

# MAINE STATE LEGISLATURE

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SMG  
H. 84

Date: 3/17/11

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**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 72, L.D. 84, Bill, "An Act To Improve the Sewer District Rate Collection Procedures"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

**Sec. 1. 38 MRSA §1258** is enacted to read:

**§1258. Qualified sewer districts; collection of unpaid rates**

The provisions of this section apply only to qualified sewer districts.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible sewer district" means a sewer district whose charter does not establish, or authorize the district to establish, a lien on real estate served by the district.

B. "Qualified sewer district" means an eligible sewer district that has satisfied the requirements of subsection 5.

C. "Rates" means any rate, toll, rent or other charge established by a sewer district pursuant to its charter.

D. "Real estate" means an identified parcel of land and its improvements, if any, including, but not limited to, a mobile home.

**2. Lien.** There is a lien on real estate served or benefited by the sewers of the qualified sewer district to secure the payment of the qualified sewer district's rates. The lien established under this section takes precedence over all other claims on such real estate, except claims for taxes.

**3. Collection.** The treasurer of the qualified sewer district may collect rates, and all rates must be committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the qualified sewer district in a civil action in any court of competent jurisdiction for any rates remaining unpaid. In addition to other methods established by

1 law for the collection of rates and without waiver of the right to sue for the collection of  
2 rates, the lien created under subsection 2 may be enforced in the following manner.

3 A. When rates have been committed to the treasurer of the qualified sewer district  
4 for collection, the treasurer may, after the expiration of 3 months and within one year  
5 after the date when the rates became due and payable, give to the owner of the real  
6 estate served, leave at the owner's last and usual place of abode or send by certified  
7 mail, return receipt requested, to the owner's last known address a notice in writing  
8 signed by the treasurer or bearing the treasurer's facsimile signature, stating the  
9 amount of the rates due, describing the real estate upon which the lien is claimed and  
10 stating that a lien is claimed on the real estate to secure the payment of the rates and  
11 demanding the payment of the rates within 30 days after service or mailing, with \$1  
12 added to the demanded rate for the treasurer and an additional fee to cover mailing  
13 the notice by certified mail, return receipt requested. The notice must contain a  
14 statement that the qualified sewer district is willing to arrange installment payments  
15 of the outstanding debt.

16 B. After the expiration of 30 days and within one year after giving notice pursuant to  
17 paragraph A, the treasurer of the qualified sewer district shall record in the registry of  
18 deeds of the county in which the property of the person is located a certificate signed  
19 by the treasurer setting forth the amount of the rates due, describing the real estate on  
20 which the lien is claimed and stating that a lien is claimed on the real estate to secure  
21 payment of the rates and that a notice and demand for payment has been given or  
22 made in accordance with this section and stating further that the rates remain unpaid.  
23 At the time of the recording of the certificate in the registry of deeds, the treasurer  
24 shall file in the office of the qualified sewer district a true copy of the certificate and  
25 shall mail a true copy of the certificate by certified mail, return receipt requested, to  
26 each record holder of any mortgage on the real estate, addressed to the record holder  
27 at the record holder's last and usual place of abode.

28 C. The filing of the certificate in the registry of deeds creates a mortgage held by the  
29 qualified sewer district on the real estate described in the certificate that has priority  
30 over all other mortgages, liens, attachments and encumbrances of any nature, except  
31 liens, attachments and claims for taxes, and gives to the qualified sewer district all the  
32 rights usually possessed by mortgagees, except that the qualified sewer district as  
33 mortgagee does not have any right to possession of that real estate until the right of  
34 redemption has expired.

35 D. If the mortgage created under paragraph C, together with interest and costs, has  
36 not been paid within 18 months after the date of filing the certificate in the registry of  
37 deeds in accordance with paragraph B, the mortgage is foreclosed and the right of  
38 redemption expires. The filing of the certificate in the registry of deeds is sufficient  
39 notice of the existence of the mortgage. In the event that the rate, with interest and  
40 costs, is paid within the period of redemption, the treasurer of the qualified sewer  
41 district shall discharge the mortgage in the same manner as provided for discharge of  
42 real estate mortgages.

43 E. The owner of the real estate shall pay the sum of the fees for receiving, recording  
44 and indexing the lien, or its discharge, as established by Title 33, section 751, plus  
45 \$13, plus all certified mail, return receipt requested, fees.

# COMMITTEE AMENDMENT

F. Not more than 45 days or less than 30 days before the foreclosing date of the mortgage created under paragraph C, the treasurer of the qualified sewer district shall notify the party named on the mortgage and each record holder of a mortgage on the real estate in a writing signed by the treasurer or bearing the treasurer's facsimile signature and left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address of the impending automatic foreclosure and indicating the exact date of foreclosure. For sending this notice, the qualified sewer district is entitled to receive \$3 plus all certified mail, return receipt requested, fees, which must be added to and become a part of the amount due under paragraph E. If notice is not given in the time period specified in this paragraph, the person not receiving timely notice has up to 30 days after the treasurer provides notice as specified in this paragraph in which to redeem the mortgage. The notice of impending automatic foreclosure must be substantially in the following form:

**STATE OF MAINE**

**..... SEWER DISTRICT**

**NOTICE OF IMPENDING AUTOMATIC FORECLOSURE**

**SEWER LIEN**

**M.R.S.A., Title 38, section 1258**

**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**

**..... SEWER DISTRICT.**

**TO: .....**

**IF THE LIEN FORECLOSES,**

**THE ..... SEWER DISTRICT WILL OWN**

**YOUR PROPERTY, SUBJECT ONLY TO**

**MUNICIPAL TAX LIENS.**

**.....**

**District Treasurer**

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

H. A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the registry of deeds for more than one year, terminates all title of the qualified sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more

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1 prior to the foreclosure date of this discharge lien, unless the qualified sewer district  
2 has conveyed any interest based upon the title acquired from any of the affected liens.

3 **4. Waiver of qualified sewer district lien foreclosure.** The treasurer of a qualified  
4 sewer district, when authorized by the trustees of the qualified sewer district, may waive  
5 the foreclosure of a mortgage created under subsection 3 by recording in the registry of  
6 deeds a waiver of foreclosure before the right of redemption from the mortgage has  
7 expired. The mortgage remains in full effect after the recording of a waiver. Other  
8 methods established by law for the collection of any unpaid rates are not affected by the  
9 filing of a waiver under this section.

10 The waiver of foreclosure must be substantially in the following form:

11 STATE OF MAINE ..... SEWER DISTRICT  
12 WAIVER OF AUTOMATIC FORECLOSURE  
13 OF SEWER LIEN  
14 M.R.S.A., Title 38, section 1258

15 The foreclosure of the sewer lien mortgage on real estate for charges against .....  
16 (NAME) to ..... (NAME OF SEWER DISTRICT) dated ..... and recorded in  
17 the ..... County Registry of Deeds in Book ....., Page ..... is hereby  
18 waived.

19 The form must be dated, signed by the treasurer of the qualified sewer district and  
20 notarized. A copy of the form must be provided to the party named on the mortgage and  
21 each record holder of a mortgage on the real estate.

22 **5. Adoption; referendum.** An eligible sewer district may become a qualified sewer  
23 district in accordance with this subsection. The trustees of the eligible sewer district shall  
24 submit a proposal to become a qualified sewer district for approval in a districtwide  
25 referendum. The referendum must be called, advertised and conducted according to the  
26 law relating to municipal elections, except the registrar of voters is not required to  
27 prepare or the clerk to post a new list of voters. The referendum may be held outside the  
28 territory of the eligible sewer district if the usual voting place for persons located within  
29 the district is located outside the territory of the district. For the purpose of registering  
30 voters, the registrar of voters must be in session on the regular workday preceding the  
31 election. The question presented must conform to the following form:

32 "Do you favor authorizing the (insert name of sewer district) to become a  
33 qualified sewer district, allowing the district to exercise the lien authority  
34 established in the Maine Revised Statutes, Title 38, section 1258 with  
35 respect to unpaid rates?"

36 The voters shall indicate by a cross or check mark placed against the word "Yes" or "No"  
37 their opinion on the question.

38 The results must be declared by the trustees and entered upon the sewer district's records.  
39 Due certificate of the results must be filed by the clerk with the Secretary of State.

40 The eligible sewer district becomes a qualified sewer district under this section only upon  
41 acceptance of the question by a majority of the legal voters within the district voting at

1 the referendum. Failure of approval by the majority of voters voting at the referendum  
2 does not prevent subsequent referenda from being held for the same purpose. The costs  
3 of referenda are borne by the sewer district.'

4 **SUMMARY**

5 This amendment limits the application of the lien provisions in the bill to qualified  
6 sewer districts. A qualified sewer district is a district:

- 7 1. Whose charter does not establish, or authorize the district to establish, a lien on  
8 real estate served by the district; and
- 9 2. That has been approved to exercise the lien provisions of the law by the voters of  
10 the district voting in a referendum.

11 **FISCAL NOTE REQUIRED**

12 (See attached)



# 125th MAINE LEGISLATURE

LD 84

LR 437(02)

## An Act To Improve the Sewer District Rate Collection Procedures

Fiscal Note for Bill as Amended by Committee Amendment "A"  
Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund

#### Correctional and Judicial Impact Statements

Increases the number of civil suits.

The collection of additional filing fees may also increase General Fund revenue by minor amounts.

#### Fiscal Detail and Notes

Additional costs to the Department of Secretary of State associated with receiving and filing referenda results can be absorbed within existing budgeted resources.