.

3 Sec. 2. 23 MRSa §162 is enacted to read:

4 §162. Tax liens on property acquired for highway
5 purposes

6 There shall be a lien pursuant to Title 36, sec-
7 tion 552, to secure the payment of all taxes legally
8 assessed on property acquired by the Department of
9 Transportation on behalf of the State in the exercise
10 of the department's authority to acquire property for
11 highways pursuant to this subchapter that are unpaid
12 at the time title in the acquired property is trans-
13 ferred to the State.

14 STATEMENT OF FACT

15 When the Department of Transportation takes prop-
16 erty for highway purposes through condemnation pro-
17 ceedings, it must provide notice of condemnation to
18 municipalities that have filed tax liens against the
19 property that is to be taken. There is no require-
20 ment that the department provide notice to municipal-
21 ities which have assessments outstanding against the
22 property that is to be condemned. Municipalities
23 have no notice of impending condemnation of property
24 upon which taxes and assessments are owed if no lien
25 has been filed, so collection of assessments in these
26 instances is hampered. Section 1 of this bill re-
27 quires the department to send a copy of the notice of
28 condemnation to the State and to municipalities when
29 assessments of property taxes and assessments and
30 charges for sewers and drains made by these govern-
31 mental entities are outstanding.

32 Condemnation proceedings present another problem
33 for municipalities in collecting property taxes and
34 sewer and drain assessments. Municipalities typical-
35 ly have 2 routes for recovery of taxes. Prior to the
36 filing of a lien on the property, the municipality
37 may bring suit against the person who owned the prop-
38 erty at the time of assessment or it may file a tax
39 lien on the property between 12 and 18 months after

1 assessment. Where the property is transferred after
2 assessment but before filing of a lien, the municipi-
3 pality may file suit against the person who owned the
4 property at the time of assessment or may place a
5 lien on the property against the subsequent owner.

6 Department of Transportation policy limits munic-
7 ipalities to only one of the 2 methods for recovery
8 of unpaid taxes on state-acquired property. The de-
9 partment currently pays outstanding taxes on con-
10 demned property only if a recorded tax lien exists at
11 the time the State acquires title. Since tax liens
12 are placed on property between 12 and 18 months after
13 assessment, this policy permits the department to es-
14 cape liability for current year unpaid taxes when it
15 acquires property with unpaid assessments during the
16 year following assessment. The department contends
17 that no tax lien may be filed against the State as a
18 subsequent owner, so that if a municipality wishes to
19 recover taxes assessed against the prior owner, but
20 unpaid by that prior owner, its only recourse is to
21 sue the prior owner. The department's position ef-
22 fectively limits municipalities to only one route for
23 recovery of taxes when no lien exists at the time of
24 condemnation, that is, suit against the person who
25 owned the property at the time of assessment.

26 Section 2 of this bill authorizes tax liens, pur-
27 suant to Title 36, section 552, to be filed against
28 the State so that municipalities may also use the tax
29 lien process to recover taxes assessed against the
30 condemned property that were unpaid at the time of
31 condemnation. In this way, municipalities will have
32 the same options in recovering unpaid assessments
33 when the department condemns property in the middle
34 of the tax year as they now have when land is trans-
35 ferred between private persons in the middle of the
36 tax year.

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