

MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 103

H. P. 77

House of Representatives, January 17, 1957.

Referred to the Committee on Public Utilities, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Brewer of Caribou.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Amending the Charter of the Caribou Utilities District.

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment; and

Whereas, it is vitally necessary that the lawful charges of the Caribou Utilities District yield sufficient income to meet the lawful expenses of the District; and

Whereas, it is essential that the Caribou Utilities District be authorized additional methods for enforcing the collection of its lawful charges; and

Whereas, it is imperative that there be a different method of establishing rates than is now provided by the charter, in order to create a more equitable basis for such charges; and

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

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

Sec. 1. P. & S. L., 1945, c. 83, § 15, repealed and replaced. Section 15 of chapter 83 of the private and special laws of 1945 is hereby repealed and the following enacted in place thereof:

‘Sec. 15. Rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates and other charges established by said board of trustees for the service used by them, and said rates and charges shall be uniform within

the territory supplied by the district whenever installation and maintenance of sewers or other appurtenances and the cost of service is substantially uniform; but nothing in this act shall preclude the district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and charges in sections, or for the classifications of users, where for any reason the cost of construction and maintenance or the cost of service exceeds the average, but such higher rates, tolls, rents and charges shall be uniform throughout the section, or within the class of users, where they apply. Said rates and charges shall be so established as to provide revenue for the following purposes:

I. To pay the current expenses for operating and maintaining the sewage system, including provision for depreciation.

II. To provide for the payment of the interest on the indebtedness created or assumed by the district.

III. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. 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. Provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year.

IV. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 2. P. & S. L., 1945, c. 83, §§ 16-A and 16-B, additional. Chapter 83 of the private and special laws of 1945 is hereby amended by adding thereto 2 new sections, to be numbered 16-A and 16-B, to read as follows:

'Sec. 16-A. Rights of abutters to enter sewer. The district at all times shall be bound to permit the owners of premises abutting upon its lines of pipes and conduits to enter the same with all proper sewage, upon conformity to the rules and regulations of the district and payment of the rates, tolls, rents and charges established therefor. Every building in the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer or any such building within 100 feet of a public sewer shall have a sewerage system which shall be caused to be connected with the public sewer by the owner or agent of the premises in the most direct manner possible, and, if feasible, with a separate connection for each house or building; except that existing buildings which are already served by a satisfactory private sewage disposal system which meets and continues to meet the requirements of section 122 (b) of the state plumbing code and amendments thereto shall not be required to connect with the public sewer. Any such private sewage disposal system which fails to meet or continue to meet the requirements of section 122 (b) of the state plumbing code and amendments thereto is hereby declared to be a public nuisance.

Sec. 16-B. Lien for payment of rates. There shall be a lien on real estate served by the several sewers of the district to secure the payment of rates, tolls, rents and charges established and due under the provisions of section 15 which

shall take precedence over 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 4 of chapter 91-A of the Revised Statutes of 1954, as enacted by section 1 of chapter 399 of the public laws of 1955. The treasurer of the district shall have the authority and power to sue for and collect the rates, tolls, rents and charges, all of which shall be committed to him. In addition to other methods established by law for the collection of the rates, tolls, rents and charges, 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, tolls, rents and charges may be levied. The treasurer when a rate, toll, rent or charge has been committed to him for collection, may, after the expiration of 6 months and within one year after date of commitment to him, give to the person against whom the same is assessed, or leave at his last and usual place of abode, or send by registered or certified mail to his last known address, a notice in writing signed by said treasurer stating the amount of such rate, toll, rent or charge and describing the real estate on which it is assessed, and alleging that a lien is claimed on the real estate to secure the payment thereof and demanding its payment within 10 days after the service or mailing of such notice with \$1 for said treasurer for making a demand. If an owner of property to whom said rate, toll, rent or charge is assessed shall die before such demand is made on him, such demand may be made upon the executor or administrator of his estate or upon any of his heirs or devisees. After the expiration of the 10 days and within 10 days thereafter, the treasurer shall record in the Southern District of the Aroostook Registry of Deeds at Houlton, a lien certificate signed by him setting forth the amount of such rate, toll, rent or charge, a description of the real estate on which the same is assessed and an allegation that a lien is claimed on said real estate to secure the payment of said rate, toll, rent or charge, that a demand for payment of the same has been made in accordance with the provisions of this act and that the rate, toll, rent or charge remains unpaid. At the time of the recording of the lien certificate in the registry of deeds as herein provided, the treasurer shall file in the office of the district a true copy of the lien certificate and also mail by registered or certified mail to each record holder of a mortgage on said real estate, addressed to him at his last known address, a true copy of the lien certificate. The fee to be charged for such notice shall be \$2 and the fee of the registry of deeds for each filing shall be \$1, which fees shall become an expense of the person owing said rate, toll, rent or charge. The filing of the aforesaid lien certificate in the registry of deeds as aforesaid shall be deemed to create a mortgage on the real estate to the district, having priority over all other mortgages, liens, attachments and incumbrances of any nature, except claims for taxes, and shall give to the district all of the rights usually incident to a mortgage, except that the district shall not have any right of possession of the real estate until the right of redemption herein provided for shall have expired. The filing of the lien certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage as herein provided. In the event that the rate, toll, rent or charge with 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 the discharge of real estate mortgages. If the mortgage, together with interest and costs, shall not have been paid within 18

months after the date of filing of the lien 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. After the expiration of the 18-month period for redemption hereinabove provided, the mortgagee of record of said real estate or his assignee shall, in the event the notice provided for said mortgagee has not been given, have the right to redeem the said real estate within 3 months after receiving actual knowledge of the recording of the lien certificate, by payment or tender of the amount of the mortgage, together with interest and costs, and the mortgage shall then be discharged by the district.'

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.