

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 192

S.P. 67

In Senate, January 27, 2015

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### **An Act To Clarify the Law Governing the Collection of Unpaid Sanitary District Charges**

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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  
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

Cosponsored by Senators: DAVIS of Piscataquis, KATZ of Kennebec, MIRAMANT of Knox,  
Representatives: BLACK of Wilton, BUCKLAND of Farmington.

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

2 **Sec. 1. 38 MRSA §1208, 2nd ¶**, as amended by PL 2011, c. 104, §3, is further  
3 amended to read:

4 The treasurer of the district has full and complete authority and power to collect the  
5 rates, tolls, rents and other charges established under section 1202 ~~and the rate, toll, rent~~  
6 ~~or other charge must be committed to the treasurer~~. The treasurer may, after demand for  
7 payment, sue in the name of the district in a civil action for any rate, toll, rent or other  
8 charge remaining unpaid in any court of competent jurisdiction. In addition to other  
9 methods established by law for the collection of rates, tolls, rents and other charges, and  
10 without waiver of the right to sue for the rate, toll, rent or other charge, the lien created  
11 may be enforced in the following manner. The treasurer, ~~when a rate, toll, rent or other~~  
12 ~~charge has been committed to the treasurer for collection~~, may, after the expiration of 3  
13 months and within one year after the date when the rate, toll, rent or other charge became  
14 due and payable, give to the owner of the real estate served, or leave at the owner's last  
15 and usual place of abode, or send by certified mail, return receipt requested, to the  
16 owner's last known address, a notice in writing signed by the treasurer or bearing the  
17 treasurer's facsimile signature, stating the amount of that rate, toll, rent or other charge,  
18 describing the real estate upon which the lien is claimed and stating that a lien is claimed  
19 on the real estate to secure the payment of the rate, toll, rent or other charge and  
20 demanding the payment of the rate, toll, rent or other charge within 30 days after service  
21 or mailing, with \$1 for the treasurer for mailing the notice together with the certified  
22 mail, return receipt requested, fee. The notice must contain a statement that the district is  
23 willing to arrange installment payments of the outstanding debt. For the purpose of this  
24 section, a mobile home is defined as real estate. After the expiration of a period of 30  
25 days and within one year thereafter, the treasurer shall record in the registry of deeds of  
26 the county in which the property of such person is located a certificate signed by the  
27 treasurer or bearing the treasurer's facsimile signature setting forth the amount of such  
28 rate, toll, rent or other charge, describing the real estate on which the lien is claimed, and  
29 stating that a lien is claimed on the real estate to secure payment of the rate, toll, rent or  
30 other charge and that a notice and demand for payment of the rate, toll, rent or other  
31 charge has been given or made in accordance with this section and stating further that  
32 such rate, toll, rent or other charge remains unpaid. At the time of the recording of any  
33 such certificate in the registry of deeds as provided, the treasurer shall file in the office of  
34 the district a true copy of such certificate and shall mail a true copy of the certificate by  
35 certified mail, return receipt requested, to each record holder of any mortgage on the real  
36 estate and to an owner of record not receiving a notice, addressed to such record holder or  
37 owner at the record holder's or owner's last and usual place of abode.

38 **Sec. 2. 38 MRSA §1208, 3rd ¶**, as amended by PL 2011, c. 104, §4, is further  
39 amended to read:

40 The filing of the certificate in the registry of deeds creates a mortgage on the  
41 underlying real estate to the district that has priority over all other mortgages, liens,  
42 attachments and encumbrances of any nature, except liens, attachments and claims for  
43 taxes, and gives to the district all the rights usually possessed by mortgagees, except that  
44 the district as mortgagee does not have any right to possession of the real estate until the

1 right of redemption has expired. If the mortgage, together with interest and costs, has not  
2 been paid within 18 months after the date of filing of the certificate in the registry of  
3 deeds, the mortgage is deemed to be foreclosed and the right of redemption to have  
4 expired. The filing of the certificate in the registry of deeds is sufficient notice of the  
5 existence of the mortgage created in this paragraph. If the rate, toll, rent or other charge,  
6 with interest and costs, is paid within the period of redemption, the treasurer of the  
7 district shall discharge the mortgage in the same manner as for the discharge of tax lien  
8 mortgages pursuant to Title 36, section 943. After the expiration of the 18-month period  
9 of redemption, in the event a copy of the certificate has not been provided to a mortgage  
10 holder of record or an owner of record who did not receive a notice, the mortgage holder  
11 of record or the owner of record who did not receive a notice has the right to redeem the  
12 real estate within 3 months after receiving actual knowledge of the recording of the lien  
13 certificate by payment or tender of the amount of the sewer lien mortgage, together with  
14 interest and costs, and to have the lien discharged.

15 **SUMMARY**

16 This bill makes 3 changes to the section of the Maine Sanitary District Enabling Act  
17 governing the administration of liens on real estate to enforce the collection of unpaid  
18 sanitary district charges. The bill removes language regarding committing a rate, toll,  
19 rent or other charge to the treasurer of a sewer district. The bill requires that a district  
20 provide to an owner of record a copy of a sewer lien certificate if the owner did not  
21 receive a demand notice. The bill also changes the law so that a mortgage holder of  
22 record or an owner of record who did not receive a required copy of the lien certificate  
23 has an additional 3 months to pay in full before the lien automatically forecloses.