CHAPTER 11

SANITARY DISTRICTS

SUBCHAPTER 1

GENERAL PROVISIONS

§1061. Short title

This chapter shall be known and may be cited as the Maine Sanitary District Enabling Act. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1062. Declaration of policy

It is declared to be the policy of the State to encourage the development of sanitary districts consisting of: [PL 1971, c. 400, §1 (RPR).]

1. Municipality. A municipality;
[PL 1971, c. 400, §1 (RPR).]

2. Municipalities. Two or more municipalities;
[PL 1971, c. 400, §1 (RPR).]

3. -- sections. A section or sections of sufficient size of a municipality or 2 or more municipalities;
[PL 1971, c. 400, §1 (RPR).]

4. Unorganized territory. A sufficient number of persons residing in unorganized territory; or
[PL 1971, c. 400, §1 (RPR).]

5. Combination. Any combination of the foregoing, so that said districts may economically construct and operate sewage systems so as to assist in the abatement of the pollution of public streams, lakes and inland and ocean waters and enhance the public health, safety and welfare of the citizens of the State.
[PL 1971, c. 400, §1 (RPR).]

A sanitary district may only be formed where the Board of Environmental Protection finds that there is a need throughout a part or all of the territory embraced within the proposed district for the accomplishment of the purpose of providing an adequate, efficient system and means of collecting, conveying, pumping, treating and disposing of domestic sewage and industrial wastes within the proposed district and that such purposes can be effectively accomplished therein on an equitable basis by a sanitary district if created and that the creation and maintenance of such a district will be administratively feasible and in furtherance of the public health, safety and welfare. [PL 1981, c. 466, §1 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §1 (AMD). PL 1969, c. 431, §9 (AMD). PL 1971, c. 400, §1 (RPR). PL 1971, c. 618, §12 (AMD). PL 1981, c. 466, §1 (AMD).

§1063. Purpose

The purpose of each sanitary district formed under this chapter shall be to construct, maintain, operate and provide a system of sewerage, sewage and commercial and industrial waste disposal and

sewage treatment and of storm and surface water drainage, for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1064. Exemption from taxation

The property, both real and personal, rights and franchises of any sanitary district formed under this chapter shall be forever exempt from taxation. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1065. Powers exercised according to general laws

(REPEALED)

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1975, c. 461, §1 (RP).

§1066. Provisions supplemental to other law

This chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1067. Reimbursement of costs to municipalities

Any municipality or municipalities which fall within a sanitary district formed under this Act shall be entitled to reimbursement from said sanitary district when the sanitary district is in a position to reimburse said costs. The term "costs" as used in this section shall include but shall not be limited to the following cost of preparation of an engineering study or studies; legal costs with relation to the application and presentation of any application for the formation of a sanitary district; other engineering costs that may not be included in a study; costs for financial advice; administrative expense and such other expense as may be necessary or incident to the action of any municipality under this Act. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1068. Lease of property by sanitary district

Nothing in this chapter is intended to limit the authority of a sanitary district to enter into a lease and leaseback transaction with respect to some or all of its real or personal property, other than land, and to take all other action necessary or desirable, including, but not limited to, the granting of mortgages and liens, to effectuate the transaction. For purposes of this section, "lease" includes a lease of any length, including leases that may be defined as sales for income tax purposes. [PL 2003, c. 267, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 267, §2 (NEW).

SUBCHAPTER 2

ORGANIZATION

§1101. Formation

The formation of a sanitary district is accomplished as follows. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §211 (AMD).]

1. Application. The municipal officers of the municipality or municipalities, or portions thereof, or the residents of unorganized territory, that desire to form a sanitary district shall file an application with the Board of Environmental Protection on a form or forms to be prepared by the commissioner, setting forth the name or names of the municipality or municipalities, or portions thereof, or, in the case of residents of unorganized territory, the names of the residents, that propose to be included in a proposed district, and shall furnish other data as the board may determine necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the name proposed for the district which must include the words "Sanitary District," a statement showing the existence in the territory of the conditions requisite for the creation of a sanitary district as prescribed in section 1062. A copy of an engineering study or studies must be filed with the application.
[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

1-A. Application by referendum. Residents of a municipality or municipalities, or portions thereof, that desire to form a sanitary district may petition the municipal officers to file an application for a sanitary district with the Board of Environmental Protection. The petition shall contain a description of the territory of the proposed district.

Upon receipt of a written petition signed by at least 10% of the number of voters voting for the gubernatorial candidates at the last statewide election in that proposed district, the municipal officers shall submit the question to the voters of the proposed district at the next general, primary or special election within the proposed district. The referendum question shall read as follows:

> "Shall the municipal officers representing the proposed sanitary district, consisting of (describe the territory of the proposed district), file an application for a sanitary district with the Board of Environmental Protection on behalf of the residents of the proposed district?"

If the referendum question is approved by a majority of the legal voters voting at the election, provided that the total number of votes cast for and against the referendum question equaled or exceeded 20% of the total number of votes cast in the proposed district in the last gubernatorial election, the municipal officers representing the residents of the proposed sanitary district shall file an application for that proposed district in accordance with subsection 1.
[PL 1981, c. 466, §2 (NEW).]

2. Public hearing. Upon receipt of the application, the Board of Environmental Protection shall cause a public hearing to be held thereon, in one of the municipalities within the proposed district, or, in the case of an application made solely by residents of unorganized territory, at some convenient place within the boundaries of the proposed district.
[PL 1977, c. 300, §50 (AMD).]

3. Approval of application. After the public hearing on the evidence received at the hearing, the board shall make findings of fact and conclusions thereon and determine of record whether or not the conditions requisite for the creation of a sanitary district exist in the territory described in the application. If the board finds that those conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The commissioner shall give notice to the municipal officers within the municipality or municipalities involved, and where unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and to the commissioners of the county wherein the unorganized

territory is located, of a date, time and place of a meeting of the municipal officers of the municipality or municipalities involved, and, where unorganized territory is involved, a joint meeting of all the persons signing the application mentioned in subsection 1 and of the commissioners of the county in which the unorganized territory is located. The notice must be in writing and sent by registered or certified mail, return receipt requested, to the addresses shown on the application mentioned in subsection 1 and, in the case of county commissioners, to the addresses of the county commissioners obtained from the county clerk. A return receipt properly endorsed is evidence of the receipt of notice. The notice must be mailed at least 10 days prior to the date set for the meeting.
[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

4. Denial of application. If the board after a public hearing determines that the creation of a sanitary district in the territory described in the application is not warranted for any reason, it shall make findings of fact and conclusions thereon and enter an order denying its approval. The board shall give notice of the denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved, and, where unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and to the commissioners of the county in which the unorganized territory is located. No application for the creation of a sanitary district, consisting of exactly the same territory, may be entertained within one year after the date of the issuance of an order denying approval of the formation of the sanitary district, but this provision does not preclude action on an application for the creation of a sanitary district embracing all or part of the territory described in the original application, provided that another municipality or fewer municipalities, or other or fewer sections thereof are involved, or that a different area of unorganized territory is involved, or, in the case of an application made solely by residents of unorganized territory, that an allegation of change in circumstances from those existing on the date of the previous application must be furnished to the commissioner with the resubmitted application.
[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

5. Appeal.
[PL 1977, c. 300, §51 (RP).]

6. Joint meeting. The persons to whom the notice described in subsection 3 is directed shall meet at the time and place appointed. In the case where more than one municipality or where unorganized territory is involved, they shall organize by electing a chair and a secretary. No action may be taken at this meeting unless at the time of convening thereof there are present at least 1/2 of the total number of municipal officers eligible to attend and participate at the meeting, and, where the proposed district includes or is composed solely of unorganized territory, at least 2/3 of the persons signing the application mentioned in subsection 1 and at least 2 commissioners of the county wherein such unorganized territory is located, other than to report to the Commissioner of Environmental Protection that a quorum was not present and to request the commissioner to issue a new notice for another meeting. The purpose of the meeting is to determine a fair and equitable number of trustees, subject to section 1104, to be elected by and to represent each participating municipality, or in the case of unorganized territory, the residents of the territory within the bounds of the proposed district. When a decision has been reached on the number of trustees and the number to represent each municipality or the residents of the unorganized territory within the bounds of the proposed district, subject to the limitations provided, this decision must be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. Where 2 or more municipalities are or unorganized territory is involved, the vote so reduced to writing and the record of the meeting must be signed by the chair and attested by the secretary and filed with the commissioner. In cases where a single municipality is involved, a copy of the vote of the municipal officers duly attested by the clerk of the municipality must be filed with the commissioner.
[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

7. Submission. When the record of the municipality or the record of the joint meeting, when municipalities are or unorganized territory is involved, has been received by the Commissioner of Environmental Protection and found by the commissioner to be in order, the commissioner shall order the question of the formation of the proposed sanitary district and other questions relating thereto to be submitted to the legal voters residing within the portion of the municipality, municipalities or unorganized territory that falls within the proposed sanitary district. The order must be directed to the municipal officers of the municipality or municipalities that propose to form said sanitary district, and, when the proposed sanitary district includes or is composed solely of unorganized territory, to the commissioners of the county in which the unorganized territory is located, directing them to forthwith call town meetings, city elections or a meeting of the residents of the unorganized territory within the bounds of the proposed sanitary district, as the case may be, for the purpose of voting in favor of or in opposition to each of the following articles or questions, as they may apply, in substantially the following form:

A. To see if the town (or city) of (name of town or city) will vote to incorporate as a sanitary district to be called (name) Sanitary District; [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

B. To see if the residents of the following described section of the town (or city) of (name of town or city) will vote to incorporate as a sanitary district to be called (name) Sanitary District: (legal description of the bounds of section to be included); [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

C. To see if the residents of the (following described section of) (name of town or city) (unorganized territory) will vote to join with the residents of the (following described section of) (name of town or city) (unorganized territory) to incorporate as a sanitary district to be called (name) Sanitary District: (legal description of the bounds of the proposed sanitary district, except when district is to be composed of entire municipalities); [PL 1991, c. 548, Pt. A, §30 (AMD).]

D. To see if the inhabitants of the following described section of that unorganized territory known as Township (number), Range (number) will vote to incorporate as a sanitary district to be called (name) Sanitary District: (legal description of the bounds of the proposed sanitary district); [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

E. To see if the residents of (the above described section of) (name of town or city) will vote to approve the total number of trustees and the allocation of representation among the municipalities (and included section of unorganized territory) on the board of trustees as determined by the municipal officers (and the persons representing the included area of unorganized territory) and listed as follows.

The total number of trustees will be (number) and the residents of (the above described section of) (town or city) are entitled to (number) trustees (and the residents of the above described section of unorganized territory are entitled to (number) trustees); and [PL 1991, c. 548, Pt. A, §30 (AMD).]

F. To choose (number) trustees to represent the residents of (the above described section) of (town or city) (unorganized territory) on the board of trustees of the (name) Sanitary District. [PL 1971, c. 400, §2 (RPR).]

At any such town meeting, city election or election by the residents of the proposed sanitary district, trustees must be chosen to represent the municipality or the unorganized territory within the proposed sanitary district in the manner provided in section 1105.
[PL 1991, c. 548, Pt. A, §30 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 431, §9 (AMD). PL 1967, c. 524, §2 (AMD). PL 1971, c. 400, §2 (RPR). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §§50,51 (AMD). PL 1981, c. 466, §2 (AMD). PL 1989, c. 890, §§A40,B211, 212 (AMD). PL 1991, c. 548, §§A30,31 (AMD).

§1101-A. Fees

The commissioner may establish reasonable application fees for processing applications for the formation of districts under this chapter or chapter 11-A. The commissioner shall place these fees into a nonlapsing dedicated revenue account, and funds from the account may be used by the department or the board only to pay costs associated with processing applications for the formation of districts under this chapter or chapter 11-A. [PL 2005, c. 556, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 556, §3 (NEW).

§1102. Approval and organization

When the residents of the municipality, or each municipality, where more than one is involved, or of the unorganized territory within the proposed sanitary district, have voted upon the formation of a proposed sanitary district and all of the other questions submitted therewith, the clerk of each of the municipalities, and, where the proposed district includes unorganized territory, the county clerk, shall make a return to the Commissioner of Environmental Protection in such form as the commissioner shall determine. If the commissioner finds from the returns that a majority of the residents within each of the municipalities involved, and, where the proposed district includes unorganized territory, that a majority of the residents of the unorganized territory within the proposed sanitary district, voting on each of the articles and questions submitted to them, have voted in the affirmative, and they have elected the necessary trustees and the names thereof to represent each municipality, or the residents of the unorganized territory within the proposed sanitary district, and that all other steps in the formation of the proposed sanitary district are in order and in conformity with law, the commissioner shall make a finding to that effect and record the same upon the department's records. The commissioner shall, immediately after making these findings, issue a certificate of organization in the name of the sanitary district in such form as the commission shall determine. The original certificate must be delivered to the trustees on the day that they are directed to organize and a copy of the certificate duly attested by the commissioner must be filed and recorded in the Office of the Secretary of State. The issuance of a certificate by the commissioner is conclusive evidence of the lawful organization of the sanitary district. The sanitary district is not operative until the date set by the commissioner under section 1106. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §213 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §3 (AMD). PL 1969, c. 431, §9 (AMD). PL 1971, c. 400, §3 (RPR). PL 1971, c. 618, §12 (AMD). PL 1973, c. 537, §43 (AMD). PL 1989, c. 890, §§A40,B213 (AMD).

§1103. Transfer of property and assets

When the territory of a municipality falls within a sanitary district which has been issued its certificate of organization and has assumed the management and control of the operation of the sewage facilities within its territorial limits, the trustees of said sanitary district shall determine what sewer property or properties including treatment plants owned by any municipality within said sanitary district shall be necessary to carry on the functions of the sanitary district and shall request in writing that the municipal officers of any municipality within said sanitary district convey the title to such sewer property to such sanitary district and said municipal officers shall make such conveyance without payment of consideration. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1104. Trustees

1. Authorization. All the affairs of a sanitary district are managed by an elected board of trustees which consists of not less than 3 trustees, or not less than 5 trustees in sanitary districts involving more than one municipality or one or more municipalities and residents of an unorganized territory. The exact number of trustees is determined in accordance with section 1101. A sanitary district may alter the number of trustees by submitting the proposed alteration to the voters in the same manner as provided in section 1101, subsection 7. No municipality or unorganized territory within any sanitary district may have less than one trustee. A quorum of the trustees may conduct the affairs of the district even if there is a vacancy on the board of trustees.

In the case of a sanitary district whose territory does not extend beyond the boundaries of a single municipality and whose territory encompasses less than the entire area of the municipality, all trustees must be residents of the municipality and a majority of the trustees must be residents within the district. A trustee who ceases to qualify for the office of trustee as a result of the application of this subsection shall vacate the office of trustee and the vacancy must be filled as provided in section 1105.
[PL 1999, c. 299, §1 (AMD).]

2. Recall. Trustees may be recalled under the following provisions.

A. The qualified electors of the sanitary district may petition for the recall of any trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk, or the county commissioners in the case of unorganized territory, demanding the recall of the trustee. A trustee may be subject to recall for misfeasance, malfeasance or nonfeasance in office. The petition shall be signed by electors of the political subdivision which that trustee represents equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within the political subdivision of the trustee being recalled. The recall petition shall state the reason for which removal is sought. [PL 1981, c. 466, §3 (NEW).]

B. Within 3 days after the petition is offered for filing, the official with whom the petition is left shall determine by careful examination whether the petition is sufficient and so state in a certificate attached to the petition. If the petition is found to be insufficient, the certificate shall state the particulars creating the insufficiency. The petition may be amended to correct any insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, it shall again be carefully examined to determine sufficiency and a certificate stating the findings shall be attached. Immediately upon finding an original or amended petition sufficient, the official shall file the petition and call a special election to be held not less than 40 days nor more than 45 days from the filing date. The official shall notify the trustee, against whom the recall petition is filed, of the special election. [PL 1981, c. 466, §3 (NEW).]

C. The trustee against whom the recall petition is filed shall be a candidate at the special election without nomination, unless he resigns within 10 days after the original filing of the petition. There shall be no primary. Candidates for the office may be nominated under the usual procedure of nomination for a primary election by filing nomination papers, not later than 5 p.m., 4 weeks preceding the election and have their names placed on the ballot at the special election. [PL 1981, c. 466, §3 (NEW).]

D. The official against whom a recall petition has been filed shall continue to perform the duties of his office until the result of the special election is officially declared. The person receiving the highest number of votes at the special election shall be declared elected for the remainder of the term. If the incumbent receives the highest number of votes, he shall continue in office. If another receives the highest number of votes, he shall succeed the incumbent, if he qualifies, within 10 days after receiving notification. [PL 1981, c. 466, §3 (NEW).]

E. After one recall petition and special election, no further recall petition may be filed against the same official during the term for which he was elected. [PL 1981, c. 466, §3 (NEW).]

[PL 1981, c. 466, §3 (NEW).]

3. Trustees retirement. Persons who have not been trustees prior to January 1, 1987, and who are not full-time employees, shall not be eligible to become members of the Maine Public Employees Retirement System as a result of their selection as trustees.

[PL 1987, c. 256, §46 (RPR); PL 2007, c. 58, §3 (REV).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1981, c. 466, §3 (RPR). PL 1987, c. 256, §46 (AMD). PL 1999, c. 299, §1 (AMD). PL 2007, c. 58, §3 (REV).

§1105. Election of trustees

Trustees shall be nominated and elected in the same manner as municipal officers are nominated and elected under Title 30-A, or in accordance with a municipal charter, whichever is applicable; or, in the case of unorganized territory, in accordance with the procedure for the organization of larger townships set forth in Title 30-A, section 7001, subsection 2. Upon receipt of the names of all the trustees, the Commissioner of Environmental Protection shall set a time, place and date for the first meeting of the trustees, notice thereof to be given to the trustees by certified or registered mail, return receipt requested, mailed at least 10 days prior to the date set for the meeting, to determine the length of their terms. The terms are determined by lot in accordance with the following table:

	TERM		
Total number of Trustees	1 year	2 years	3 years
5	1	2	2
6	2	2	2
7	2	2	3
8	2	3	3
9	3	3	3
10	3	3	4
11	3	4	4
12	4	4	4
13	4	4	5
14	4	5	5
15	5	5	5
16	5	5	6
17	5	6	6
18	6	6	6

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §214 (AMD).]

In the case of a sanitary district whose territory does not extend beyond the boundaries of a single municipality and whose territory encompasses less than the entire area of the municipality, when the term of office of a trustee expires, the trustee's successor must be elected at large by a plurality vote of the voters within the territory of the district. [PL 1999, c. 299, §2 (NEW).]

They shall organize by election from their own members a chairman, a vice-chairman, a treasurer and a clerk and choose and employ and fix the compensation of such other necessary officers and agents who shall serve at their pleasure, and they shall adopt a corporate seal. Prior to the election of said officers each trustee shall be sworn to the faithful performance of his duties. [PL 1967, c. 524, §4 (AMD).]

The trustees may from time to time adopt, establish and amend by bylaws consistent with the laws of the State of Maine, and necessary for their own convenience and the proper management of the affairs of the district and perform any other acts within the powers delegated to them by law. [PL 1965, c. 310 (NEW).]

After the original organizational meeting the trustees shall meet annually at a time determined by their bylaws for the purpose of electing from among the members a chairman, vice-chairman, treasurer and clerk to serve until the next annual election and until their successors are elected and qualified. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. The chairman, vice-chairman, treasurer and clerk may receive such compensation for serving in these capacities as the trustees shall determine. This compensation shall be in addition to the compensation payable to them as trustees. The trustees shall make and publish an annual report including a report of the treasurer. [PL 1967, c. 524, §4 (AMD).]

At the expiration of the terms so determined the vacancy shall be filled for a term of 3 years and the trustees shall notify the municipal officers of the municipalities within the sanitary district before the annual town meeting or before the regular city election if a city falls within the sanitary district; or, in the case of unorganized territory, the trustees shall notify the commissioners of the county wherein the unorganized territory, encompassed by the sanitary district, is located, of the fact that a vacancy will occur so that the municipal officers in these municipalities or the county commissioners, as the case may be, may provide for the election of a trustee or trustees to fill the vacancy that will occur. All trustees shall serve until their successors are elected and qualified. The trustees shall receive compensation as recommended by them and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the district, including compensation for any duties they perform as officers as well as for their duties as trustees. Certification thereof shall be recorded with the Secretary of State and recorded in the bylaws. Their compensation for duties as trustees shall be on the basis of such specific amount as may be specified in the bylaws, each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed such specific amount as may be specified in the bylaws. Compensation schedules in effect in January 1, 1982, shall continue in effect until changed. [PL 1981, c. 466, §4 (AMD).]

When a vacancy on the board of trustees occurs by reason of death, resignation or otherwise, the municipal officers of the municipality that the trustee represented shall fill the vacancy by electing a trustee from the municipality to serve until the municipality shall fill the vacancy at its next annual town meeting or next regular city election. In the case of a vacancy in the office of a trustee representing unorganized territory, the commissioners of the county wherein such unorganized territory is located shall fill the vacancy by electing a trustee from such unorganized territory and resident within the boundaries of the sanitary district until the next election of trustees is held. The person so chosen shall serve until his successor is elected and qualified. In case any member of the board of trustees shall remove from the municipality that he represents, or, in the case of a trustee representing unorganized

territory, in case such trustee shall remove without the boundaries of the sanitary district, a vacancy shall be declared to exist by the board of trustees, and the municipal officers or the county commissioners, as the case may be, shall thereafter choose another trustee as provided. [PL 1967, c. 524, §4 (AMD).]

No member of the board of trustees shall be employed for compensation as an employee or in any other capacity by the sanitary district of which he is a trustee, except as provided. [PL 1967, c. 524, §4 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §4 (AMD). PL 1969, c. 431, §9 (AMD). PL 1971, c. 618, §12 (AMD). PL 1981, c. 466, §4 (AMD). PL 1987, c. 737, §§C93,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 104, Pt. C, §§8, 10 (AMD). PL 1989, c. 890, §§A40,B214 (AMD). PL 1989, c. 890, Pt. A, §40 (AFF). PL 1989, c. 890, Pt. B, §214 (AMD). PL 1999, c. 299, §2 (AMD).

§1106. Operational date of sanitary districts

Notwithstanding the prior issuance of a certificate of organization, a sanitary district is not in operation and may not exercise any of its powers granted in this chapter until the date set by the Commissioner of Environmental Protection as provided in section 1105. On that date, the sanitary district becomes operative and the trustees shall assume the management and control of the operation of all of the public sewers, storm and surface water drains, treatment plants and related structures within the sanitary district, and the municipalities and residents of unorganized territory within the sanitary district on and after the operational date have no responsibility for the operation or control of the public sewers and storm and surface water drains and treatment plants within their respective jurisdictions other than to pay for services rendered to the municipality or residents by the sanitary district. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §215 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §5 (AMD). PL 1969, c. 431, §9 (AMD). PL 1971, c. 618, §12 (AMD). PL 1989, c. 890, §§A40,B215 (AMD).

SUBCHAPTER 3

POWERS

§1151. Powers

Each sanitary district formed under this chapter shall have the power, within the district, within the territory of any adjoining municipality, and within any adjoining unorganized territory, to lay pipes, drains, sewers and conduits, and to take up, repair and maintain the same or to contract for the same to be done, in, along and through any public or private ways and public grounds, and in, along and through lands of any person or corporation, to and into tidal waters, rivers, watercourses and treatment works or to or into any drain or sewer now or hereafter built which empties into tidal waters, rivers, watercourses and treatment works, the discharge therefrom to be at such points consistent with the requirements of public health as shall be found convenient and reasonable for said district and the flow of existing watercourses; to construct and maintain treatment works, pumping stations, basins, reservoirs, flush tanks and such other appliances for collecting, holding, purifying, distributing and disposing of sewage matter and commercial and industrial waste and of storm and surface water, all as may be necessary or proper; and in general, do any or all other things necessary or incidental to accomplish the purposes of the district. [PL 1967, c. 524, §6 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §6 (AMD).

§1151-A. Enforcement power

A sanitary district may seek in a civil action injunctive relief from an industrial user that violates any pretreatment standard or requirement administered by the district. The district may seek a civil penalty of up to $1,000 a day for each violation by an industrial user of a pretreatment standard or requirement. [PL 1991, c. 213, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 213, §1 (NEW).

§1152. Right of eminent domain

Each sanitary district formed under this chapter 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, and for such purposes is authorized to take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, as for public uses any land, real estate, easements or interest therein, and any sewers, drains or conduits and any sewer or drainage rights necessary for constructing, establishing, maintaining and operating sewers, drains, reservoirs, flush tanks, manholes, catch basins, treatment works, pumping stations and other appliances and property used or useful for collecting, holding, purifying, distributing and disposing of sewage matter and commercial and industrial waste and surface and waste waters. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1152-A. Procedure in exercise of right of eminent domain

The right of eminent domain granted in section 1152 may only be exercised after complying with the following procedures. [PL 1981, c. 466, §5 (NEW).]

1. Notice to owner. The district shall provide notice to the owner as follows.

A. The owner or owners of record shall be notified as follows:

(1) The determination of the trustees that they will exercise the right of eminent domain;

(2) A description and scale map of the land or easement to be taken;

(3) The final amount offered for the land or easement to be taken, based on the fair value, as estimated by the district; and

(4) Notice of the time and place of the hearing provided in subsection 3. [PL 1981, c. 466, §5 (NEW).]

B. Notice may be made:

(1) By personal service in hand by an officer duly qualified to serve civil process in this State; or

(2) By certified mail, return receipt requested, to his last known address. [PL 1981, c. 466, §5 (NEW).]

C. Alternate notice. If the owner or owners are not known or if they cannot be notified by personal service or certified mail, notice may be given by publication in the same manner as provided in subsection 3. [PL 1981, c. 466, §5 (NEW).]

[PL 1981, c. 466, §5 (NEW).]

2. Notice to tenant. Notice shall be made to any tenants in the same manner as for the owner. [PL 1981, c. 466, §5 (NEW).]

3. Hearing. The trustees shall hold a public hearing on the advisability of the proposed exercise of the right of the eminent domain. Notice of the hearing shall be made by publication in a newspaper of general circulation in the area of the taking and shall be given once a week for 2 successive weeks, the last publication to be at least 2 weeks prior to the time appointed in the hearing. The hearing notice shall include:

A. The time and place of the hearing; [PL 1981, c. 466, §5 (NEW).]

B. A description of the land or easement taken; and [PL 1981, c. 466, §5 (NEW).]

C. The owners, if known. [PL 1981, c. 466, §5 (NEW).]

[PL 1981, c. 466, §5 (NEW).]

SECTION HISTORY

PL 1981, c. 466, §5 (NEW).

§1153. Condemnation proceedings

Each sanitary district formed under this chapter, in exercising from time to time the right of eminent domain conferred upon it by section 1152, shall file in the office of the county commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in said county plans of the location of all lands, real estate, easements or interest therein, and sewers, drains or conduits and any sewer or drainage rights to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason any such district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect such location and file a new description thereof; and in such case any such district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and any such district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of 10 days from such filing, whereupon possession may be had of all said lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title thereto shall not vest in the district until payment therefor. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1154. Appeal

If any person sustaining damages by any taking by a sanitary district under section 1153 shall not agree with such district upon the sum to be paid therefor, either party, upon petition to the county commissioners of the county in which the property is located, may have said damages assessed by them; the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways by the county commissioners, except only:

0.

A. Title to the lands, real estate, easements or interests therein and other property and rights to be taken shall not vest in the district until payment to the owner of the amount awarded therefor or, if such payment is refused upon tender, until tender thereof to the Treasurer of the County in which lands and interests are located, for escrow at interest for the benefit of the owner pending final determination of the amount to which the owner is entitled; and [PL 1983, c. 444 (NEW).]

B. In the event of an appeal of the amount awarded as damages for such taking.

(1) The petition for assessment of damages shall be filed with the clerk of the county commissioners, by either party, within 30 days following the filing and recording of plans of the location of all the property, facilities and rights taken; and

(2) If the return of the county commissioners has not been made within 120 days following the filing of the petition for assessment, the county commissioners shall be conclusively presumed to have confirmed the award of damages by the district and either party may, within 30 days following that 120 day period, appeal the amount of the damages awarded by the district to the Superior Court. [PL 1983, c. 444 (NEW).]

[PL 1983, c. 444 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1983, c. 444 (AMD).

§1155. Crossing other public utilities

If any sewer line of any sanitary district formed under this chapter crosses the property or line of any other public utility, unless consent is given by such other public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by such district, the Public Utilities Commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district. If any sewer line of any sanitary district as provided above crosses the property or line of any railroad corporation, the procedure shall be the same as stated in the preceding sentence, except that the Department of Transportation shall be substituted for the Public Utilities Commission. Nothing herein contained shall be construed as authorizing any such sanitary district to take by right of eminent domain any of the property or facilities of any other public utility used, or acquired for future use by the owner thereof, in the performance of a public duty unless expressly authorized by special Act of the Legislature. [PL 1981, c. 469, §61 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1981, c. 469, §61 (AMD).

§1156. Entry of private sewer

Any person may enter his private sewer into any sewer of a sanitary district formed under this chapter while the same is under construction and before completion of such sewer at the point of entry, on obtaining a permit in writing from the trustees of the district; but after the sewer is completed to the point of entry and an entrance charge established on that location, no person shall enter his private sewer into such sewer until he has paid the entrance charge and obtained a permit in writing from the trustees. All such permits shall be recorded by the clerk of the district in its records before the same are issued. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1157. Contracts for disposal of sewage

Any sanitary district formed under this chapter is authorized to contract with persons, corporations, districts and other municipalities, both inside and outside the boundaries of the district, and with the State of Maine and the United States Government or any agency of either, to provide for disposal of sewage and commercial and industrial waste and storm and surface water through the district's system and through the system of any such person, corporation, district or other municipality; and every other district and municipality of the State of Maine is authorized to contract with such sanitary district for the collection, distribution, treatment and disposal of sewage and commercial and industrial waste and storm and surface water, and for said purposes any such municipality may raise money as for other municipal charges. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1158. Conditions for carrying out work

When any sanitary district formed under this chapter shall enter, dig up or excavate any public way or other land for the purpose of laying its sewers, drains or pipes, constructing manholes or catch basins or their appurtenances, or maintaining the same, or for any other purpose, the work shall be done expeditiously, and on completion of the work the district shall restore said way or land to the condition it was in prior to such work, or to a condition equally as good. Whenever the character of the work is such as to endanger travel on any public way, the municipal officers of the municipality in which the work is being done, or, if such work is being done in unorganized territory, the commissioners of the county wherein such unorganized territory is located, may order a temporary closing of such way, and of any intersecting way, upon request of said district, and the way shall remain closed to public travel until such municipal officers or county commissioners, as the case may be, deem it restored to a condition safe for traffic. [PL 1967, c. 524, §7 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §7 (AMD).

§1159. Inspection of sewers

The officers or agents of each sanitary district formed under this chapter shall have free access to all premises served by its sewers, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge, and to enforce this chapter and the rules and regulations prescribed by the trustees of the district. [PL 1979, c. 541, Pt. A, §273 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1979, c. 541, §A273 (AMD).

§1160. Connection of private sewers

Every building in a sanitary district formed under this chapter intended for human habitation or occupancy or with facilities for discharge or disposal of waste water or commercial or industrial waste, which is accessible to a sewer or drain of such district, shall have a sanitary sewer or drainage system which shall be caused to be connected with such sewer or drain of the district by the owner or person against whom taxes on the premises are assessed, in the most direct manner possible, within 90 days after receiving request therefor from the district, or within such further time as the trustees of the district may grant, and, if feasible, with a separate connection for each such building. Existing buildings which are already served by a private sewer or drainage system shall not be required to connect with any sewer or drain of the district so long as the private sewer or drainage system functions in a satisfactory and sanitary manner, and does not violate any law or ordinance applicable thereto or any applicable requirement of the State of Maine Plumbing Code, as determined by the municipal plumbing inspector, his alternate, or, in the event that both are trustees or employees of the district, the Division of Health Engineering. A building shall be deemed to be accessible to a sewer or drain of the district for the purposes of this section if such building, or any private sewer or drain directly or indirectly connected thereto or carrying waste water or commercial or industrial waste therefrom, shall at any point be or come within 200 feet of a sewer or drain of the district; provided that nothing in this section shall require the owner of any such building to acquire any real property or easement therein for the sole purpose of making such connection. [PL 1985, c. 612, §18 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1981, c. 466, §§6,7 (AMD). PL 1985, c. 612, §18 (AMD).

§1161. Injury to property of districts

Any person who shall place, discharge or leave any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of any sanitary district formed under this chapter contrary to its regulations, or shall knowingly injure any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by that district shall be liable to pay twice the amount of the damages to the district, to be recovered in any proper action; and that person and any person who violates section 1159 and 1160 shall be guilty of a Class E crime. [PL 1977, c. 696, §347 (RPR).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1977, c. 696, §347 (RPR).

§1162. Expansion of sanitary district boundaries

A sanitary district may expand the boundaries of the sanitary district in the same manner as is provided for the formation of the sanitary district in section 1101. [PL 1981, c. 466, §8 (NEW).]

SECTION HISTORY

PL 1981, c. 466, §8 (NEW).

§1163. Sewer extensions

1. Assurance. A sanitary district may not construct any sewer extension unless it acquires from the municipal officers or the designee of the municipal officers of any municipality through which the sewer extension will pass written assurance that:

A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and [PL 1995, c. 636, §1 (RPR).]

B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use. [PL 1995, c. 636, §1 (RPR).]

If the municipal officers fail to issue a response to a written request from a district for written assurance within 45 calendar days of receiving the request in writing, the written assurance is deemed granted.

Not less than 7 days prior to the meeting at which the trustees will take final action on whether to proceed with the extension, the trustees of the district shall publish notice of the proposed extension in a newspaper having a general circulation that includes all municipalities through which the sewer extension will pass.
[PL 1995, c. 636, §1 (RPR).]

2. Appeal. For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision, to the Department of Agriculture, Conservation and Forestry for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter 4, the following procedures apply to the review by the Department of Agriculture, Conservation and Forestry.

A. The Department of Agriculture, Conservation and Forestry may request any additional information from the sanitary district, the municipality or the department. All information requested by the Department of Agriculture, Conservation and Forestry must be submitted within 30 days of the request, unless an extension is granted by the Department of Agriculture, Conservation and Forestry. [PL 2011, c. 655, Pt. JJ, §38 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

B. Within a reasonable time, the Department of Agriculture, Conservation and Forestry shall hold a hearing. The Department of Agriculture, Conservation and Forestry shall give at least 7 days'

written notice of the hearing to the sanitary district, the municipality and the party that requested the hearing. The hearing is informal and the Department of Agriculture, Conservation and Forestry may receive any information it considers necessary. [PL 2011, c. 655, Pt. JJ, §38 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

C. Within 15 days of the hearing and within 60 days of the request for review, the Department of Agriculture, Conservation and Forestry shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the Department of Agriculture, Conservation and Forestry constitutes final agency action. [PL 2011, c. 655, Pt. JJ, §38 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

D. Notwithstanding subsection 1, if the Department of Agriculture, Conservation and Forestry determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the Department of Agriculture, Conservation and Forestry shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use, and the sanitary district may construct the sewer extension. [PL 2011, c. 655, Pt. JJ, §38 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

[PL 2011, c. 655, Pt. JJ, §38 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1981, c. 466, §9 (NEW). PL 1993, c. 721, §B3 (RPR). PL 1993, c. 721, §H1 (AFF). PL 1995, c. 636, §1 (RPR). PL 2011, c. 655, Pt. JJ, §38 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2011, c. 657, Pt. W, §5 (REV).

§1163-A. Coordination with municipal planning

To facilitate coordination of municipal planning and sewer extension planning: [PL 1993, c. 721, Pt. B, §4 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

1. Sanitary districts. The trustees of a sanitary district shall cooperate with municipal officials in the development of municipal growth management and other land use plans and ordinances; and [PL 1993, c. 721, Pt. B, §4 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

2. Municipalities. Municipal officers shall cooperate with the trustees of a sanitary district during the consideration of development applications that may affect the operations of the district. [PL 1993, c. 721, Pt. B, §4 (NEW); PL 1993, c. 721, Pt. H, §1 (AFF).]

SECTION HISTORY

PL 1993, c. 721, §B4 (NEW). PL 1993, c. 721, §H1 (AFF).

§1164. Investments

A sanitary district may invest its funds, including sinking funds, reserve funds and trust funds in accordance with this section. This section is in addition to, and not in limitation of, any power of a sanitary district to invest its funds. [PL 2017, c. 151, §6 (AMD).]

1. Deposit or investment of funds. A sanitary district may invest all district funds, including reserve funds and trust funds, if the terms of the instrument, order or article creating the fund do not prohibit the investment, as follows:

A. In accounts or deposits of institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the successors to these federal programs.

(1) Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or

federal savings and loan association on deposit at any one time must be secured by the pledge of certain securities as collateral or fully covered by insurance.

(a) The collateral must be in an amount equal to the excess deposit. The trustees shall determine the value of the pledged securities on the basis of market value and shall review the value of the pledged securities on the first business day of January and July of each year.

(b) The collateral may consist only of securities in corporate bond and Maine corporate bond. The securities must be held in a depository institution approved by the trustees and pledged to indemnify the sanitary district against any loss. The depository institution shall notify the trustees of the pledging when the securities are deposited; [PL 2017, c. 151, §6 (NEW).]

B. In repurchase agreements with respect to obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1, as long as the market value of the underlying obligation is equal to or greater than the amount of the sanitary district's investment and either the sanitary district's security entitlement with respect to the underlying obligation is created pursuant to the provisions of Title 11, Article 8-A and other applicable law or the sanitary district's security interest is perfected pursuant to Title 11, Article 9-A and other applicable law, except that, if the term of the repurchase agreement is not in excess of 96 hours, the sanitary district's security interest with respect to the underlying obligation need not be perfected as long as an executed Public Securities Association form of master repurchase agreement is on file with the counterparty prior to the date of the transaction; [PL 2017, c. 151, §6 (NEW).]

C. In the shares of an investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, if the investments of the fund are limited to bonds and other direct obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1, or repurchase agreements secured by bonds and other direct obligations of the United States Government, as described in Title 30-A, section 5712, subsection 1; or [PL 2017, c. 151, §6 (NEW).]

D. The trustees may enter into an agreement with any financial institution with trust powers authorized to do business in the State for the safekeeping of the reserve funds, or trust funds, of the sanitary district. Services must consist of the safekeeping of the funds, collection of interest and dividends and any other fiscal service that is normally covered in a safekeeping agreement. Investment of reserve funds or trust funds deposited under a safekeeping agreement may be managed either by the financial institution with which the funds are deposited or by an investment advisor registered with the National Association of Securities Dealers, federal Securities and Exchange Commission or other governmental agency or instrumentality with jurisdiction over investment advisors, to act in such capacity pursuant to an investment advisory agreement providing for investment management and periodic review of portfolio investments. Investment of funds on behalf of the district under this paragraph is governed by the rule of prudence, according to Title 18-B, sections 802 to 807 and Title 18-B, chapter 9. The contracting parties shall give assurance of proper safeguards that are usual to these contracts and shall furnish insurance protection satisfactory to both parties. [PL 2017, c. 151, §6 (NEW).]

[PL 2017, c. 151, §6 (NEW).]

2. Government unit bonds. A sanitary district may invest in:

A. The bonds and other direct obligations of the United States, or the bonds and other direct obligations or participation certificates issued by any agency, association, authority or instrumentality created by the United States Congress or any executive order; [PL 2017, c. 151, §6 (NEW).]

B. The bonds and other direct obligations issued or guaranteed by any state or by any political subdivision, instrumentality or agency of any state, if the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions; [PL 2017, c. 151, §6 (NEW).]

C. The bonds and other direct obligations issued or guaranteed by this State, or issued by any instrumentality or agency of this State, or any political subdivision of the State that is not in default on any of its outstanding funded obligations; or [PL 2017, c. 151, §6 (NEW).]

D. Prime bankers' acceptances and prime commercial paper. [PL 2017, c. 151, §6 (NEW).]

Investments made pursuant to this subsection are limited to direct obligations of the issuer in which the sanitary district directly owns the underlying security. Obligations created from, or whose value depends on or is derived from, the value of one or more underlying assets or indexes of asset values in which the sanitary district owns no direct interest do not qualify as investments under this subsection. [PL 2017, c. 151, §6 (NEW).]

3. Corporate securities. A sanitary district may invest in:

A. The bonds and other obligations of any United States or Canadian corporation if the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Financial Institutions and are payable in United States funds. Not more than 2% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in the securities of any one such corporation; and [PL 2017, c. 151, §6 (NEW).]

B. The bonds and other obligations of any Maine corporation, actually conducting in this State the business for which that corporation was created, that, for a period of 3 successive fiscal years or for a period of 3 years immediately preceding the investment, has earned or received an average net income of not less than 2 times the interest on the obligations in question and all prior liens or, in the case of water companies subject to the jurisdiction of the Public Utilities Commission, an average net income of not less than 1 1/2 times the interest on the obligations in question and all prior liens. Not more than 20% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in these securities of Maine corporations and not more than 2% of that fund may be invested in the securities of any single corporation. [PL 2017, c. 151, §6 (NEW).]

[PL 2017, c. 151, §6 (NEW).]

4. Retention of unauthorized securities. Sanitary districts may acquire and hold securities not authorized by law but that have been acquired in settlements, reorganizations, recapitalizations, mergers or consolidations or by receipt of stock dividends or the exercise of rights applicable to securities held by sanitary districts and may continue to hold these securities at the discretion of the trustees. Sanitary districts may continue to hold at the discretion of the trustees securities under authorization of law. [PL 2017, c. 151, §6 (NEW).]

5. Standard of prudence. All investments made under this section must be made with the judgment and care that persons of prudence, discretion and intelligence, under circumstances then prevailing, exercise in the management of their own affairs, not for speculation but for investment, considering:

A. The safety of principal and preservation of capital in the overall portfolio; [PL 2017, c. 151, §6 (NEW).]

B. Maintenance of sufficient liquidity to meet all operating and other cash requirements with which a fund is charged that are reasonably anticipated; and [PL 2017, c. 151, §6 (NEW).]

C. The income to be derived throughout budgetary and economic cycles, taking into account prudent investment risk constraints and the cash flow characteristics of the portfolio. [PL 2017, c. 151, §6 (NEW).]

This standard must be applied to the overall investment portfolio of the sanitary district and not to individual items within a diversified portfolio.
[PL 2017, c. 151, §6 (NEW).]

SECTION HISTORY

PL 1993, c. 651, §7 (NEW). PL 2017, c. 151, §6 (AMD).

SUBCHAPTER 4

BONDS, RATES AND ASSESSMENTS

§1201. Bonds and notes

1. Authorization of bonds. Any sanitary district formed under this chapter may provide by resolution of its board of trustees, without district vote, except as provided in subsection 10, for the borrowing of money and the issuance from time to time of bonds for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness; [PL 1979, c. 696, §1 (NEW).]

B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the district or any municipality therein or any person residing in unorganized territory encompassed by the district, the district being authorized to reimburse any municipality therein or any person residing in unorganized territory encompassed by the district for any such expenses incurred or paid by it or him; [PL 1979, c. 696, §1 (NEW).]

C. Paying costs directly or indirectly associated with acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating sewage and treatment plants, or systems, and making renewals, additions, extensions and improvements to the same, and to cover interest payments during the period of construction and for such period thereafter as the trustees may determine; [PL 1985, c. 506, Pt. B, §35 (AMD).]

D. Providing such reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds; and [PL 1979, c. 696, §1 (NEW).]

E. Any combination of these purposes. [PL 1979, c. 696, §1 (NEW).]

Bonds may be issued under this chapter as general obligations of the district or as special obligations payable solely from particular funds. The principal of, premium, if any, and interest on all bonds shall be payable solely from the funds provided for that purpose from revenues. For purposes of this chapter, the term "revenues" means and includes the proceeds of bonds, all revenues, rates, fees, entrance charges, assessments, rents and other receipts derived by the district from the operation of its sewer system and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties. All bonds issued by a district under this chapter shall be legal obligations of the district, and all districts formed under this chapter are declared to be quasi-municipal corporations within the meaning of Title 30-A, section 5701. Bonds may be issued under this chapter without obtaining the consent of any commission, board, bureau or agency of the State or of any municipality encompassed by the district, and without any other proceedings or the happening of other conditions or things other than those proceedings, conditions or

things which are specifically required by this chapter. Bonds issued under this chapter do not constitute a debt or liability of the State or of any municipality encompassed by the district or a pledge of the faith and credit of the State or any such municipality, but the bonds shall be payable solely from the funds provided for that purpose, and a statement to that effect shall be recited on the face of the bonds.
[PL 1987, c. 737, Pt. C, §§94, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Notes. Any sanitary district formed under this chapter may also provide by resolution of its board of trustees, without district vote, for the issuance from time to time of notes in anticipation of bonds authorized under this chapter and of notes in anticipation of the revenues to be collected or received in any year or in anticipation of the receipt of federal or state grants or other aid. The issue of these notes shall be governed by the applicable provisions of this chapter relating to the issue of bonds, provided that notes in anticipation of revenue must mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals thereof must mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same or the interest thereon may not exceed one year.

Any such district is authorized and empowered to enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects of the type which that district is authorized to carry out, and to accept grants and borrow money from any such government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the district.
[PL 1979, c. 696, §1 (NEW).]

3. Maturity; interest; form; temporary bonds. The bonds issued under this chapter shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the board of trustees, and may be made redeemable before maturity, at the option of the district, at such price or prices and under such terms and conditions as may be fixed by the board of trustees prior to the issuance of the bonds. The board of trustees shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. Bonds shall be executed in the name of the district by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond shall be a manual signature. Coupons, if any, attached to the bonds shall be executed with the facsimile signature of the officer or officers of the district designated in the resolution. In case any officer, whose signature or a fascimile of whose signature appears on any bonds or coupons, ceases to be such officer before the delivery of the bonds, the signature or its facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until the delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of trustees may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board of trustees may sell such bonds in such manner, either at public or private sale, and for such price as they may determine to be for the best interests of the district. The proceeds of the bonds of each issue shall be used solely for the purpose for which those bonds have been authorized, and shall be disbursed in such manner and under such restrictions, if any, as the board of trustees may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds, and any trust agreement

securing the bonds, may contain such limitations upon the issuance of additional bonds as the board of trustees may deem proper, and these additional bonds shall be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of trustees may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of trustees may provide for the replacement of any bond which is mutilated, destroyed or lost.
[PL 1979, c. 696, §1 (NEW).]

4. Pledges and covenants, trust agreement. In the discretion of the board of trustees of any district, each or any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be any trust company within or without the State.

The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the district and any accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district, and the proceeds thereof, but may not convey or mortgage the sewer system or any other properties of the district. The resolution may also contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the district and the board of trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its sewer system or any of its other properties, the fixing and revising of rates, fees and charges, the application of the proceeds of bonds, the custody, safeguarding and application of revenues, defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of trustees may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any such resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, moneys, rights and proceeds so pledged and thereafter received by the district are immediately subject to the lien of the pledge without any physical delivery or segregation thereof or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice thereof.

The resolution authorizing the issuance of bonds under this chapter, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves therefor as may be provided in the resolution or trust agreement, must be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the same become due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of moneys to the credit of the fund are subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is a fund for the benefit of all bonds without distinction or priority of one over another.
[RR 2013, c. 2, §52 (COR).]

5. Trust funds. Notwithstanding any other law, all moneys received pursuant to the authority of this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that any officer to whom, or bank, trust company or other fiscal agent to which, those moneys shall be paid shall act as trustee of those moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.
[PL 1979, c. 696, §1 (NEW).]

6. Remedies. Any holder of bonds issued under this chapter or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the district, protect and enforce any and all rights under the laws of the State or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the district or by any officer thereof, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the district.
[PL 1979, c. 696, §1 (NEW).]

7. Refunding bonds. Any sanitary district formed under this chapter by resolution of its board of trustees, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of trustees deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the district in respect of the same shall be governed by the applicable provisions of this chapter relating to the issue of bonds other than refunding bonds.
[PL 1979, c. 696, §1 (NEW).]

8. Tax exemption. All bonds, notes or other evidences of indebtedness issued under this chapter, and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.
[PL 1979, c. 696, §1 (NEW).]

9. Bonds declared legal investments. Bonds and notes issued by any district under this chapter are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons who are now or may hereafter be, authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are made securities which may properly and legally be deposited with and received by any state, municipal or public officer, or any agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

[PL 1979, c. 696, §1 (NEW).]

10. Certain bond issues; notice; special meeting; vote. In the event that the trustees vote to authorize bonds or notes, for any of the corporate purposes of a sanitary district, excluding notes payable within one year, notes in anticipation of bonds authorized pursuant to this section, or notes in anticipation of the revenues to be collected or received in any year or notes in anticipation of the receipt of approved federal or state grants, the authorized amount of which, singly or in the aggregate included in any one financing, is $150,000 or more, the trustees shall call a special district meeting for the purpose of permitting the collection of testimony from the public concerning the purpose and the amount of debt so authorized. Notice of the special district meeting, stating the approximate amount of the debt and the purpose for which it is being issued, shall be published not less than 7 full days prior to the date of the meeting in a newspaper having general circulation in the district and shall be mailed to each ratepayer in the district not later than the date of the publication. No debt may be incurred under the vote of the trustees until the expiration of 7 full days following the date of the special district meeting.
[PL 1983, c. 684 (RPR).]

Except for debt to fund that part of any project which has been approved for grant financing by the State Government or Federal Government to meet the requirements of the United States Clean Water Act, United States Code, Title 33, Section 1251 et seq., including any related facilities not eligible for that financing but essential to the operation of the approved project as an integral system, for debts in excess of the amount specified in this section, the following petition and referendum procedure shall apply. If, on or before the 7th day following the date of the special district meeting a petition signed by at least 5%, but not less than 50, of the registered voters of the district is filed with the clerk of the district requesting reference of the vote of the trustees to referendum, the clerk of the district shall call and hold a special election of the voters of the district for the purpose of submitting to referendum vote a question of approving the vote of the trustees. The vote of the trustees shall be suspended until it has received approval by vote of a majority of the voters of the district voting on the question at the special election. [PL 1983, c. 684 (RPR).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §8 (AMD). PL 1975, c. 461, §2 (AMD). PL 1979, c. 696, §1 (RPR). PL 1981, c. 466, §§10,11,14 (AMD). PL 1983, c. 684 (AMD). PL 1985, c. 506, §B35 (AMD). PL 1987, c. 737, §§C94,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). RR 2013, c. 2, §52 (COR).

§1202. Rates

All persons, firms and corporations, whether public, private or municipal, shall pay to the treasurer of any district formed under this chapter the rates, tolls, rents, entrance charges and other lawful charges established by the trustees for the sewer or drainage service used or available with respect to their real estate, which rates shall include rates for such district's readiness to serve charged against owners of real estate, abutting on or accessible to, sewers or drains of the district, but not actually connected thereto, whether or not such real estate is improved. In this subchapter, the words "other lawful charges" or "other charges" shall include, but not be limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes. [PL 1977, c. 696, §348 (AMD).]

Rates, tolls, rents and entrance charges shall be uniform within such district, whenever the cost to the district of installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform; but nothing shall preclude the district, from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and entrance charges in sections where, for any reason, the cost to the district of construction and maintenance, or the cost of service, exceeds the

average, but such higher rates, tolls, rents and entrance charges shall be uniform throughout the sections where they apply. [PL 1975, c. 461, §3 (AMD).]

Prior to the adoption of a new 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 not less than once in a newspaper having a general circulation in the district not less than 7 days prior to the hearing. The district shall mail to each ratepayer a notice of the public hearing and the proposed new rate at least 14 days prior to the hearing. [PL 1981, c. 466, §12 (NEW).]

Notwithstanding any other provision of law, districts which share, supply or contract for services with another district shall establish rates, tolls, rents and entrance charges mutually agreeable to the trustees of each participating district. [PL 1975, c. 461, §3-A (NEW).]

The sewer rates, tolls, rents, entrance charges, assessments and other lawful charges established by the board of trustees in accordance with this chapter shall be so fixed and adjusted in respect of the aggregate thereof so as to produce revenue at least sufficient, together with any other moneys available therefor, to: [PL 1979, c. 696, §2 (RPR).]

1. Current operating expenses. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the district;
[PL 1979, c. 696, §3 (RPR).]

2. Payment of interest and principal. Pay the principal of, premium, if any, and interest on all bonds and notes issued by the district under this chapter as the same become due and payable;
[PL 1979, c. 696, §3 (RPR).]

3. Sinking fund for retirement of obligations. Create and maintain such reserves as may be required by any trust agreement or resolution securing bonds and notes;
[PL 1979, c. 696, §3 (RPR).]

4. Repairs, replacements and renewals. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the district; and
[PL 1979, c. 696, §3 (RPR).]

5. Payment of obligations. Pay or provide for any and all amounts which the district may be obligated to pay or provide for by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds and notes.
[PL 1979, c. 696, §4 (NEW).]

In the case of a sanitary district encompassing unorganized territory, such rates, tolls, rents, entrance charges and other lawful charges as may be applicable to real estate in such unorganized territory shall be charged against the party in possession thereof. [PL 1967, c. 524, §9 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §9 (AMD). PL 1975, c. 461, §§3,3-A (AMD). PL 1977, c. 696, §348 (AMD). PL 1979, c. 696, §§2-4 (AMD). PL 1981, c. 466, §12 (AMD).

§1202-A. Impact fees and connection fees; affordable housing

Notwithstanding section 1202, the trustees may reduce the impact fee or connection fee, as those terms are defined in Title 30-A, section 5061, for sewer service to newly constructed affordable housing in accordance with Title 30-A, chapter 202-A. [PL 2007, c. 174, §4 (NEW).]

SECTION HISTORY

PL 2007, c. 174, §4 (NEW).

§1203. Assessments

When any sanitary district formed under this chapter has constructed and completed a common sewer, the trustees may, if they so determine, in order to defray a portion of the expense thereof, determine what lots or parcels of land are benefited by such sewer, and estimate and assess upon such lots and parcels of land, and against the owner thereof, or person in possession or against whom taxes thereon are assessed, whether said person to whom the assessment is so made shall be the owner, tenant, lessee or agent, and whether the same is occupied or not, except that in the case of a sanitary district encompassing unorganized territory, such assessments made on lots or parcels of land in such unorganized territory shall be made by the trustees against the party in possession thereof, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expense of constructing and completing such sewer, together with such sewage disposal units and appurtenances as may be necessary, the whole of such assessments not to exceed 1/2 of the cost of such sewer and sewage disposal units. The trustees shall file with the clerk of the district the location of such sewer and sewage disposal unit, with a profile description of the same, and 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 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 such filing, each person so assessed shall be notified of such assessment by having an authentic copy of said assessment, 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 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 said 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 of general circulation in said district, the first publication to be at least 30 days before said hearing; a return made upon a copy of such notice by any constable in any municipality within the district or by any sheriff or deputy sheriff or the production of the newspaper containing such notice shall be conclusive evidence that said notice has been given, and upon such hearing the trustees shall have power to revise, increase or diminish any of such assessments, and all such revisions, increases or diminutions shall be in writing and recorded by the clerk of the district. [PL 1967, c. 524, §10 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 524, §10 (AMD).

§1204. Appeal on assessment

Any person aggrieved by the decision of said trustees as it relates to any assessment for sewer construction under section 1203 shall have the same rights of appeal as are provided in the case of laying out of town ways. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1205. Lien for unpaid assessments

All assessments made under section 1203 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 trustees file with the clerk of the district the completed assessment, and shall continue for one year thereafter. Within 10 days after the date of hearing on said assessment the clerk of the district 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 a civil action for the collection of said assessment in the name of the district against the person against whom said assessment is made and for the enforcement of said lien. The complaint in such action shall contain a statement of such assessment,

a description of the real estate against which the assessment is made, and an allegation that a lien is claimed on said real estate to secure the payment of the assessment. If no service is made upon the defendant or it shall appear that any other persons are interested in such real estate, the court shall order such further notice of such action as appears proper, and shall allow such other persons to become parties thereto. If it shall appear upon trial of such action that such assessment was legally made against said real estate, and is unpaid, and that there is an existing lien on said real estate for the payment of such assessment, judgment shall be rendered for such assessment, interest and costs of suit against the defendants and against the real estate upon which the assessment was made, and execution shall issue thereon to be enforced by sale of such estate in the manner provided for a sale on execution of real estate attached on original process; provided that in making said sale the officer shall follow the procedure in selling and conveying, and there shall be the same rights of redemption, as provided in Title 36, section 941. [PL 1979, c. 541, Pt. A, §274 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1979, c. 541, §A274 (AMD).

§1206. Civil action for unpaid assessments

If assessments under section 1203 are not paid, and any such district does not proceed to collect unpaid assessments by proceedings as prescribed in section 1205, or does not collect or is in any manner delayed or defeated in collecting such assessments by proceedings under section 1205, then the district in its name may maintain a civil action against the party so assessed for the amount of said assessment, as for money paid, laid out and expended, in any court of competent jurisdiction, and in such action may recover the amount of such assessment with 10% interest on the same from the date of said assessment and costs. [PL 1979, c. 541, Pt. A, §275 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1979, c. 541, §A275 (AMD).

§1207. Assessment paid by persons other than owner

When any assessment under section 1203 shall be paid by any person against whom such assessment has been made, who is not the owner of such lot or parcel of land, then the person so paying the same shall have a lien upon such lot or parcel of land with the buildings thereon for the amount of said assessment so paid by said person, and incidental charges, which lien shall continue for one year and which lien may be enforced in a civil action for money paid, laid out and expended, and by attachment in the way and manner provided for the enforcement of liens upon buildings and lots under Title 10. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1207-A. Landlord access to tenant bill payment information

If a tenant is billed for sewer service provided to property rented by the tenant and nonpayment for the service may result in a lien against the property, the sanitary district shall provide to the landlord or the landlord's agent, on request of the landlord or the landlord's agent, the current status of the tenant's account, including any amounts due or overdue. [PL 2005, c. 306, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 306, §3 (NEW).

§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 shall be the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by Title 33, section 751, subsection 12, plus $13, plus all certified mail, return receipt requested, fees. [PL 1987, c. 29, §2 (NEW).]

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).

§1208-A. Waiver of automatic foreclosure of lien mortgage

1. Waiver of sanitary district lien foreclosure. The treasurer of a district, when authorized by the trustees of the district, may waive the foreclosure of a sanitary district lien mortgage created under section 1208 by recording in the registry of deeds a waiver of foreclosure before the period for the right of redemption from the sanitary district lien mortgage has expired. The sanitary district lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rate, toll, rent or other charges are not affected by the filing of a waiver under this section.
[PL 2009, c. 490, §2 (NEW).]

2. Form. The waiver of foreclosure under subsection 1 must be substantially in the following form:

STATE OF MAINE .....SANITARY DISTRICT

WAIVER OF AUTOMATIC FORECLOSURE

OF SEWER LIEN

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

The foreclosure of the sewer lien mortgage on real estate for charges against .....(NAME) to .....(NAME OF SANITARY 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 district and notarized. A copy of the form must be provided to the party named on the sanitary district lien mortgage and each record holder of a mortgage on the real estate.
[PL 2009, c. 490, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 490, §2 (NEW).

§1209. Supplementary charges

Any sanitary district formed under this chapter shall be authorized to impose charges, in addition to any other assessments now lawfully imposed by general law, for the use of sewers, sewer systems and treatment works, and the trustees may adopt such rules and regulations as may be necessary or convenient to carry out the purposes of such district. All incidental powers, rights and privileges necessary to the accomplishment of the purposes of the district are granted to the district and its trustees, including the right of its trustees to determine when and where sewerage and treatment facilities and disposal units are needed and when and where the same shall be constructed. [PL 1965, c. 310 (NEW).]

SECTION HISTORY

PL 1965, c. 310 (NEW).

§1210. Competitive bidding

Any contract in excess of $2,000 between a sanitary district, whether formed under this chapter or by private and special Act of the Legislature, and a contractor for the construction of facilities located on private property for the exclusive use of a private individual and for which the private individual is required to pay the total cost directly to the sanitary district, shall be awarded by a system of competitive bidding. Unless there are valid reasons to the contrary, the contracts shall be awarded to the lowest responsible bidder. [PL 1973, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1973, c. 476, §2 (NEW).

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