

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 84

H.P. 72

House of Representatives, January 12, 2011

An Act To Improve the Sewer District Rate Collection Procedures

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative FITTS of Pittsfield.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** certain sewer districts have an immediate need to deal with delinquent
4 accounts; and

5 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
6 the meaning of the Constitution of Maine and require the following legislation as
7 immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,

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

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

11 **§1258. Collection of unpaid rates**

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

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

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

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

21 **3. Collection.** The treasurer of the sewer district may collect rates, and all rates must
22 be committed to the treasurer. The treasurer may, after demand for payment, sue in the
23 name of the sewer district in a civil action in any court of competent jurisdiction for any
24 rates remaining unpaid. In addition to other methods established by law for the collection
25 of rates and without waiver of the right to sue for the collection of rates, the lien created
26 under subsection 2 may be enforced in the following manner.

27 A. When rates have been committed to the treasurer of the sewer district for
28 collection, the treasurer may, after the expiration of 3 months and within one year
29 after the date when the rates became due and payable, give to the owner of the real
30 estate served, leave at the owner's last and usual place of abode or send by certified
31 mail, return receipt requested, to the owner's last known address a notice in writing
32 signed by the treasurer or bearing the treasurer's facsimile signature, stating the
33 amount of the rates due, describing the real estate upon which the lien is claimed and
34 stating that a lien is claimed on the real estate to secure the payment of the rates and
35 demanding the payment of the rates within 30 days after service or mailing, with \$1
36 added to the demanded rate for the treasurer and an additional fee to cover mailing
37 the notice by certified mail, return receipt requested. The notice must contain a
38 statement that the sewer district is willing to arrange installment payments of the
39 outstanding debt.

1 B. After the expiration of 30 days and within one year after giving notice pursuant to
2 paragraph A, the treasurer of the sewer district shall record in the registry of deeds of
3 the county in which the property of the person is located a certificate signed by the
4 treasurer setting forth the amount of the rates due, describing the real estate on which
5 the lien is claimed and stating that a lien is claimed on the real estate to secure
6 payment of the rates and that a notice and demand for payment has been given or
7 made in accordance with this section and stating further that the rates remain unpaid.
8 At the time of the recording of the certificate in the registry of deeds, the treasurer
9 shall file in the office of the sewer district a true copy of the certificate and shall mail
10 a true copy of the certificate by certified mail, return receipt requested, to each record
11 holder of any mortgage on the real estate, addressed to the record holder at the record
12 holder's last and usual place of abode.

13 C. The filing of the certificate in the registry of deeds creates a mortgage held by the
14 sewer district on the real estate described in the certificate that has priority over all
15 other mortgages, liens, attachments and encumbrances of any nature, except liens,
16 attachments and claims for taxes, and gives to the sewer district all the rights usually
17 possessed by mortgagees, except that the sewer district as mortgagee does not have
18 any right to possession of that real estate until the right of redemption has expired.

19 D. If the mortgage created under paragraph C, together with interest and costs, has
20 not been paid within 18 months after the date of filing the certificate in the registry of
21 deeds in accordance with paragraph B, the mortgage is foreclosed and the right of
22 redemption expires. The filing of the certificate in the registry of deeds is sufficient
23 notice of the existence of the mortgage. In the event that the rate, with interest and
24 costs, is paid within the period of redemption, the treasurer of the sewer district shall
25 discharge the mortgage in the same manner as provided for discharge of real estate
26 mortgages.

27 E. The owner of the real estate shall pay the sum of the fees for receiving, recording
28 and indexing the lien, or its discharge, as established by Title 33, section 751, plus
29 \$13, plus all certified mail, return receipt requested, fees.

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

43 **STATE OF MAINE**

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

1 NOTICE OF IMPENDING AUTOMATIC FORECLOSURE

2 SEWER LIEN

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

4 IMPORTANT: DO NOT DISREGARD THIS NOTICE

5 YOU WILL LOSE YOUR PROPERTY UNLESS

6 YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH

7 A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE

8 SEWER DISTRICT.

9 TO:

10 IF THE LIEN FORECLOSES,

11 THE SEWER DISTRICT WILL OWN

12 YOUR PROPERTY, SUBJECT ONLY TO

13 MUNICIPAL TAX LIENS.

14

15 District Treasurer

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

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

26 4. Waiver of sewer district lien foreclosure. The treasurer of a sewer district,
27 when authorized by the trustees of the sewer district, may waive the foreclosure of a
28 mortgage created under subsection 3 by recording in the registry of deeds a waiver of
29 foreclosure before the right of redemption from the mortgage has expired. The mortgage
30 remains in full effect after the recording of a waiver. Other methods established by law
31 for the collection of any unpaid rates are not affected by the filing of a waiver under this
32 section.

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

34 STATE OF MAINE SEWER DISTRICT

35 WAIVER OF AUTOMATIC FORECLOSURE

36 OF SEWER LIEN

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

