

MAINE STATE LEGISLATURE

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N I N E T Y - T H I R D L E G I S L A T U R E

Legislative Document

No. 215

H. P. 342

House of Representatives, January 28, 1947.

Referred to Committee on Legal Affairs, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Lacharite of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

**AN ACT to Incorporate the Brunswick Sewer District and to Transfer
to It the Sewers of the Brunswick Village Corporation.**

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

Sec. 1. The Brunswick Sewer District created. The territory in the town of Brunswick within a radius of $1\frac{1}{4}$ miles from the present town hall, with the inhabitants thereon, is hereby created a body politic and corporate by the name of Brunswick Sewer District, hereinafter called the district, for the purpose of providing and maintaining within the district a sewer system and suitable sewers, drains and sewage disposal plants, and with all the rights, privileges and immunities incident to similar corporations, or necessary for the accomplishment of these purposes.

Sec. 2. Its powers. The district is hereby authorized for the purposes aforesaid to take over the sewers and other assets of the Brunswick Village Corporation, and to acquire and hold by purchase, lease, the exercise of the right of eminent domain, or otherwise, land, real estate, rights, easements or interests therein, located within the district or elsewhere, and personal property.

Sec. 3. Liability for damages. The district shall be liable for all damages that shall be sustained by any person in his property by the taking of any land, rights, easements or interests therein whatsoever, or by en-

tering on or excavating through any land. If any person sustaining damage as aforesaid and the district shall not mutually agree upon the sum to be paid therefor, such person may cause his damages to be ascertained in the same manner and under the same conditions, restrictions and limitations as are or may be prescribed in the case of damages by the taking of land or excavating through land by the Brunswick and Topsham Water District.

Sec. 4. Power to lay and maintain sewers. The district is hereby authorized to lay in and through streets and highways within and outside the district, and to remove, repair and replace all such pipes, aqueducts and fixtures as may be necessary for the objects above set forth, and whenever the district shall lay, remove or replace any pipes, aqueducts or fixtures, in any street or highway, it shall cause the work to be done with as little obstruction as possible to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement to be replaced in proper condition.

Sec. 5. Officers. The affairs of the district shall be managed by a board of trustees, composed of 5 members to be chosen by the municipal officers of the town of Brunswick. For the first board, one shall be chosen to serve for 1 year, one for 2 years, one for 3 years, one for 4 years and one for 5 years; thereafter, 1 trustee shall be chosen each year to serve 5 years. As soon as convenient after the members of the board have been chosen, they shall hold a meeting to elect a chairman and other needed officers and agents for the proper conduct and management of its affairs. In case a vacancy occurs, the remaining trustees may choose another member to fill out the unexpired term. The compensation for each trustee shall be \$100 per year. The trustees may make reasonable rules, regulations and by-laws.

Sec. 6. Liability on bonds and notes. Liability for the bonded indebtedness and other debts payable of the Brunswick Village Corporation, is hereby imposed on the district, and it may issue bonds for the construction and maintenance of its sewers, drains and disposal plants, their appurtenances and its other property, and may raise money for the same purposes by temporary loan from time to time on its notes, upon such rates and terms as it may deem expedient; subject, however, to the limitation contained in article XXII of the constitution of Maine. Bonds and notes so issued shall be a legal obligation of the district, which is hereby declared to be a quasi-municipal corporation within the meaning of section 132 of chapter 49 of the revised statutes. Such bonds shall be a legal investment for savings banks.

Sec. 7. Rates. All persons and all corporations, private, public and municipal, shall pay to the treasurer of the district rates established by the board of trustees for the services used or available to them, which rates shall be uniform within the district; may include rates for the district's readiness to serve charged against owners of land abutting on or accessible to sewers or drains of the district, but not actually connected thereunto; and shall be so established as to provide revenue for the following purposes:

- I. To pay the current running expenses for maintaining the sewer system.
- II. To pay for such extensions and renewals as may become necessary.
- III. To pay the interest on the indebtedness of the district.
- IV. To provide each year a sum equal to not less than 1% of the entire indebtedness of the district, as a sinking fund for the final extinguishment of the funded debt. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are allowed to hold.

Sec. 8. Rights of abutters to enter the sewer. The district at all times shall be bound to permit the owners of all premises abutting upon its lines of pipes and conduits, to enter the same with all proper sewerage upon conformity to the rules and regulations of the district and payment of the rates, prices and rentals established therefor.

Sec. 9. Offenses and penalties. Any person who shall place or leave any offensive or injurious matter or material on or in the conduits, catch-basins, or receptacles of the district contrary to its regulations, or shall wilfully injure any conduit, pipe, reservoir, flush tank, catch-basin, man-hole, outlet, engine, pump or other property held, owned or used by the district for the purposes of this act, shall pay twice the amount of the damages to the district to be recovered in any proper action; and such person on conviction of either of the acts of wilful injury aforesaid, shall be punished by a fine not exceeding \$200, and by imprisonment not exceeding 1 year.

Sec. 10. Lien for payment of rates. There shall be a lien to secure the payment of rates established under section 7 of this act and legally assessed on real estate within the district, which shall take precedence of all other claims on such real estate, excepting only claims for taxes. Real estate, for the purpose of this act shall bear the same definition as given in section 3 of chapter 81 of the revised statutes.

The treasurer of the district shall have the authority and power to collect the rates, and all rates shall be committed to him.

In addition to other methods previously established by law for the collection of the rates, the lien herein created may be enforced in the following manner, provided, however, that in making the assessment there shall be a description of the real estate served by the several sewers of the district, sufficiently accurate to identify the real estate against which any of the several rates may be charged; the treasurer, when a rate has been committed to him for collection, may, after the expiration of 8 months and within 1 year after date of commitment to him of the rate, in the case of a person resident in the town where the rate is assessed give to the person against whom the rate is assessed, or leave at his last and usual place of abode, a notice in writing signed by the officer stating the amount of such rate, describing the real estate on which the rate is assessed, alleging that a lien is claimed on the real estate to secure the payment of the rate and demanding the payment of the rate within 10 days after the service of such notice. After the expiration of the 10 days and within 10 days thereafter, in the case of a resident, and in all other cases within a year from the date of commitment of the rate to said officer, the officer shall record in the registry of deeds of Cumberland county a certificate signed by the officer setting forth the amount of such rate, a description of the real estate on which the rate is assessed and an allegation that a lien is claimed on the real estate to secure the payment of the rate, that a demand for payment of the rate has been made in accordance with the provisions of this act and that the rate remains unpaid. In all cases, except in the case of a resident, the certificate so filed need not contain the allegation that payment of the rate has been demanded. At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases such officer shall file in the office of the district a true copy of the certificate and also at the time of recording as aforesaid, the officer shall mail by registered letter to each record holder of a mortgage on said real estate, addressed to him at his last and usual place of abode, a true copy of the certificate. The fee to be charged to the rate-payer for such notice and filing shall not exceed \$1 and the fee to be charged by the register of deeds for such filing shall not exceed 50c.

The filing of the aforesaid certificate, in the registry of deeds as aforesaid shall be deemed to create and shall create a mortgage on the real estate to the district having priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and shall give to the district all the rights usually incident to a mortgage, except that the mortgagee shall not have any right of possession

of the real estate until the right of redemption herein provided for shall have expired.

If the mortgage, together with interest and costs, shall not have been paid within 18 months after the date of filing of the certificate in the registry of deeds as herein provided, the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage herein provided for.

In the event that the rate, interest and costs shall be paid within the period of redemption herein provided for, the treasurer of the district shall discharge the mortgage in the same manner as is now provided for discharge of real estate mortgages.

Sec. 11. Tax exemption. The property of the district shall be exempt from taxation.

Sec. 12. Effective date of this act; rights of creditors protected. This act shall take effect when approved by a majority vote by ballot of the legal voters present at a legal meeting of the Brunswick Village Corporation. The Brunswick Village Corporation shall be dissolved 30 days after such approval; provided, however, that its corporate existence shall continue for the purpose of prosecuting and defending suits and for the benefit of its creditors existing at the time of such dissolution, as long as they hold claims against it; and no rights of any of such creditors against it shall be held to be in any way impaired or abridged by this act.