

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 529

H.P. 384

House of Representatives, January 28, 1997

An Act to Conform the Lien Procedures Within the Charter of Boothbay Harbor Sewer District to Statutory Lien Procedures.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HONEY of Boothbay.
Cosponsored by Senator KILKELLY of Lincoln and
Representatives: BERRY of Belmont, COLWELL of Gardiner, JONES of Bar Harbor,
LaVERDIERE of Wilton, MAYO of Bath, VEDRAL of Buxton.

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

Sec. 1. P&SL 1961, c. 161, §25, 2nd and 3rd ¶¶, are repealed and the following enacted in their place:

When a rate, toll, rent or other charge has been committed to the treasurer of the Boothbay Sewer District for collection, the treasurer may, after the expiration of 3 months and within one year after the date when the 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 written notice 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 to secure payment of the charge and demanding payment within 30 days after service or mailing of the notice plus \$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 the 30-day period and within one year, the treasurer shall record in the Lincoln County Registry of Deeds a certificate signed by the treasurer setting forth the amount of the rate, toll, rent or other charge, the real estate on which the lien is claimed, stating that a lien is claimed to secure payment of the charge and that notice and demand for payment of the charge has been given or made in accordance with the provisions of this section, and that the charge remains unpaid. At the time of the recording of a certificate in the Registry of Deeds, the treasurer shall file in the office of the district a true copy of the 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 the record holder at the record holder's last and usual place of abode.

The filing of the certificate in the Registry of Deeds is deemed to create, and creates, a mortgage on the real estate described in the deed for 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 a right to possession of the real estate until the right of redemption provided for has expired. If the mortgage, together with

2 interest and costs, is not paid within 18 months after the date
3 of filing of the certificate in the Registry of Deeds, the
4 mortgage is deemed foreclosed and the right of redemption
5 expired. The filing of the certificate in the Registry of Deeds
6 is sufficient notice of the existence of the mortgage. In the
7 event that the rate, toll, rent or other charge, with interest
8 and costs, is paid within the period of redemption, the treasurer
9 of the district shall discharge the mortgage in the same manner
10 as provided for discharge of real estate mortgages.

11 The cost to be paid by the owner of the real estate served
12 is the sum of the fees for receiving, recording and indexing the
13 lien, or its discharge, as established by the Maine Revised
14 Statutes, Title 33, section 751, plus \$13 and all certified mail,
15 return receipt requested fees.

16 The district shall pay the treasurer \$1 for filing the lien
17 certificate and the amount paid for certified mail, return
18 receipt requested fees. The fees for recording the lien
19 certificate must be paid by the district to the Register of Deeds.

20 A discharge of the certificate and given after the right of
21 redemption has expired and has been recorded in the Registry of
22 Deeds for more than one year terminates all title of the sewer
23 district derived from that certificate or any other recorded
24 certificate for which the right of redemption expired 10 years or
25 more prior to the foreclosure date of this discharge lien, unless
26 the sewer district has conveyed any interest based upon the title
27 acquired from any of the affected liens.

32 SUMMARY

33 This bill grants to the Boothbay Harbor Sewer District the
34 same lien notice and collection rights available to sanitary
35 districts under the Maine Revised Statutes, Title 38.