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## **An Act To Amend the Charter of the Caribou Utilities District**

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

**Sec. 1. P&SL 1945, c. 83, §1** is amended to read:

**Sec. 1. Territorial limits and corporate name and purposes.** The inhabitants and territory within the ~~town~~City of Caribou in the ~~county~~County of Aroostook shall ~~be, and hereby are, constituted~~constitute a body politic and corporate under the name of the Caribou Utilities District, referred to in this Act as "the district," for the purpose of supplying the ~~town~~City of Caribou and the inhabitants of ~~said town~~the city or any part of ~~said town~~the city with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and of supplying the ~~town~~City of Caribou and the inhabitants of ~~said town~~the city or any part of ~~said town~~ the City~~city~~ with suitable and adequate sewerage facilities.

**Sec. 2. P&SL 1945, c. 83, §2** is amended to read:

**Sec. 2. Powers of Caribou Utilities District.**~~Said Caribou Utilities District~~The district is hereby authorized for the purposes ~~aforsaid~~of this Act to take, collect, store, flow, use, detain, distribute and convey to the ~~town~~City of Caribou or any part ~~thereof~~of the city water from any lake, pond, stream, or river and from any surface or underground brook, spring or vein of water in ~~said town~~the City of Caribou; and is also authorized to locate, construct and maintain aqueducts, pipes, conduits, standpipes, hydrants, pumping stations and other necessary structures and equipment ~~therefore~~for the aqueducts, pipes, conduits, standpipes, hydrants and pumping stations and do all things necessary to furnish water; and sewerage and drainage for public purposes and for public health, comfort and convenience of the inhabitants of ~~said~~the district.

**Sec. 3. P&SL 1945, c. 83, §3** is repealed and the following enacted in its place:

**Sec. 3. Right of eminent domain conferred.** The district is authorized and empowered to acquire and hold real and personal property necessary or convenient for its purposes and is granted the right of eminent domain as specified in the Maine Revised Statutes, Title 38, section 1152.

**Sec. 4. P&SL 1945, c. 83, §4** is amended to read:

**Sec. 4. Authorized to lay mains, pipes, conduits through public ways and across private lands.** The ~~said~~ district is hereby authorized to lay in and through the streets, roads, ways and highways of the ~~town~~City of Caribou and other towns served by ~~it~~the district and across private lands ~~therein~~in the city and other towns and to maintain, repair and replace all such pipes, mains, conduits, aqueducts; and fixtures as may be necessary and convenient for its corporate purposes, and whenever ~~said~~the district shall ~~lay~~lays any pipes, aqueducts or conduits in any street, roadway or highway, ~~it~~the district shall cause the same to be done with as little obstruction as practicable to the public travel; and shall at ~~it~~the district's own expense, without unnecessary delay, cause the earth and pavement removed by ~~it~~the district to be replaced in proper conditions.

**Sec. 5. P&SL 1945, c. 83, §4-A** is enacted to read:

**Sec. 4-A. Sewer extensions.** Sewer extensions are governed by the Maine Revised Statutes, Title 38, section 1252, subsection 7.

**Sec. 6. P&SL 1945, c. 83, §5,** as repealed and replaced by P&SL 1981, c. 47, §1, is repealed and the following enacted in its place:

**Sec. 5. Procedure as to the exercise of right of eminent domain.** In exercising rights of eminent domain, the district shall comply with the procedures established in the Maine Revised Statutes, Title 38, sections 1152-A and 1153.

**Sec. 7. P&SL 1945, c. 83, §6** is amended to read:

**Sec. 6. Appeal; adjustment of damages.** If any person sustaining damages by any taking as aforesaid shall by the district does not agree with the trustees of said the district upon the sum to be paid therefore for the damages, either party, upon petition to the county commissioners of Aroostook county County, may have said the damages assessed by them; the the county commissioners. The procedure and all subsequent proceedings and the rights of appeal thereon shall be had under the same restrictions, conditions, and limitations as are or may be prescribed in the case of damages by laying out of highways are governed by the Maine Revised Statutes, Title 38, section 1154.

**Sec. 8. P&SL 1945, c. 83, §8-A** is enacted to read:

**Sec. 8-A. Trustees' compensation.** The trustees are entitled to compensation as recommended by the trustees and approved by a majority vote of the municipal officers from municipalities representing a majority of the population in the district, including compensation for the duties the trustees perform as officers and for their duties as trustees. Certification of the vote must be recorded with the Secretary of State and must be recorded in the bylaws. Compensation for duties as trustee is based on an amount as specified in the bylaws for each meeting attended and reimbursement for travel and expenses, with the total not to exceed the amount as specified in the bylaws.

**Sec. 9. P&SL 1945, c. 83, §8-B** is enacted to read:

**Sec. 8-B. Retirement eligibility.** A trustee who is elected after January 1, 1987 and who is not a full-time employee of the district is not eligible to become a member of the Maine Public Employees Retirement System.

**Sec. 10. P&SL 1945, c. 83, §11,** as repealed and replaced by P&SL 1981, c. 47, §4, is repealed and the following enacted in its place:

**Sec. 11. Procedures for acquisition of property and franchise of Caribou Water Works Corporation.** Before exercising any right of eminent domain conferred under this Act with respect to the property of the Caribou Water Works Corporation, the district shall make a reasonable effort to acquire the property by purchase. The district shall cause the property to be appraised for the purpose of determining the amount that could constitute just compensation for the taking of the property. The district's agents, employees or designees may, upon 30 days' written notice to the Caribou Water Works Corporation, enter upon the real property of the Caribou Water Works Corporation and make surveys, examinations, photographs, tests and samplings of the real or personal property of the Caribou Water

Works Corporation for the purpose of appraising the real or personal property. The entry must take place during daylight hours. The entry and activities authorized by this Act do not constitute a trespass, but the district is liable for physical injury to, and for substantial interference with possession or use of, property of the Caribou Water Works Corporation caused by the district's entry and activities upon the property, which damages may be recovered by complaint in a civil action. The district shall establish the amount that the district believes to be just compensation for the property and shall submit to the Caribou Water Works Corporation a proposed offer to purchase the property for the amount established. Compliance by the district with this section is determined to be and constitutes a reasonable effort by the district to acquire the property by purchase.

**Sec. 11. P&SL 1945, c. 83, §12, first sentence,** as repealed and replaced by P&SL 1981, c. 47, §5, is amended to read:

**Sec. 12. Authorized to borrow money; to issue bonds and notes.** For accomplishing the purposes of this Act, the district, by vote of its board of trustees, without district vote, except as provided in this section, is authorized to borrow money temporarily and to issue ~~therefor~~ for the borrowing of money its negotiable notes; ~~and for.~~ For the purpose of renewing and refunding the indebtedness so created, or paying any necessary expenses and liabilities incurred under the provisions of this Act, and in acquiring properties, paying damages, laying pipes, mains, sewers, drains and conduits, purchasing, constructing, maintaining and operating a water system and a sewerage system and making renewals, additions, extensions and improvements to the system and to cover interest payments during any period of construction; ~~the district, by vote of its board of trustees, without district vote, except as provided in this section, is authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided that in.~~ In the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or sewerage system or part ~~thereof~~ of a water system or sewerage system, for renewal or additions or for other improvements in the nature of capital costs, the estimated cost of which, singly or in the aggregate included in any one financing is \$150,000 or more, subject to the annual consumer price index, as published by the ~~appropriate governmental agency~~ United States Department of Labor for all urban consumers, United States city average, and as defined in the Maine Revised Statutes, Title 36, section 5402, ~~the bond or note must first be approved by local referendum of the voters of the district, but not for the acquisition of the property of the Caribou Water Works Corporation provided in this Act, and not for the already-planned-for local share of sewerage treatment plant, the aggregate of both of which shall not exceed \$6,000,000 or for renewing or refunding existing indebtedness or to pay for maintenance, repairs or current expenses.~~

**Sec. 12. P&SL 1945, c. 83, §13** is amended to read:

**Sec. 13. Property, tax exempt.** The property of said ~~Caribou Utilities District~~ the district shall be ~~is~~ exempt from all taxation in the ~~town~~ City of Caribou.

**Sec. 13. P&SL 1945, c. 83, §15,** as repealed and replaced by P&SL 1981, c. 47, §6, is amended by adding at the end a new paragraph to read:

All water rates, tolls, charges and rents are governed by the Maine Revised Statutes, Title 35-A, section 6105. Prior to the adoption of a new sewer or water rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule. The trustees shall publish the proposed rates and notice of the hearing in a newspaper having a general circulation in the district at least 7 days prior to the hearing. The district shall mail to each ratepayer a notice of the public hearing and the proposed new rate schedule at least 14 days prior to the hearing.

**Sec. 14. P&SL 1945, c. 83, §16-A,** as enacted by P&SL 1957, c. 7, §2, is amended to read:

**Sec. 16-A. Rights of abutters to enter sewer.** ~~The district at all times shall be bound to permit the owners or agent 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. A building that is already served by a private sewer or drainage system is not required to connect to any sewer or drain of the district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate any applicable law or ordinance or any applicable requirements of the state plumbing code, as determined by the municipal plumbing inspector, the inspector's alternate or, in the event both are trustees or employees of the district, the Department of Health and Human Services' division of health engineering or its successor. Any such private sewage disposal system which that fails to meet or continue to meet the requirements of section 122 (b) of the state plumbing code and amendments thereto to the state plumbing code is hereby declared to be a public nuisance.~~

**Sec. 15. P&SL 1945, c. 83, §16-B,** as enacted by P&SL 1957, c. 7, §2, is repealed and the following enacted in its place:

**Sec. 16-B. Lien for payment of rates.** There is a lien on real estate served by the sewer or water systems of the district to secure the payment of rates, tolls, rents and charges established and due under the provisions of section 15 that takes precedence over all other claims on the real estate, excepting claims for taxes. Water liens are subordinate to sewer liens. "Real estate," for the purposes of this Act, has the same meaning as in the Maine Revised Statutes, Title 36, section 551. The treasurer of the district has the authority and power to sue for and collect the rates, tolls, rents and charges, all of which are committed to the treasurer. In making the assessment there must be a description of the real estate served by the water or sewer systems of the district sufficiently accurate to identify the real estate against which the rates, tolls, rents and charges may be levied. In addition to other methods established by law for the collection of the rates, tolls, rents and charges, the lien created by this section may be enforced as set out in this section. When a rate, toll, rent or charge has been committed to the treasurer for collection, the treasurer may, after the expiration of 3 months and within one year after the date of commitment to the treasurer, give to the person against whom the rate, toll, rent or charge is assessed, or 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 rate, toll, rent or charge and describing the real estate on which the rate, toll, rent or charge is assessed and alleging that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or charge and demanding the payment within 30 days after the service or mailing of the notice with \$1 for the treasurer for making a demand, together with the certified mail, return receipt requested fee. If an owner of property to whom the rate, toll, rent or charge is assessed dies before the demand is made on the owner, the demand may be made upon the executor or administrator of the owner's estate or upon any of the owner's heirs or devisees. After the expiration of the 30 days and within one year after the 30 days, the treasurer shall record in the Southern District of the Aroostook County Registry of Deeds at Houlton a lien certificate signed by the treasurer setting the amount of the rate, toll, rent or charge; a description of the real estate on which the rate, toll, rent or charge is assessed; and an allegation that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or charge; that a notice and demand for payment of the rate, toll, rent or charge 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 provided in this section, the treasurer shall file in the office of the district a true copy of the lien certificate and also mail by certified mail, return receipt requested, to each record holder of a mortgage on the real estate, addressed to the owner at the owner's last known address, a true copy of the lien certificate.

The filing of the lien certificate in the registry of deeds is deemed to create a mortgage on the real estate to the district, having priority over all other mortgages, liens, attachments and encumbrances of any nature, except claims for taxes, and gives to the district all of the rights usually incident to a mortgage, except that the district does not have any right of possession of the real estate until the right of redemption as provided in this section has expired. The filing of the lien certificate in the registry of deeds is sufficient notice of the existence of the mortgage as provided in this section. If the rate, toll, rent or charge with interest and costs is paid within the period of redemption as provided in this section, the treasurer of the district shall discharge the mortgage in the same manner as provided for the discharge of real estate mortgages. If the mortgage, together with interest and costs, has not been paid within 18 months after the date of filing of the lien certificate in the registry of deeds as provided in this section, the mortgage is deemed to be foreclosed and the right of redemption is expired. After the expiration of the 18-month period for redemption, the mortgagee of record of the real estate or the mortgagee's assignee has, in the event the notice provided for the mortgagee has not been given, the right to redeem the 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 must be discharged by the district.

The cost to be paid by the owner of the real estate served is the sum of the fees for receiving, recording and indexing the lien, or the lien's discharge, as established by the Maine Revised Statutes, Title 33, section 751, plus \$13, plus all certified mail, return receipt requested fees. The treasurer of the district shall notify the party named on the lien mortgage and each record holder of a mortgage on the real estate of the impending automatic foreclosure not more than 45 days or less than 30 days before the foreclosing date of the lien mortgage, in writing, by a notice indicating the exact date of foreclosure and signed by the treasurer or bearing the treasurer's facsimile signature and left at the holder's last known address. The district is entitled to receive \$3 for sending the notice, together with all certified mail, return

receipt requested fees. These costs must be added to and become a part of the amount due. If notice is not given in the time period specified in this section to the party named on the lien mortgage or to any record holder of a mortgage, the person not receiving timely notice may redeem the lien mortgage until 30 days after the treasurer does provide notice in the manner specified in this section. The notice of impending automatic foreclosure must be substantially in the following form:

STATE OF MAINE  
CARIBOU UTILITIES DISTRICT  
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE

SEWER (WATER) LIEN

Title 38, M.R.S.A., section 1208

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

CARIBOU UTILITIES DISTRICT.

TO: .....

You are the party named on the Sewer (Water) Lien Certificate filed on ....., 20..... and recorded in Book ....., Page ..... in the Southern Aroostook County Registry of Deeds. This Caribou Utilities District filing created a sewer (water) lien mortgage on the real estate described in the Sewer (Water) Lien Certificate.

On ....., 20....., the sewer (water) lien mortgage will be foreclosed and your right to redeem the mortgage and recover your property by paying the District's charges and interest that are owed will expire.

IF THE LIEN FORECLOSES,  
THE CARIBOU UTILITIES DISTRICT WILL OWN  
YOUR PROPERTY, SUBJECT ONLY TO  
MUNICIPAL TAX LIENS.

If you cannot pay the outstanding charges, costs and interest that are the subject of this notice or the subject of installment payment arrangements that you have made with the District, please contact me immediately to discuss this notice.

.....

District Treasurer

The 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 district to the registrar of deeds.

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 the 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 sewer district has conveyed any interest based upon the title acquired from any of the affected liens.

Lien procedures for sewer and water rates, tolls, rents or charges must comply with the Maine Revised Statutes, Title 35-A, sections 6111-A and 6111-B and Title 38, section 1208.

## **SUMMARY**

This bill amends the charter of the Caribou Utilities District.