

§1208. Collection of unpaid rates

There is a lien on real estate served or benefited by the sewers of any district formed under this chapter to secure the payment of rates established and due under section 1202, which arises and is perfected as services are provided and takes precedence over all other claims on such real estate, excepting only claims for taxes. [PL 2015, c. 174, §4 (AMD).]

The treasurer of the district has full and complete authority and power to collect the rates, tolls, rents and other charges established under section 1202. The treasurer may, after demand for payment, sue in the name of the district in a civil action for any rate, toll, rent or other charge remaining unpaid in any court of competent jurisdiction. In addition to other methods established by law for the collection of rates, tolls, rents and other charges, and without waiver of the right to sue for the rate, toll, rent or other charge, the lien created may be enforced in the following manner. The treasurer may, after the expiration of 3 months and within one year after the date when the rate, toll, rent or other charge became due and payable, give to the owner of the real estate served, 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 that rate, toll, rent or other charge, 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 rate, toll, rent or other charge and demanding the payment of the rate, toll, rent or other charge within 30 days after service or mailing, with \$1 for the treasurer for mailing the notice together with the certified mail, return receipt requested, fee. The notice must contain a statement that the district is willing to arrange installment payments of the outstanding debt. For the purpose of this section, a mobile home is defined as real estate. After the expiration of a period of 30 days and within one year thereafter, the treasurer shall record in the registry of deeds of the county in which the property of such person is located a certificate signed by the treasurer or bearing the treasurer's facsimile signature setting forth the amount of such rate, toll, rent or other charge, 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 rate, toll, rent or other charge and that a notice and demand for payment of the rate, toll, rent or other charge has been given or made in accordance with this section and stating further that such rate, toll, rent or other charge remains unpaid. At the time of the recording of any such certificate in the registry of deeds as provided, the treasurer shall file in the office of the district a true copy of such 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 such record holder at the record holder's last and usual place of abode. If the notice described in this paragraph was not provided to all persons who were record owners of the real estate at that time, the treasurer shall mail a true copy of the lien certificate by certified mail, return receipt requested, to any such record owner who was not provided a notice, addressed to the record owner at the record owner's last known address, as well as to any new record owner as of the date the lien certificate was recorded. [PL 2015, c. 174, §5 (AMD).]

The filing of the certificate in the registry of deeds creates a mortgage on the underlying real estate to the district 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 district all the rights usually possessed by mortgagees, except that the district as mortgagee does not have any right to possession of the real estate until the right of redemption has expired. If the mortgage, together with interest and costs, has not been paid within 18 months after the date of filing of the certificate in the registry of deeds, the mortgage is deemed to be foreclosed and the right of redemption to have expired. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage created in this paragraph. If the rate, toll, rent or other charge, with interest and costs, is paid within the period of redemption, the treasurer of the district shall discharge the mortgage in the same manner as for the discharge of tax lien mortgages pursuant to Title 36, section 943. After the expiration of the 18-month period of redemption, in the event a copy of the certificate has not been provided to a mortgage holder

of record or an owner of record as required by this section, the mortgage holder of record or the owner of record who did not receive a notice has 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 sewer lien mortgage, together with interest and costs, and to have the lien discharged. [PL 2015, c. 174, §6 (AMD).]

The costs to be paid by the owner of the real estate served are the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by Title 33, section 751, plus \$25, adjusted annually by the treasurer of the district for inflation based on the Consumer Price Index, as defined in Title 5, section 17001, subsection 9, plus all certified mail, return receipt requested, fees. [PL 2021, c. 70, §1 (AMD).]

The treasurer of the district shall notify the party named on the sewer lien mortgage and each record holder of a mortgage on the real estate not more than 45 days or less than 30 days before the foreclosing date of the sewer lien mortgage, 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 district is entitled to receive \$3 plus 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 paragraph to the party named on the sewer lien mortgage or to any record holder of a mortgage, the person not receiving timely notice may redeem the sewer lien mortgage until 30 days after the treasurer does provide notice in the manner specified in this paragraph. Beginning with liens created after October 30, 2001, the notice of impending automatic foreclosure must be substantially in the following form:

STATE OF MAINE
_____ SANITARY DISTRICT
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE
SEWER 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
_____ SANITARY DISTRICT.

TO: _____

You are the party named on the Sewer Lien Certificate filed on _____, 20__ and recorded in Book _____, Page _____ in the _____ County Registry of Deeds. This _____ Sanitary District filing created a sewer lien mortgage on the real estate described in the Sewer Lien Certificate.

On _____, 20__, the sewer 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 _____ SANITARY DISTRICT WILL OWN

YOUR PROPERTY, SUBJECT ONLY TO MUNICIPAL TAX LIENS.

If you can not 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 [PL 2001, c. 319, §2 (NEW).]

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 shall be paid by the district to the register of deeds. [PL 1987, c. 29, §2 (NEW).]

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 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 sewer district has conveyed any interest based upon the title acquired from any of the affected liens. [PL 1995, c. 21, §1 (NEW); PL 1995, c. 21, §2 (AFF).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1975, c. 770, §213 (AMD). PL 1977, c. 630, §§10,11 (AMD). PL 1977, c. 696, §389 (AMD). PL 1979, c. 541, §A276 (AMD). PL 1981, c. 183, §§1,2 (AMD). PL 1987, c. 29, §§1,2 (AMD). PL 1987, c. 548 (AMD). PL 1995, c. 21, §1 (AMD). PL 1995, c. 21, §2 (AFF). PL 2001, c. 319, §§1,2 (AMD). PL 2001, c. 319, §2 (NEW). PL 2011, c. 104, §§3, 4 (AMD). PL 2015, c. 174, §§4-6 (AMD). PL 2021, c. 70, §1 (AMD).

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