

# MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

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Legislative Document

No. 687

H. P. 481

House of Representatives, February 12, 1957.

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

HARVEY R. PEASE, Clerk

Presented by Mr. Coyne of Waterville.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

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**AN ACT Relating to Assessments Against Lots Benefited by Waterville Sewerage District.**

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

**Sec. 1. P. & S. L., 1949, c. 211, § 5-C, amended.** Section 5-C of chapter 211 of the private and special laws of 1949, as enacted by section 3 of chapter 92 of the private and special laws of 1953, is hereby amended to read as follows:

**'Sec. 5-C. Assessment against lot benefited.** When the district has constructed and completed a public drain or common sewer, the commissioners shall determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent **or against the heirs or devisees of a deceased owner without designating any of them by name,** and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of such assessments not to exceed  $\frac{2}{3}$  of the cost of such drain or sewer and sewage disposal units. The commissioners shall file with the clerk of the district **a plan showing the location of such drain or sewer and sewage disposal units, with a profile description of the same and their assessment roll containing** a statement of the amount assessed upon each lot or parcel of land so assessed, a description of each lot or parcel, and the name of the ~~owner of such lots or parcels of land or~~ person against whom said assessment ~~is shall be~~ made, and the clerk of such district shall record the same in a book kept for that purpose, and ~~within 10~~

~~days after filing such notice~~ each person so assessed shall be notified of such assessment by having an authentic copy of said assessment roll, with an order of notice signed by the clerk of said district, stating the time and place for a hearing upon the subject matter of said assessments, given to each person so assessed or left at his usual place of abode **at least 10 days before said hearing, in said district; if he has no place of abode in said district, then such notice shall be given or left at the abode of his tenant or lessee if he has one in said district; if he has no such tenant or lessee in said district, then by posting the same notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least 30 days before said hearing, or such notice may be given by publishing the same once a week for 3 successive weeks in any newspaper published in said district, the 1st publication to be at least 30 days before said hearing or by mailing the same to each person so assessed by registered mail addressed to his last known address and by publishing the same once in any newspaper published in the district, the said mailing and publication to be at least 10 days before said hearing;** a return made upon a copy of such notice by a sheriff or his deputy ~~any constable in said city~~ or the production of the paper containing such notice **or the certificate of the clerk of mailing and publication** shall be conclusive evidence that said notice has been given, and upon such hearing the commissioners shall have power to revise, increase or diminish any of such assessments, and ~~all any such revisions~~ **revision**, increase or diminution shall be in writing and recorded by such clerk.

Supplemental assessments may be made within 5 years from the date of any assessment roll whenever it appears any lot or parcel of land benefited has been omitted from the assessment or said assessment, or any part thereof, is invalid or void for any reason. The commissioners for the time being may make such supplemental assessment according to the procedure and the principles of the original assessment, and such supplemental assessment shall be valid even though it may, when added to the original, exceed 2/3 of the cost of the drain or sewer and sewage disposal units.

Sec. 2. P. & S. L., 1949, c. 211, § 5-E, amended. The 1st sentence of section 5-E of chapter 211 of the private and special laws of 1949, as enacted by section 3 of chapter 92 of the private and special laws of 1953, is hereby amended to read as follows:

'All assessments **and supplemental assessments** made under the provisions of section 5-C shall create a lien upon each and every lot or parcel of land so assessed and the buildings upon the same, which lien shall take effect when the commissioners file with the clerk the ~~completed~~ assessment roll and shall continue 1 year thereafter **or for 1 year after the termination of any appeal**; and within 10 days after the date of hearing on said assessment the clerk shall make out a list of all such assessments, the amount of each, and the name of the person against whom the same is assessed, and he shall certify the list and deliver it to the treasurer of said district; if said assessments are not paid within 3 months from the date thereof, the treasurer may bring an action of debt for the collection of said assessment in the name of the district against the person against whom said assessment is made.'

**Sec. 3. P. & S. L., 1949, c. 211, § 5-H, additional.** Chapter 211 of the private and special laws of 1949, as amended by chapter 62 of the private and special laws of 1951 and by chapter 92 of the private and special laws of 1953, is hereby further amended by adding thereto a new section, to be numbered 5-H, to read as follows:

**'Sec. 5-H. Lien certificate; procedure.** Liens on lots or parcels of land created by section 5-E, in addition to other methods established by law, may be enforced in the following manner.

The treasurer may, after the expiration of 8 months and within 1 year after the date of the assessment roll or termination of any appeal, give to the person against whom said assessment is made, or leave at his last and usual place of abode, or send by registered mail to his last known address, a notice in writing signed by said treasurer stating the amount of such assessment, describing the real estate on which the assessment is made, alleging that a lien is claimed on said real estate to secure the payment of the assessment and demanding the payment of said assessment within 10 days after service or mailing of such notice. In the case of supplemental assessments, said treasurer may give such notice after the expiration of 8 months and within year after the date of the supplemental assessment roll or termination of any appeal therefrom. If an owner or occupant of real estate against whom any assessment is made 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 said 10 days and within 10 days thereafter, the treasurer shall record in the registry of deeds of the county where said real estate is situated, a tax lien certificate signed by said treasurer setting forth the amount of such assessment, a description of the real estate on which the assessment is made and an allegation that a lien is claimed on said real estate to secure the payment of said assessment, that a demand for payment of said assessment has been made in accordance with the provisions of this section, and that said assessment remains unpaid. When the real estate of a deceased person has been assessed to his heirs or devisees without designating any of them by name it will be sufficient to record in said registry a lien certificate in the name of the heirs or the devisees of said decedent without designating them by name.

At the time of the recording of the lien certificate in the registry of deeds as herein provided, in all cases the treasurer shall file in the office of the district a true copy of the lien certificate and shall send by registered mail to each record holder of a mortgage on said real estate, to his last known address, a true copy of the lien certificate.

The costs to be paid by the person assessed shall be \$1 plus the recording fees and registered mail fees paid for sending the true copies of the lien certificate.

The filing of the lien certificate in the registry of deeds shall create a mortgage on said real estate to the district having priority over all other mortgages, liens, attachments and encumbrances of any nature, except claims for municipal taxes, and shall give to said district all the rights usually incident to a mort-

gagee, except that the district shall not have any right of possession of said real estate until the right of redemption hereinafter provided for shall have expired.

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

In the event that said assessment, interest and costs shall be paid within 12 months after the filing of the lien certificate in the registry of deeds, the treasurer shall prepare and record a discharge of 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 be paid within 12 months after the date of the filing of the lien certificate in the registry of deeds, the said mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The lien certificate, or a certified copy of the registry record thereof, shall be prima facie evidence in all courts in all proceedings by and against the district, its successors and assigns, of the truth of the statements therein and after the period of redemption has expired, of the title of the district to the real estate therein described, and of the regularity and validity of all proceedings with reference to the acquisition of title by such mortgage and the foreclosure thereof.

Sec. 4. P. & S. L., 1949, c. 211, § 10-A, amended. The 3rd paragraph of section 10-A of chapter 211 of the private and special laws of 1949, as enacted by section 10 of chapter 92 of the private and special laws of 1953, is hereby amended to read as follows:

'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. Whenever any rate has become payable within 18 months preceding the first day of January of any year and remains unpaid, the treasurer may, ~~The treasurer, when a rate has become due and payable, may, after the expiration of 3 months and within 1 year after the date said rate becomes due and payable~~ during the month of January, 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, or send by registered mail to his last known address a notice in writing signed by ~~the officer~~ said treasurer stating the amount of such ~~rate rates~~, and the periods or charges for which payable, describing the real estate upon which the lien is claimed, alleging that a lien is claimed on the real estate to secure the payment of the ~~rate rates~~ and demanding the payment of the ~~rate rates~~ within 10 days after the service of such notice or mailing of such notice. If the person from whom any rate is payable 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~~ on or before February 20 of such year in the case of a resident and in all other cases within a year ~~from the date~~, the treasurer shall record in the registry of deeds of Kennebec county a certificate signed by ~~the officer~~ said treasurer setting forth the amount of such ~~rate rates~~ and the periods or charges for which payable, a description of

the real estate on which the lien is claimed and an allegation that a lien is claimed on the real estate to secure the payment of the ~~rate rates~~, that a demand for payment of the ~~rate rates~~ has been made in accordance with the provisions of this section and that the ~~rate remains rates remain~~ unpaid. ~~In the case of a non-resident the aforesaid notice of lien and demand for payment shall be given by registered mail or by publication in a newspaper published in the city of Waterville once a week for 2 successive weeks, and after the expiration of 10 days from the date of mailing said notice or after the expiration of 10 days from the last publication of said notice and within 10 days after said expiration periods, the treasurer shall record said certificate.~~ At the time of the recording of the certificate in the registry of deeds as herein provided, in all cases such treasurer 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 known address last and usual place of abode~~, a true copy of the certificate. The fee to be charged to the ratepayer 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.'