

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2011**

beginning February 28, 1961 and ending May 7, 1975.

See title page for effective date.

**CHAPTER 26  
H.P. 72 - L.D. 84**

**An Act To Improve the Sewer  
District Rate Collection  
Procedures**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** certain sewer districts have an immediate need to deal with delinquent accounts; 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. 38 MRSA §1258** is enacted to read:

**§1258. Qualified sewer districts; collection of unpaid rates**

The provisions of this section apply only to qualified sewer districts.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible sewer district" means a sewer district whose charter does not establish, or authorize the district to establish, a lien on real estate served by the district.

B. "Qualified sewer district" means an eligible sewer district that has satisfied the requirements of subsection 5.

C. "Rates" means any rate, toll, rent or other charge established by a sewer district pursuant to its charter.

D. "Real estate" means an identified parcel of land and its improvements, if any, including, but not limited to, a mobile home.

**2. Lien.** There is a lien on real estate served or benefited by the sewers of the qualified sewer district to secure the payment of the qualified sewer district's rates. The lien established under this section takes

precedence over all other claims on such real estate, except claims for taxes.

**3. Collection.** The treasurer of the qualified sewer district may collect rates, and all rates must be committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the qualified sewer district in a civil action in any court of competent jurisdiction for any rates remaining unpaid. In addition to other methods established by law for the collection of rates and without waiver of the right to sue for the collection of rates, the lien created under subsection 2 may be enforced in the following manner.

A. When rates have been committed to the treasurer of the qualified sewer district for collection, the treasurer may, after the expiration of 3 months and within one year after the date when the rates became due and payable, give to the owner of the real estate served, leave at the owner's last and usual place of abode or send by certified mail, return receipt requested, to the owner's last known address a notice in writing signed by the treasurer or bearing the treasurer's facsimile signature, stating the amount of the rates due, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rates and demanding the payment of the rates within 30 days after service or mailing, with \$1 added to the demanded rate for the treasurer and an additional fee to cover mailing the notice by certified mail, return receipt requested. The notice must contain a statement that the qualified sewer district is willing to arrange installment payments of the outstanding debt.

B. After the expiration of 30 days and within one year after giving notice pursuant to paragraph A, the treasurer of the qualified sewer district shall record in the registry of deeds of the county in which the property of the person is located a certificate signed by the treasurer setting forth the amount of the rates due, describing the real estate on which the lien is claimed and stating that a lien is claimed on the real estate to secure payment of the rates and that a notice and demand for payment has been given or made in accordance with this section and stating further that the rates remain unpaid. At the time of the recording of the certificate in the registry of deeds, the treasurer shall file in the office of the qualified sewer district a true copy of the certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode.

C. The filing of the certificate in the registry of deeds creates a mortgage held by the qualified

sewer district on the real estate described in the certificate that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the qualified sewer district all the rights usually possessed by mortgagees, except that the qualified sewer district as mortgagee does not have any right to possession of that real estate until the right of redemption has expired.

D. If the mortgage created under paragraph C, together with interest and costs, has not been paid within 18 months after the date of filing the certificate in the registry of deeds in accordance with paragraph B, the mortgage is foreclosed and the right of redemption expires. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. In the event that the rate, with interest and costs, is paid within the period of redemption, the treasurer of the qualified sewer district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages.

E. The owner of the real estate shall pay the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by Title 33, section 751, plus \$13, plus all certified mail, return receipt requested, fees.

F. Not more than 45 days or less than 30 days before the foreclosing date of the mortgage created under paragraph C, the treasurer of the qualified sewer district shall notify the party named on the mortgage and each record holder of a mortgage on the real estate in a writing signed by the treasurer or bearing the treasurer's facsimile signature and left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address of the impending automatic foreclosure and indicating the exact date of foreclosure. For sending this notice, the qualified sewer district is entitled to receive \$3 plus all certified mail, return receipt requested, fees, which must be added to and become a part of the amount due under paragraph E. If notice is not given in the time period specified in this paragraph, the person not receiving timely notice has up to 30 days after the treasurer provides notice as specified in this paragraph in which to redeem the mortgage. The notice of impending automatic foreclosure must be substantially in the following form:

**STATE OF MAINE**  
**..... SEWER DISTRICT**  
**NOTICE OF IMPENDING**  
**AUTOMATIC FORECLOSURE**

**SEWER LIEN**  
**M.R.S.A., Title 38, section 1258**  
**IMPORTANT: DO NOT DISREGARD**  
**THIS NOTICE**

**YOU WILL LOSE YOUR PROPERTY**  
**UNLESS YOU PAY THE CHARGES,**  
**COSTS AND INTEREST FOR WHICH**  
**A LIEN ON YOUR PROPERTY HAS**  
**BEEN CREATED BY THE**

**..... SEWER DISTRICT.**

**TO: .....**

**IF THE LIEN FORECLOSES,**  
**THE ..... SEWER DISTRICT**  
**WILL OWN**

**YOUR PROPERTY, SUBJECT ONLY**  
**TO MUNICIPAL TAX LIENS.**

**.....**  
**District Treasurer**

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

H. A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the registry of deeds for more than one year, terminates all title of the qualified sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more prior to the foreclosure date of this discharge lien, unless the qualified sewer district has conveyed any interest based upon the title acquired from any of the affected liens.

**4. Waiver of qualified sewer district lien foreclosure.** The treasurer of a qualified sewer district, when authorized by the trustees of the qualified sewer district, may waive the foreclosure of a mortgage created under subsection 3 by recording in the registry of deeds a waiver of foreclosure before the right of redemption from the mortgage has expired. The mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rates are not affected by the filing of a waiver under this section.

The waiver of foreclosure must be substantially in the following form:

**STATE OF MAINE ..... SEWER DISTRICT**  
**WAIVER OF AUTOMATIC FORECLOSURE**  
**OF SEWER LIEN**

**M.R.S.A., Title 38, section 1258**

The foreclosure of the sewer lien mortgage on real estate for charges against ..... (NAME) to ..... (NAME OF SEWER DISTRICT) dated ..... and recorded in the ..... County Registry of Deeds in Book ..... Page ..... is hereby waived.

The form must be dated, signed by the treasurer of the qualified sewer district and notarized. A copy of the form must be provided to the party named on the mortgage and each record holder of a mortgage on the real estate.

**5. Adoption; referendum.** An eligible sewer district may become a qualified sewer district in accordance with this subsection. The trustees of the eligible sewer district shall submit a proposal to become a qualified sewer district for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections, except the registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the eligible sewer district if the usual voting place for persons located within the district is located outside the territory of the district. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The question presented must conform to the following form:

"Do you favor authorizing the (insert name of sewer district) to become a qualified sewer district, allowing the district to exercise the lien authority established in the Maine Revised Statutes, Title 38, section 1258 with respect to unpaid rates?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the trustees and entered upon the sewer district's records. Due certificate of the results must be filed by the clerk with the Secretary of State.

The eligible sewer district becomes a qualified sewer district under this section only upon acceptance of the question by a majority of the legal voters within the district voting at the referendum. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the sewer district.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 11, 2011.

**CHAPTER 27  
H.P. 174 - L.D. 197**

**An Act To Improve Response  
to Gas Safety Emergencies**

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

**Sec. 1. 25 MRSA §2394**, as amended by PL 1973, c. 632, §4, is further amended to read:

**§2394. Investigation of fire origin; Attorney General may direct**

When property is destroyed or damaged by fire, the municipal fire inspector shall investigate the cause, circumstances and origin of the fire, and especially examine whether it was the result of carelessness or of design. The Attorney General may supervise and direct such investigation whenever ~~he deems it~~ the Attorney General determines it to be expedient or necessary. If arson is suspected, ~~such~~ the municipal fire inspector shall immediately notify the State Fire Marshal or an inspector of his office the Office of the State Fire Marshal, who shall cause a full investigation thereof to be conducted. The State Fire Marshal and his agents or employees shall have the authority to of the Office of the State Fire Marshal may investigate or cause to be investigated any fire or explosion within the State.

**1. Certain explosions or fires; investigation and securing of evidence.** In accordance with the protocol adopted by the State Fire Marshal pursuant to this subsection, the State Fire Marshal shall investigate and secure evidence of a gas explosion event. For purposes of this subsection, "gas explosion event" means an explosion or fire caused or suspected to be caused by or that involves natural gas or liquefied petroleum gas and that causes injury or substantial property damage, as determined according to the protocol adopted under this subsection. The State Fire Marshal shall develop a protocol for investigating and securing evidence under this section that:

A. Establishes reasonable standards for determining whether an explosion or fire may have been caused by or involved natural gas or liquefied petroleum gas and whether the explosion or fire caused injury or substantial property damage; and

B. Establishes procedures for informing local fire officials of the requirements of this subsection and for coordinating the investigation, as appropriate, with local fire officials, the Public Utilities Commission, the utility or other entity that controlled, transported or delivered the natural gas or liquefied petroleum gas and other relevant entities.

**Sec. 2. 35-A MRSA §117, sub-§3**, as corrected by RR 2009, c. 2, §98, is amended to read: