

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 244

H.P. 183

House of Representatives, January 18, 2005

An Act To Standardize Water Lien Provisions

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RICHARDSON of Greenville.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: ANNIS of Dover-Foxcroft, RICHARDSON of Carmel, SHERMAN of
Hodgdon.

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

2 Sec. 1. 35-A MRSA §6111, as corrected by RR 1991, c. 1, §49,
4 is repealed.

6 Sec. 2. 35-A MRSA §6111-A is enacted to read:

8 §6111-A. Liens for unpaid rates; multiunit residential
10 rental property

12 1. Liens for unpaid rates; consumer-owned water utilities.

12 A consumer-owned water utility has a lien on real estate served
14 by that consumer-owned water utility to secure the payment of
14 unpaid rates.

16 2. Rental property; water utilities. Notwithstanding

16 section 706, when a landlord has applied for and is granted water
18 utility service to a multiunit residential rental property, the
20 water utility has a lien on the property and on any interest the
22 landlord has in the multiunit residential rental property to
22 secure payment for the water utility's service to that property
24 with costs and with interest at a rate not to exceed the highest
24 lawful rate set by the Treasurer of State for municipal taxes.

24 3. Method and procedure. The method for obtaining,

26 enforcing and receiving payment on a lien created under this
26 section must be performed in the same manner and has the same
28 effect and creates the same rights as provided in Title 38,
30 section 1208 pertaining to the collection of unpaid rates by a
30 sanitary district, except that a sanitary district lien created
32 under Title 38, section 1208 continues with priority over a lien
32 created under this section. The notice of impending automatic
34 foreclosure must be substantially in the following form:

36 STATE OF MAINE
36 (insert name of water utility)
38 NOTICE OF IMPENDING AUTOMATIC FORECLOSURE
38 WATER LIEN
40 Title 35-A M.R.S.A., section 6111-A

42 IMPORTANT: DO NOT DISREGARD THIS NOTICE
42 YOU WILL LOSE YOUR PROPERTY UNLESS
44 YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH
44 A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE
46 (insert name of water utility)

48 TO:

50 You are the party named on the Water Lien Certificate filed
50 on, 20.. and recorded in Book, Page ... in
50 the County Registry of Deeds. This (insert name of water

2 utility) filing created a lien mortgage on the real estate
described in the Water Lien Certificate.

4 On, 20.., the water lien mortgage will be
foreclosed and your right to redeem the mortgage and recover your
6 property by paying the charges and interest of the (insert name
of water utility) that are owed will expire.

8
10 IF THE LIEN FORECLOSES,
THE (insert name of water utility) WILL OWN
12 YOUR PROPERTY, SUBJECT ONLY TO
SANITARY DISTRICT AND MUNICIPAL TAX LIENS.

14 If you cannot pay the outstanding charges, costs and
interest that are the subject of this notice or the subject of
16 installment payment arrangements that you have made with the
(insert name of water utility), please contact me immediately to
18 discuss this notice.

20
22 (insert name of water utility) Treasurer

24 **Sec. 3. 35-A MRSA §6414-A.** as enacted by PL 2003, c. 147,
§4, is amended to read:

26 **§6414-A. Water utilities; rate collection and liens**

28 All persons, firms and corporations, whether public, private
or municipal, shall pay to the treasurer of any water district
30 the rates established pursuant to chapter 61 for the water
service used with respect to their real estate.

32 ~~There is a lien on real estate served by a water district to~~
34 ~~secure the payment of unpaid rates. The method for obtaining,~~
~~enforcing and receiving payment on the lien must be in the same~~
36 ~~manner and has the same effect and creates the same rights as~~
~~provided in Title 38, section 1208, pertaining to the collection~~
38 ~~of unpaid rates by a sanitary district, except that the sanitary~~
~~district lien created under Title 38, section 1208 continues with~~
40 ~~priority over the district's water utility lien created under~~
~~this section and the notice of impending automatic foreclosure~~
42 ~~must be substantially in the following form:~~

44 ~~-STATE-OF-MAINE~~
46 ~~*****-WATER-DISTRICT~~
~~NOTICE-OF-IMPENDING-AUTOMATIC-FORECLOSURE~~
~~WATER-LIEN~~
48 ~~Title-35-A-M.R.S.A.,-section-6414-A~~
50 ~~IMPORTANT:-DO-NOT-DISREGARD-THIS-NOTICE~~
~~YOU-WILL-LOSE-YOUR-PROPERTY-UNLESS~~

YOU-PAY-THE-CHARGES,-COSTS-AND-INTEREST-FOR-WHICH
A-LIEN-ON-YOUR-PROPERTY-HAS-BEEN-CREATED-BY-THE
*****WATER-DISTRICT.

TO:*****

You-are-the-party-named-on-the-Water-Lien-Certificate-filed
on-*****-20,-and-recorded-in-Book-*****-Page-*****-in
the-*****-County-Registry-of-Deeds,-This-*****-Water
District-filing-created-a-lien-mortgage-on-the-real-estate
described-in-the-Water-Lien-Certificate.

On-*****-20,-the-water-lien-mortgage-will-be
foreclosed-and-your-right-to-redeem-the-mortgage-and-recover-your
property-by-paying-the-district's-charges-and-interest-that-are
owed-will-expire.

IF-THE-LIEN-FORECLOSES,
THE-*****-WATER-DISTRICT-WILL-OWN
YOUR-PROPERTY,-SUBJECT-ONLY-TO
SANITARY-DISTRICT-AND-MUNICIPAL-TAX-LIENS.

If-you-can-not-pay-the-outstanding-charges,-costs-and
interest-that-are-the-subject-of-this-notice-or-the-subject-of
installment-payment-arrangements-that-you-have-made-with-the
district,-please-contact-me-immediately-to-discuss-this-notice.

District-Treasurer

SUMMARY

This bill expands current law with regard to the collection of unpaid water utility rates. Currently, water districts created by private and special law have a lien on property served by the district to secure payment of unpaid rates. This bill provides that all consumer-owned water utilities, which includes municipal water departments, have such liens.

The bill preserves current law that provides that when a landlord has applied for and is granted water utility service to a multiunit residential rental property, a water utility, which includes any private water company or public water district or municipal water department, has a lien on the property and on any interest the landlord has in the multiunit residential rental property to secure payment for the water utility's service to that property.