

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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**Legislative Document**

**No. 1026**

S.P. 351

In Senate, March 14, 2013

### **An Act To Amend the Charter of the Ashland Water and Sewer District**

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

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator JACKSON of Aroostook.  
Cosponsored by Representative NADEAU of Fort Kent and  
Senators: CLEVELAND of Androscoggin, GOODALL of Sagadahoc, HILL of York,  
SHERMAN of Aroostook, Representatives: HARVELL of Farmington, HOBBS of Saco,  
THERIAULT of Madawaska.

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

2               **Sec. 1. P&SL 1947, c. 78, §12-A** is enacted to read:

3               **Sec. 12-A. Lien to secure payment of rates; procedure.** When a rate, toll,  
4       rent or other charge has been committed to the treasurer of the Ashland Water and Sewer  
5       District for collection, the treasurer may, after the expiration of 3 months and within one  
6       year after the date when the charge became due and payable, give to the owner of the real  
7       estate served or leave at the owner's last and usual place of abode or send by certified  
8       mail, return receipt requested, to the owner's last known address a written notice signed  
9       by the treasurer or bearing the treasurer's facsimile signature stating the amount of that  
10       rate, toll, rent or other charge, describing the real estate upon which the lien is claimed,  
11       stating that a lien is claimed to secure payment of the charge and demanding payment  
12       within 30 days after service or mailing of the notice plus \$1 for the treasurer for mailing  
13       the notice together with the certified mail, return receipt requested, fee. The notice must  
14       contain a statement that the district is willing to arrange installment payments of the  
15       outstanding debt. After the expiration of the 30-day period and within one year, the  
16       treasurer shall record in the Aroostook County Registry of Deeds a certificate signed by  
17       the treasurer setting forth the amount of the rate, toll, rent or other charge and the real  
18       estate on which the lien is claimed and stating that a lien is claimed to secure payment of  
19       the charge and that notice and demand for payment of the charge has been given or made  
20       in accordance with the provisions of this section and that the charge remains unpaid. At  
21       the time of the recording of a certificate in the registry of deeds, the treasurer shall file in  
22       the office of the district a true copy of the certificate and mail a true copy of the  
23       certificate by certified mail, return receipt requested, to each record holder of any  
24       mortgage on the real estate, addressed to the record holder at the record holder's last and  
25       usual place of abode.

26               The filing of the certificate in the registry of deeds is deemed to create a mortgage on  
27       the real estate described in the deed for the district that has priority over all other  
28       mortgages, liens, attachments and encumbrances of any nature except liens, attachments  
29       and claims for taxes and gives to the district all the rights usually possessed by  
30       mortgagees, except that the district as mortgagee does not have a right to possession of  
31       the real estate until the right of redemption provided for has expired. If the mortgage,  
32       together with interest and costs, is not paid within 18 months after date of filing of the  
33       certificate in the registry of deeds and after notice as provided in section 12-B, the  
34       mortgage is deemed foreclosed and the right of redemption expired. The filing of the  
35       certificate in the registry of deeds is sufficient notice of the existence of the mortgage. If  
36       the rate, toll, rent or other charge, with interest and costs, is paid within the period of  
37       redemption, the treasurer of the district shall discharge the mortgage in the same manner  
38       as provided for discharge of real estate mortgages.

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

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

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

10       **Sec. 2. P&SL 1947, c. 78, §12-B** is enacted to read:

11       **Sec. 12-B. Notification prior to foreclosure.** The treasurer of the district shall  
12       notify the party named on the certificate filed pursuant to section 12-A and each record  
13       holder of a mortgage on the real estate not more than 45 days nor fewer than 30 days  
14       before the foreclosing date of the mortgage in a writing signed by the treasurer or bearing  
15       the treasurer's facsimile signature and left at the holder's last and usual place of abode or  
16       sent by certified mail, return receipt requested, to the holder's last known address of the  
17       impending automatic foreclosure and indicating the exact date of foreclosure. For  
18       sending this notice, the district is entitled to receive \$3 plus all certified mail, return  
19       receipt requested, fees. These costs must be added to and become a part of the amount  
20       due. If notice is not given in the time period specified in this section to the party named  
21       on the certificate or to any record holder of a mortgage, the person not receiving timely  
22       notice may redeem the mortgage until 30 days after the treasurer does provide notice in  
23       the manner specified in this section. Beginning with liens created after October 30, 2001,  
24       the notice of impending automatic foreclosure must be substantially in the following  
25       form:

26                   ASHLAND WATER AND SEWER DISTRICT NOTICE OF IMPENDING  
27                   AUTOMATIC FORECLOSURE

28                   IMPORTANT: DO NOT DISREGARD THIS NOTICE. YOU WILL LOSE YOUR  
29                   PROPERTY UNLESS YOU PAY THE CHARGES, COSTS AND INTEREST FOR  
30                   WHICH A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE ASHLAND  
31                   WATER AND SEWER DISTRICT.

32       TO:

33       You are the party named on the certificate filed on ....., 20.... and recorded in  
34       Book ....., Page ..... in the Aroostook County Registry of Deeds. This Ashland Water  
35       and Sewer District filing created a mortgage on the real estate described in the certificate.

36       On ....., 20....., the mortgage will be foreclosed and your right to redeem the  
37       mortgage and recover your property by paying the district's charges and interest that are  
38       owed will expire.

39       IF THE LIEN FORECLOSES, THE ASHLAND WATER AND SEWER DISTRICT  
40       WILL OWN YOUR PROPERTY, SUBJECT ONLY TO MUNICIPAL TAX LIENS.

If you cannot pay the outstanding charges, costs and interest that are subject to 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 gives the Ashland Water and Sewer District the authority to impose a lien on the property of an individual, firm or corporation for nonpayment of assessments established by the district for service used by the individual, firm or corporation.