

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 200

H.P. 165

House of Representatives, January 21, 2009

### An Act To Amend the Charter of the Caribou Utilities District

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative EDGECOMB of Caribou.

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

2 **Sec. 1. P&SL 1945, c. 83, §1** is amended to read:

3 **Sec. 1. Territorial limits and corporate name and purposes.** The  
4 inhabitants and territory within the ~~town~~ City of Caribou in the ~~county~~ County of  
5 Aroostook ~~shall be, and hereby are, constituted~~ constitute a body politic and corporate  
6 under the name of the Caribou Utilities District, referred to in this Act as "the district,"  
7 for the purpose of supplying the ~~town~~ City of Caribou and the inhabitants of ~~said town~~ the  
8 city or any part of ~~said town~~ the city with pure water for domestic, commercial, sanitary  
9 and municipal purposes, including the extinguishment of fires, and of supplying the ~~town~~  
10 City of Caribou and the inhabitants of ~~said town~~ the city or any part of ~~said town~~ the City  
11 city with suitable and adequate sewerage facilities.

12 **Sec. 2. P&SL 1945, c. 83, §2** is amended to read:

13 **Sec. 2. Powers of Caribou Utilities District.** ~~Said Caribou Utilities District~~  
14 The district is ~~hereby~~ authorized for the purposes ~~aforesaid~~ of this Act to take, collect,  
15 store, flow, use, detain, distribute and convey to the ~~town~~ City of Caribou or any part  
16 ~~thereof of the city~~ water from any lake, pond, stream, or river and from any surface or  
17 underground brook, spring or vein of water in ~~said town~~ the City of Caribou; and is also  
18 authorized to locate, construct and maintain aqueducts, pipes, conduits, standpipes,  
19 hydrants, pumping stations and other necessary structures and equipment ~~therefore, for~~  
20 the aqueducts, pipes, conduits, standpipes, hydrants and pumping stations and do all  
21 things necessary to furnish water, and sewerage and drainage for public purposes and for  
22 public health, comfort and convenience of the inhabitants of ~~said~~ the district.

23 **Sec. 3. P&SL 1945, c. 83, §3** is repealed and the following enacted in its place:

24 **Sec. 3. Right of eminent domain conferred.** The district is authorized and  
25 empowered to acquire and hold real and personal property necessary or convenient for its  
26 purposes and is granted the right of eminent domain as specified in the Maine Revised  
27 Statutes, Title 38, section 1152.

28 **Sec. 4. P&SL 1945, c. 83, §4** is amended to read:

29 **Sec. 4. Authorized to lay mains, pipes, conduits through public ways and**  
30 **across private lands.** The ~~said~~ district is ~~hereby~~ authorized to lay in and through the  
31 streets, roads, ways and highways of the ~~town~~ City of Caribou and other towns served by  
32 ~~it the district~~ and across private lands ~~therein, in the city and other towns~~ and to maintain,  
33 repair and replace all such pipes, mains, conduits, aqueducts, and fixtures as may be  
34 necessary and convenient for its corporate purposes, and whenever ~~said~~ the district ~~shall~~  
35 lay lays any pipes, aqueducts or conduits in any street, roadway or highway, ~~it the district~~  
36 shall cause the same to be done with as little obstruction as practicable to the public  
37 travel; and shall at ~~its~~ the district's own expense, without unnecessary delay, cause the  
38 earth and pavement removed by ~~it the district~~ to be replaced in proper conditions.

39 **Sec. 5. P&SL 1945, c. 83, §4-A** is enacted to read:

1        Sec. 4-A. Sewer extensions. Sewer extensions are governed by the Maine  
2        Revised Statutes, Title 38, section 1252, subsection 7.

3        Sec. 6. P&SL 1945, c. 83, §5, as repealed and replaced by P&SL 1981, c. 47, §1,  
4        is repealed and the following enacted in its place:

5        Sec. 5. Procedure as to the exercise of right of eminent domain. In  
6        exercising rights of eminent domain, the district shall comply with the procedures  
7        established in the Maine Revised Statutes, Title 38, sections 1152-A and 1153.

8        Sec. 7. P&SL 1945, c. 83, §6 is amended to read:

9        Sec. 6. Appeal; adjustment of damages. If ~~any~~ a person sustaining damages by  
10       any taking as ~~aforsaid~~ shall ~~by the district~~ does not agree with the trustees of ~~said~~ the  
11       district upon the sum to be paid ~~therefore~~ for the damages, either party, upon petition to  
12       the county commissioners of Aroostook ~~county~~ County, may have ~~said~~ the damages  
13       assessed by ~~them;~~ the county commissioners. The procedure and all subsequent  
14       proceedings and the rights of appeal thereon shall be had under the same restrictions,  
15       conditions, and limitations as are or may be prescribed in the case of damages by laying  
16       out of highways are governed by the Maine Revised Statutes, Title 38, section 1154.

17       Sec. 8. P&SL 1945, c. 83, §8-A is enacted to read:

18       Sec. 8-A. Trustees' compensation. The trustees are entitled to compensation as  
19       recommended by the trustees and approved by a majority vote of the municipal officers  
20       from municipalities representing a majority of the population in the district, including  
21       compensation for the duties the trustees perform as officers and for their duties as  
22       trustees. Certification of the vote must be recorded with the Secretary of State and must  
23       be recorded in the bylaws. Compensation for duties as trustee is based on an amount as  
24       specified in the bylaws for each meeting attended and reimbursement for travel and  
25       expenses, with the total not to exceed the amount as specified in the bylaws.

26       Sec. 9. P&SL 1945, c. 83, §8-B is enacted to read:

27       Sec. 8-B. Retirement eligibility. A trustee who is elected after January 1, 1987  
28       and who is not a full-time employee of the district is not eligible to become a member of  
29       the Maine Public Employees Retirement System.

30       Sec. 10. P&SL 1945, c. 83, §11, as repealed and replaced by P&SL 1981, c. 47,  
31       §4, is repealed and the following enacted in its place:

32       Sec. 11. Procedures for acquisition of property and franchise of Caribou  
33       Water Works Corporation. Before exercising any right of eminent domain conferred  
34       under this Act with respect to the property of the Caribou Water Works Corporation, the  
35       district shall make a reasonable effort to acquire the property by purchase. The district  
36       shall cause the property to be appraised for the purpose of determining the amount that  
37       could constitute just compensation for the taking of the property. The district's agents,  
38       employees or designees may, upon 30 days' written notice to the Caribou Water Works  
39       Corporation, enter upon the real property of the Caribou Water Works Corporation and

1 make surveys, examinations, photographs, tests and samplings of the real or personal  
2 property of the Caribou Water Works Corporation for the purpose of appraising the real  
3 or personal property. The entry must take place during daylight hours. The entry and  
4 activities authorized by this Act do not constitute a trespass, but the district is liable for  
5 physical injury to, and for substantial interference with possession or use of, property of  
6 the Caribou Water Works Corporation caused by the district's entry and activities upon  
7 the property, which damages may be recovered by complaint in a civil action. The  
8 district shall establish the amount that the district believes to be just compensation for the  
9 property and shall submit to the Caribou Water Works Corporation a proposed offer to  
10 purchase the property for the amount established. Compliance by the district with this  
11 section is determined to be and constitutes a reasonable effort by the district to acquire  
12 the property by purchase.

13 **Sec. 11. P&SL 1945, c. 83, §12, first sentence,** as repealed and replaced by  
14 P&SL 1981, c. 47, §5, is amended to read:

15 **Sec. 12. Authorized to borrow money; to issue bonds and notes.** For  
16 accomplishing the purposes of this Act, the district, by vote of its board of trustees,  
17 without district vote, except as provided in this section, is authorized to borrow money  
18 temporarily and to issue ~~therefore~~ for the borrowing of money its negotiable notes; ~~and~~  
19 ~~for.~~ For the purpose of renewing and refunding the indebtedness so created, or paying  
20 any necessary expenses and liabilities incurred under the provisions of this Act, and in  
21 acquiring properties, paying damages, laying pipes, mains, sewers, drains and conduits,  
22 purchasing, constructing, maintaining and operating a water system and a sewerage  
23 system and making renewals, additions, extensions and improvements to the system and  
24 to cover interest payments during any period of construction; ~~the district, by vote of its~~  
25 ~~board of trustees, without district vote, except as provided in this section, is authorized to~~  
26 ~~issue, from time to time, bonds, notes or other evidences of indebtedness of the district,~~  
27 ~~bearing interest at such rate or rates, and having such terms and provisions as the trustees~~  
28 ~~shall determine; provided that in.~~ In the case of a vote by the trustees to authorize bonds  
29 or notes to pay for the acquisition of property, for the cost of a water system or sewerage  
30 system or part thereof of a water system or sewerage system, for renewal or additions or  
31 for other improvements in the nature of capital costs, the estimated cost of which, singly  
32 or in the aggregate included in any one financing is \$150,000 or more, subject to the  
33 annual consumer price index, as published by the appropriate governmental agency  
34 United States Department of Labor for all urban consumers, United States city average,  
35 and as defined in the Maine Revised Statutes, Title 36, section 5402, the bond or note  
36 must first be approved by local referendum of the voters of the district, but not for the  
37 acquisition of the property of the Caribou Water Works Corporation provided in this Act,  
38 and not for the already planned for local share of sewerage treatment plant, the aggregate  
39 of both of which shall not exceed \$6,000,000 or for renewing or refunding existing  
40 indebtedness or to pay for maintenance, repairs or current expenses.

41 **Sec. 12. P&SL 1945, c. 83, §13** is amended to read:

42 **Sec. 13. Property, tax exempt.** ~~The property of said Caribou Utilities District~~  
43 the district shall be is exempt from all taxation in the town City of Caribou.

1           **Sec. 13. P&SL 1945, c. 83, §15**, as repealed and replaced by P&SL 1981, c. 47,  
2 §6, is amended by adding at the end a new paragraph to read:

3           All water rates, tolls, charges and rents are governed by the Maine Revised Statutes,  
4 Title 35-A, section 6105. Prior to the adoption of a new sewer or water rate schedule, the  
5 trustees shall hold a public hearing regarding the proposed rate schedule. The trustees  
6 shall publish the proposed rates and notice of the hearing in a newspaper having a general  
7 circulation in the district at least 7 days prior to the hearing. The district shall mail to  
8 each ratepayer a notice of the public hearing and the proposed new rate schedule at least  
9 14 days prior to the hearing.

10           **Sec. 14. P&SL 1945, c. 83, §16-A**, as enacted by P&SL 1957, c. 7, §2, is  
11 amended to read:

12           **Sec. 16-A. Rights of abutters to enter sewer.** The district at all times ~~shall be~~  
13 is bound to permit the owners owner or agent of premises abutting upon ~~its~~ the district's  
14 lines of pipes and conduits to enter the same with all proper sewage, upon conformity to  
15 the rules and regulations of the district and payment of the rates, tolls, rents and charges  
16 established therefor. Every building in the district intended for human habitation or  
17 occupancy on premises abutting on a street in which there is a public sewer or any such  
18 building within 100 feet of a public sewer shall must have a sewerage system which shall  
19 be caused to be connected with to the public sewer by the owner or agent of the premises  
20 in the most direct manner possible, and, if feasible, with a separate connection for each  
21 house or building; except that existing buildings which are already served by a  
22 satisfactory private sewage disposal system which meets and continues to meet the  
23 requirements of section 122 (b) of the state plumbing code and amendments thereto shall  
24 not be required to connect with the public sewer. A building that is already served by a  
25 private sewer or drainage system is not required to connect to any sewer or drain of the  
26 district as long as the private sewer or drainage system functions in a satisfactory and  
27 sanitary manner and does not violate any applicable law or ordinance or any applicable  
28 requirements of the state plumbing code, as determined by the municipal plumbing  
29 inspector, the inspector's alternate or, in the event both are trustees or employees of the  
30 district, the Department of Health and Human Services' division of health engineering or  
31 its successor. Any such private sewage disposal system which that fails to meet or  
32 continue to meet the requirements of section 122 (b) of the state plumbing code and  
33 amendments thereto to the state plumbing code is hereby declared to be a public  
34 nuisance.

35           **Sec. 15. P&SL 1945, c. 83, §16-B**, as enacted by P&SL 1957, c. 7, §2, is  
36 repealed and the following enacted in its place:

37           **Sec. 16-B. Lien for payment of rates.** There is a lien on real estate served by  
38 the sewer or water systems of the district to secure the payment of rates, tolls, rents and  
39 charges established and due under the provisions of section 15 that takes precedence over  
40 all other claims on the real estate, excepting claims for taxes. Water liens are subordinate  
41 to sewer liens. "Real estate," for the purposes of this Act, has the same meaning as in the  
42 Maine Revised Statutes, Title 36, section 551. The treasurer of the district has the  
43 authority and power to sue for and collect the rates, tolls, rents and charges, all of which

1 are committed to the treasurer. In making the assessment there must be a description of  
2 the real estate served by the water or sewer systems of the district sufficiently accurate to  
3 identify the real estate against which the rates, tolls, rents and charges may be levied. In  
4 addition to other methods established by law for the collection of the rates, tolls, rents and  
5 charges, the lien created by this section may be enforced as set out in this section. When  
6 a rate, toll, rent or charge has been committed to the treasurer for collection, the treasurer  
7 may, after the expiration of 3 months and within one year after the date of commitment to  
8 the treasurer, give to the person against whom the rate, toll, rent or charge is assessed, or  
9 leave at the owner's last and usual place of abode, or send by certified mail, return receipt  
10 requested, to the owner's last known address, a notice in writing signed by the treasurer or  
11 bearing the treasurer's facsimile signature stating the amount of the rate, toll, rent or  
12 charge and describing the real estate on which the rate, toll, rent or charge is assessed and  
13 alleging that a lien is claimed on the real estate to secure the payment of the rate, toll, rent  
14 or charge and demanding the payment within 30 days after the service or mailing of the  
15 notice with \$1 for the treasurer for making a demand, together with the certified mail,  
16 return receipt requested fee. If an owner of property to whom the rate, toll, rent or charge  
17 is assessed dies before the demand is made on the owner, the demand may be made upon  
18 the executor or administrator of the owner's estate or upon any of the owner's heirs or  
19 devisees. After the expiration of the 30 days and within one year after the 30 days, the  
20 treasurer shall record in the Southern District of the Aroostook County Registry of Deeds  
21 at Houlton a lien certificate signed by the treasurer setting the amount of the rate, toll,  
22 rent or charge; a description of the real estate on which the rate, toll, rent or charge is  
23 assessed; and an allegation that a lien is claimed on the real estate to secure the payment  
24 of the rate, toll, rent or charge; that a notice and demand for payment of the rate, toll, rent  
25 or charge has been made in accordance with the provisions of this Act and that the rate,  
26 toll, rent or charge remains unpaid. At the time of the recording of the lien certificate in  
27 the registry of deeds as provided in this section, the treasurer shall file in the office of the  
28 district a true copy of the lien certificate and also mail by certified mail, return receipt  
29 requested, to each record holder of a mortgage on the real estate, addressed to the owner  
30 at the owner's last known address, a true copy of the lien certificate.

31 The filing of the lien certificate in the registry of deeds is deemed to create a  
32 mortgage on the real estate to the district, having priority over all other mortgages, liens,  
33 attachments and encumbrances of any nature, except claims for taxes, and gives to the  
34 district all of the rights usually incident to a mortgage, except that the district does not  
35 have any right of possession of the real estate until the right of redemption as provided in  
36 this section has expired. The filing of the lien certificate in the registry of deeds is  
37 sufficient notice of the existence of the mortgage as provided in this section. If the rate,  
38 toll, rent or charge with interest and costs is paid within the period of redemption as  
39 provided in this section, the treasurer of the district shall discharge the mortgage in the  
40 same manner as provided for the discharge of real estate mortgages. If the mortgage,  
41 together with interest and costs, has not been paid within 18 months after the date of  
42 filing of the lien certificate in the registry of deeds as provided in this section, the  
43 mortgage is deemed to be foreclosed and the right of redemption is expired. After the  
44 expiration of the 18-month period for redemption, the mortgagee of record of the real  
45 estate or the mortgagee's assignee has, in the event the notice provided for the mortgagee  
46 has not been given, the right to redeem the real estate within 3 months after receiving  
47 actual knowledge of the recording of the lien certificate, by payment or tender of the

1 amount of the mortgage, together with interest and costs, and the mortgage must be  
2 discharged by the district.

3 The cost to be paid by the owner of the real estate served is the sum of the fees for  
4 receiving, recording and indexing the lien, or the lien's discharge, as established by the  
5 Maine Revised Statutes, Title 33, section 751, plus \$13, plus all certified mail, return  
6 receipt requested fees. The treasurer of the district shall notify the party named on the  
7 lien mortgage and each record holder of a mortgage on the real estate of the impending  
8 automatic foreclosure not more than 45 days or less than 30 days before the foreclosing  
9 date of the lien mortgage, in writing, by a notice indicating the exact date of foreclosure  
10 and signed by the treasurer or bearing the treasurer's facsimile signature and left at the  
11 holder's last known address. The district is entitled to receive \$3 for sending the notice,  
12 together with all certified mail, return receipt requested fees. These costs must be added  
13 to and become a part of the amount due. If notice is not given in the time period specified  
14 in this section to the party named on the lien mortgage or to any record holder of a  
15 mortgage, the person not receiving timely notice may redeem the lien mortgage until 30  
16 days after the treasurer does provide notice in the manner specified in this section. The  
17 notice of impending automatic foreclosure must be substantially in the following form:

18 STATE OF MAINE  
19 CARIBOU UTILITIES DISTRICT  
20 NOTICE OF IMPENDING AUTOMATIC FORECLOSURE  
21 SEWER (WATER) LIEN  
22 Title 38, M.R.S.A., section 1208  
23 IMPORTANT: DO NOT DISREGARD THIS NOTICE  
24 YOU WILL LOSE YOUR PROPERTY UNLESS  
25 YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH  
26 A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE  
27 CARIBOU UTILITIES DISTRICT.

28 TO: .....

29 You are the party named on the Sewer (Water) Lien Certificate filed on  
30 ....., 20....., and recorded in Book ....., Page ..... in the  
31 Southern Aroostook County Registry of Deeds. This Caribou Utilities District filing  
32 created a sewer (water) lien mortgage on the real estate described in the Sewer (Water)  
33 Lien Certificate.

34 On ....., 20....., the sewer (water) lien mortgage will be foreclosed and your  
35 right to redeem the mortgage and recover your property by paying the District's charges  
36 and interest that are owed will expire.

37 IF THE LIEN FORECLOSES,  
38 THE CARIBOU UTILITIES DISTRICT WILL OWN  
39 YOUR PROPERTY, SUBJECT ONLY TO  
40 MUNICIPAL TAX LIENS.

41 If you cannot pay the outstanding charges, costs and interest that are the subject of  
42 this notice or the subject of installment payment arrangements that you have made with  
43 the District, please contact me immediately to discuss this notice.



1  
2 District Treasurer

3 The district shall pay the treasurer \$1 for the notice, \$1 for filing the lien certificate  
4 and the amount paid for certified mail, return receipt requested fees. The fees for  
5 recording the lien certificate must be paid by the district to the registrar of deeds.

6 A discharge of the certificate given after the right of redemption has expired, which  
7 discharge has been recorded in the registry of deeds for more than one year, terminates all  
8 title the district derived from that certificate or any other recorded certificate for which  
9 the right of redemption expired 10 years or more prior to the foreclosure date of this  
10 discharge lien, unless the sewer district has conveyed any interest based upon the title  
11 acquired from any of the affected liens.

12 Lien procedures for sewer and water rates, tolls, rents or charges must comply with  
13 the Maine Revised Statutes, Title 35-A, sections 6111-A and 6111-B and Title 38, section  
14 1208.

15 **SUMMARY**

16 This bill amends the charter of the Caribou Utilities District.