

CARIBOU UTILITIES DISTRICT

CHARTER

*Including Amendments
Of
1957, 1981, 2009 and 2010
Incorporated into Charter
Applicable State Laws are Included*

Chapter 83

AN ACT Creating the Caribou Utilities District

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

Sec. 1. Territorial limits and corporate name and purposes. *The inhabitants and territory within the City of Caribou in the County of Aroostook constitute a body politic and corporate under the name of the Caribou Utilities District, referred to in this act as "the district," for the purpose of supplying the City of Caribou and the inhabitants of the city or any part of the city with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and of supplying the City of Caribou and the inhabitants of the city or any part of the city with suitable and adequate sewerage facilities. (Amended 2009)*

Sec. 2. Powers of the Caribou Utilities District. *The district is authorized for the purposes of this Act to take, collect, store, flow, use, detain, distribute and convey to the City of Caribou or any part of the city water from any lake, pond, stream, or river and from any surface or underground brook, spring or vein of water in the City of Caribou, and is also authorized to locate, construct and maintain aqueducts, pipes, conduits, standpipes, hydrants, pumping stations and other necessary structures and equipment for the aqueducts, pipes, conduits, standpipes, hydrants, and pumping stations and do all things necessary to furnish water, and sewerage and drainage for public purposes and for public health, comfort and convenience of the inhabitants of the district. (Amended 2009)*

Sec. 3. Right of eminent domain conferred. *The district is authorized and empowered to acquire and hold real and personal property necessary or convenient for its purposes. The district is granted the right of eminent domain, as specified in the Maine Revised Statutes, Title 38, Section 1152 with respect to its sewer functions and is granted the right of eminent domain as specified in Title 35-A, section 6408 with respect to its water functions. (Amended 2009)*

MRSA Title 38, §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

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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. [1965, c. 310, (NEW).]

SECTION HISTORY
1965, c. 310, (NEW).

MRSA Title 35-A, §6408. *Standard districts; authority to acquire property; rights of eminent domain*

To the extent necessary for purposes of incorporation, a standard district may take and hold any interest in real estate and personal estate. [1995, c. 616, §10 (NEW).]

1. **Purchase or lease.** *A standard district may take and hold an interest in real estate or personal estate by purchase, lease or other lawful means.*
[1995, c. 616, §10 (NEW) .]

2. **Eminent domain.** *For purposes of its incorporation, a standard district may exercise the right of eminent domain as provided in chapters 65 and 67 to acquire any interest in land or water rights:*

A. *For erecting and maintaining dams, plants and works, for flowage, power, pumping and supplying water through its mains; [1995, c. 616, §10 (NEW).]*

B. *For reservoirs and for preserving and protecting the purity of the water and related watershed; [1995, c. 616, §10 (NEW).]*

C. *For laying and maintaining aqueducts and other structures; [1995, c. 616, §10 (NEW).]*

D. *For taking, distributing, discharging and disposing of water; and [1995, c. 616, §10 (NEW).]*

E. *For rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands. [1995, c. 616, §10 (NEW).]*

Except as otherwise provided by law, a standard district may not take by right of eminent domain any property or facilities of any other public utility used or acquired for future use in the performance of a public duty.

[1995, c. 616, §10 (NEW) .]

SECTION HISTORY
1995, c. 616, §10 (NEW).

Sec. 4. Authorized to lay mains, pipes, conduits through public ways and across private lands. *The district is authorized to lay in and through the streets, roads, ways and highways of the City of Caribou and other towns served by the district and across private lands in the city and other towns and to maintain, repair and replace all such pipes, mains, conduits, aqueducts, and fixtures as may be necessary and convenient for its corporate purposes, and whenever the district lays any pipes, aqueducts or conduits in any street, roadway or highway, the district shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at the district's own expense, without unnecessary delay, cause the earth and pavement removed by the district to be replaced in proper conditions. (Amended 2009)*

Section 4-A. Sewer Extensions. *Sewer extensions are governed by the Maine Revised Statutes, Title 38, Section 1252, subsection 7. (Amended 2009)*

MRSA Title 38, §1252. *Additions to private and special laws*

7. Sewer extensions. Sewer extensions are governed by this subsection.

A. A sewer 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:

(1) 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

(2) The sewer extension is consistent with adopted municipal plans and ordinances regulating land use. 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. [1995, c. 636, §2 (RPR) .]

B. For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to paragraph A, an aggrieved party may appeal, within 15 days of the decision, to the State Planning Office, referred to in this paragraph as the "office," for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter IV, the following procedures apply to the review by the office.

(1) The office may request any additional information from the sewer district, the municipality or the department. All information requested by the office must be submitted within 30 days of the request, unless an extension is granted by the office.

(2) Within a reasonable time, the office shall hold a hearing. The office shall give at least 7 days' written notice of the hearing to the sewer district, the municipality and the party that requested the hearing. The hearing is informal and the office may receive any information it considers necessary.

(3) Within 15 days of the hearing and within 60 days of the request for review, the office 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 office constitutes final agency action.

(4) Notwithstanding paragraph A, if the office determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the office shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use, and the sewer district may construct the sewer extension. [1995, c. 636, §2 (NEW) .]

[1995, c. 636, §2 (RPR) .]

Sec. 5. Procedure as to the exercise of right of eminent domain for sewer; appeal.
In exercising rights of eminent domain with respect to its sewer functions, the district shall comply with the procedures established in the Maine Revised Statutes, Title 38, sections 1152-A, 1153, and 1154. (Amended 2009)

MRSA Title 38, §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. [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. [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. [1981, c. 466, §5 (NEW) .]*

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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. [1981, c. 466, §5 (NEW) .]

[1981, c. 466, §5 (NEW) .]

2. *Notice to tenant.* Notice shall be made to any tenants in the same manner as for the owner.

[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;* [1981, c. 466, §5 (NEW) .]

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

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

[1981, c. 466, §5 (NEW) .]

SECTION HISTORY

1981, c. 466, §5 (NEW) .

MRSA Title 38, §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. [1965, c. 310, (NEW) .]

SECTION HISTORY

1965, c. 310, (NEW) .

MRSA Title 38, §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:

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* [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.* [1983, c. 444, (NEW) .]

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[1983, c. 444, (AMD) .]
SECTION HISTORY
1965, c. 310, (NEW). 1983, c. 444, (AMD) .

Sec. 6-A. Procedure as to the exercise of right of eminent domain for water. *In exercising rights of eminent domain with respect to its water functions, the district shall comply with the procedures established in the Maine Revised Statutes, Title 35-A, section 6409. (Amended 2009)*

MRSA Title 35-A, §6409. Standard districts; procedures in exercising eminent domain

Except as otherwise provided by law, a standard district must exercise the right of eminent domain granted under section 6408 in accordance with this chapter and chapters 65 and 67. [1995, c. 616, §10 (NEW) .]

SECTION HISTORY
1995, c. 616, §10 (NEW) .

§6408. Standard districts; authority to acquire property; rights of eminent domain

To the extent necessary for purposes of incorporation, a standard district may take and hold any interest in real estate and personal estate. [1995, c. 616, §10 (NEW) .]

1. Purchase or lease. *A standard district may take and hold an interest in real estate or personal estate by purchase, lease or other lawful means.*

[1995, c. 616, §10 (NEW) .]

2. Eminent domain. *For purposes of its incorporation, a standard district may exercise the right of eminent domain as provided in chapters 65 and 67 to acquire any interest in land or water rights:*

A. For erecting and maintaining dams, plants and works, for flowage, power, pumping and supplying water through its mains; [1995, c. 616, §10 (NEW) .]

B. For reservoirs and for preserving and protecting the purity of the water and related watershed; [1995, c. 616, §10 (NEW) .]

C. For laying and maintaining aqueducts and other structures; [1995, c. 616, §10 (NEW) .]

D. For taking, distributing, discharging and disposing of water; and [1995, c. 616, §10 (NEW) .]

E. For rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands. [1995, c. 616, §10 (NEW) .]

Except as otherwise provided by law, a standard district may not take by right of eminent domain any property or facilities of any other public utility used or acquired for future use in the performance of a public duty.

[1995, c. 616, §10 (NEW) .]

SECTION HISTORY
1995, c. 616, §10 (NEW) .

Sec. 7. Procedure in crossing of public utility rights of way. *In case of any crossings of a public utility unless consent is given by the 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, upon petition setting forth a description of said premises and the reasons for said crossing after notice given as said commission may prescribe, 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 unless*

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otherwise ordered by said public utilities commission, which shall award to said public utility any damage suffered by it occasioned by the crossing.

Sec. 8. Board of Trustees: *All the affairs of the district shall be managed by a board of trustees composed of 5 members who are bona fide residents of the City of Caribou and who are elected by the Caribou City Council or any body of officers acting in the capacity of the present city council within 30 days after the acceptance of this Act by the inhabitants of the district as hereinafter provided, but none of the members of the Caribou City Council, or any body of officers acting in the capacity of the present city council, shall be eligible for such office of trustee, and whenever any of the trustees becomes a member of the Caribou City Council or any body of officers acting in the capacity of the present council, he shall automatically cease to be such trustee. As soon as convenient after the members of the board have been appointed, the trustees shall hold a meeting in the City of Caribou, and organize by the election of a president and clerk, adopt a corporate seal, and choose a treasurer and, when necessary, all other needful officers and agents, who, with the treasurer, shall serve at their pleasure and whose compensation shall be fixed by the trustees. Whenever a vacancy occurs in the office of president, clerk or treasurer it shall be promptly fill by the board of trustees. At the first meeting they may determine by agreement, or failing to agree they shall determine by lot the term of office of each trustee so that one or two shall retire each year and the term of office of the first trustee to expire shall end at the end of the municipal year of the City of Caribou following the acceptance of this Act, and thereafter the term of office of one or two trustees shall expire with the end of each municipal year, and whenever the term of office of a trustee expires, the body which appointed the trustee shall appoint a successor to serve the full term of three years, and in case any other vacancy arises from any cause it shall be filled in like manner for the unexpired term. When any trustee ceases to be a resident of the City of Caribou he vacates the office of trustee. They may also ordain and establish such bylaws as are necessary for their own convenience and the proper management of the affairs of the district. The trustees may procure an office and incur such expense as may be necessary. The treasurer shall furnish bond in such sum and with such sureties as they may approve. Members of the board shall be eligible to any office under the board, and shall be sworn into office by a justice of the peace, notary public, or the clerk of the City of Caribou. . (Transition provisions: The terms of office of the existing trustees shall not be changed, but two new trustees shall be added by election of the Caribou City Council, for terms of not less than one year and not more than two years and three years, respectively, to end at the end of the following municipal year and the municipal year after that.) (Amended 1981)*

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Sec. 8-A. Trustees Compensation. *Trustees compensation is governed by Maine Revised Statutes, Title 38, section 1252, subsection 5. (Amended 2009)*

MRSA Title 38, §1252. Additions to private and special laws

5. Trustees' compensation. 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 specified amount as may be specified in the bylaws, for 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 on January 1, 1982, shall continue in effect until changed.

[1985, c. 506, Pt. B, §37 (AMD) .]

Sec 8-B. Trustee's retirement eligibility. *Trustees' retirement is governed by Maine Revised Statutes, Title 38, section 1252, subsection 6. (Amended 2009)*

MRSA Title 38, §1252. Additions to private and special laws

6. 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.

[1987, c. 256, §47 (RPR); 2007, c. 58, §3 (REV) .]

Sec. 9 Authorized to acquire property and franchises of Caribou Water Works Corporation. *The utilities district is authorized and empowered after approval by referendum of voters of the district to acquire by purchase or by the exercise of the right of eminent domain the entire plant, property, franchise, property rights, privileges and assets owned by Caribou Water Works Corporation in the district, including all land, waters, water rights, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water facilities and drainage in the territory served by the company. If and when so acquired, the district, in addition to the powers conferred by this Act, shall have and enjoy and be entitled to exercise all of the rights, privileges and franchises of the Caribou Water Works Corporation, and may do and perform any and all of the acts and things authorized by the original charter of the Caribou Water Works Corporation, insofar as they are not inconsistent with the provisions of this Act. The district is not restricted from purchasing the accounts receivable of the Caribou Water Works Corporation. The company is authorized to sell, transfer and convey its franchises and property to the district. (Amended 1981)*

Sec. 10. Valid contracts of present company to be assumed by district. *All valid contracts now existing between the Caribou Water Works Corporation or the Caribou Sewer Company, and the City or other towns and any persons or corporations for*

supplying water, sewerage or drainage in the City of Caribou or elsewhere shall in the event of such acquisitions be assumed and carried out by the Caribou Utilities District.

Sec. 10-A. Contracts for disposal of sewage. *The district may contract with persons, corporations, district 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 an such person, corporation, district or other municipality; and every other district and municipality of the State of Maine is authorized to contract with the district for the collection, distribution, treatment and disposal of sewage and commercial and industrial waste and storm and surface water, and for said proposed and such municipality may raise money as for other charges. (Amended April 2010)*

Sec. 11. Procedures for acquisition of property and franchise of Caribou Water Works Corporation. *Before exercising any right of eminent domain conferred under this Act with respect to the property of the Caribou Water Works Corporation, the district shall make a reasonable effort to acquire the property by purchase. The district shall cause the property to be appraised for the purpose of determining the amount that could constitute just compensation for the taking of the property. The district's agents, employees or designees, may, upon 30 days' written notice to the Caribou Water Works Corporation enter upon the real property of the Caribou Water Works Corporation and make surveys, examinations, photographs, tests and samplings of the real or personal property of the Caribou Water Works Corporation for the purpose of appraising the real or personal property. The entry must take place during daylight hours. The entry and activities authorized by this Act do not constitute a trespass, but the district is liable for physical injury to, and for substantial interference with possession or use of, property of the Caribou Water Works Corporation caused by the district's entry and activities upon the property, which damages may be recovered by complaint in a civil action. The district shall establish the amount that the district believes to be just compensation for the property and shall submit to the Caribou Water Works Corporation a proposed offer to purchase the property for the amount established. Compliance by the district with this section is determined to be, and constitutes a reasonable effort by the district to acquire the property by purchase. (Amended 2009)*

Sec. 12. Authorized to borrow money; to issue bonds and notes. *For accomplishing the purposes of this Act, the district, by vote of its board of trustees, without district vote, except as provided in this section, is authorized to borrow money temporarily and to issue*

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for the borrowing of money its negotiable notes. For the purpose of renewing and refunding the indebtedness created, or paying any necessary expenses and liabilities incurred under the provisions of this Act, and in acquiring properties, paying damages, laying pipes, mains, sewers, drains and conduits, purchasing, constructing, maintaining and operating a water system and a sewerage system and making renewals, additions, extensions and improvements to the system and to cover interest payments during any period of construction, the district, by vote of its board of trustees, without district vote, except as provided in this section, is authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district, bearing interest at such rate or rates, and having such terms and provisions as the trustees determine. In the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or sewerage system or part of a water system or sewerage system, for renewal or additions or for other improvements in the nature of capital costs, the estimated cost of which, singly or in the aggregate included in any one financing is \$150,000 or more, subject to the annual consumer price index, as published by the United States Department of Labor for all urban consumers, United States city average, and as defined in the Maine Revised Statutes, Title 36, Section 5402, the district shall comply with the provisions of Title 35-A, section 6310.

The bonds, notes and evidences of indebtedness may be issued to mature serially in annual installments of not less than 1% of the face amount of the issue and beginning not later than two years from the date thereof, or may be issued with equal annual payments, applied first to interest and the balance to principal, or made to run for such periods as the trustees may determine, but no issue may run for a longer period than 40 years from the date of original issue. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable, may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Caribou Utilities District," shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile of the signature of the treasurer. All bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is declared to be a quasi-municipal corporation within the meaning of the Revised Statutes, Title 30, Section 5053, as amended, and all provisions of this section shall be applicable thereto. The district may, from time to time, issue its bonds, notes and other evidences of indebtedness for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by the

district shall be legal investments for savings banks in the State and shall be tax exempt. The district is authorized and empowered to enter into agreements with the State or Federal Government, or any agency of either, or any corporation, commission or board authorized by the State or Federal Government to grant or loan money to or otherwise assist in the financing of projects such as the district is authorized to carry out, and to accept grants and borrow money from any government agency, corporation, commission or board as may be necessary or desirable to enforce the Act. All notes and bonds with the maturity or more than one year, in connection with the water system only, shall first be approved by the Public Utilities Commission. (Amended 1981, 2009)

MRSA Title 35-A, §6310. Water districts; individual financing

When the trustees of a water district vote to authorize bonds or notes, the estimated cost of which, singly or in the aggregate included in any one financing, is \$150,000 or more adjusted, relative to 1981 as the base year according to the annual Consumer Price Index, as defined in Title 5, section 17001, subsection 9, the trustees shall provide notice to the general public of the proposed bond or note issue and the purposes for which the debt is being issued. The notice must be published at least once in a newspaper having general circulation in the water district. The trustees shall give notice to each ratepayer by mail. Notice of a rate change under section 6104 that contains the notice required by this section satisfies the notice requirements. The debt may not be incurred by the vote of the trustees until the expiration of 7 days following the date on which the notice was first published and mailed. Prior to the expiration of the 7-day period, the trustees shall call a special district meeting in order to collect testimony from the public concerning the amount of debt authorized. Except for indebtedness to fund projects specifically mandated by State Government and Federal Government, for debts in excess of the amount specified in this section, if requested by petition of not less than 50 voters of the district or 5% of the voters, whichever is greater, filed with the clerk of the water district on or before the date of the meeting, a vote of those attending the meeting must be called to approve or disapprove the amount of debt authorized. If a majority of voters present and voting disapprove of the amount of debt authorized by the trustees, the debt may not be incurred and the vote of the trustees authorizing the debt is void. [1995, c. 616, §9 (NEW).] This section applies to water districts formed on or after January 1, 1982, except that this section does not apply to any standard district created pursuant to chapter 64 whose debt limit is subject to voter approval as provided in section 6413. [1995, c. 616, §9 (NEW).]

*SECTION HISTORY
1995, c. 616, §9 (NEW).*

Sec. 13. Property, tax exempt. *The property of the district is exempt from all taxation in the City of Caribou. (Amended 2009)*

Sec. 14. Execution of instruments. *Any and all instruments to be executed by the district may, upon authorization by the board of trustees, be executed on its behalf by its president and treasurer who may impress its corporate seal and make any necessary acknowledgment thereof, except that upon interest coupons attached to any bonds to be issued the facsimile signature of the treasurer shall be sufficient.. (Amended 1981)*

Sec. 15. Rates. *All water rates, tolls, rents, and charges of the district are governed by the Maine Revised Statutes, Title 35-A, chapter 3 and 61. All sewer rates, tolls, rents, and charges of the district are governed by Title 38, section 1202. (Amended 2009)*

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*MRSA Title 35-A, Chapters 3 & 61 are PUC rules for Water Rates
MRSA Title 38, §1202. Rates (Sewer)*

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. [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. [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. [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. [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: [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;
[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;
[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;
[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
[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.
[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. [1967, c. 524, §9 (NEW) .]

SECTION HISTORY

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

Sec. 16. Incidental powers granted. *All incidental powers, rights, and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.*

Sec. 16-A. Rights of abutters to enter sewer. *The district at all times is bound to permit the owner or agent of premises abutting upon the district's lines of pipes and conduits to enter the same with all proper sewage, upon conformity to the rules and regulations of the district and payment of the rates, tolls, rents and charges established. Every building in the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer or any such building within 100 feet of a public sewer must have a sewerage system connected to the public sewer by the owner or agent of the premises in the most direct manner possible, and, if feasible, with a separate connection for each house or building. Exceptions to the requirement to connect to the public sewer are governed by the Maine Revised Statutes, Title 38, section 1252, subsection 3. A private sewage disposal system that is not required to connect to the public sewer pursuant to Title 38, section 1252, subsection 3 that fails to meet or continue to meet the requirements of the state plumbing code and amendments to the state plumbing code is declared to be a public nuisance. (Amended 1957, 2009)*

MRSA Title 38, section 1252, subsection 3.

Connection of private sewers. Existing buildings which are already served by a private sewer system are not required to connect with any sewer or drain of the district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate any law or ordinance applicable thereto or any applicable requirements 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.
[1981, c. 466, §13 (NEW) .]

Sec. 16B. . Lien for payment of rates. *Liens for unpaid water rates, tolls, rents or charges are governed by the Maine Revised Statutes, Title 35-A, section 6111-A. Liens for unpaid sewer rates, tolls, rents or charges are governed by Title 38, section 1208. (Amended 1957, 2009)*

§6111-A. Liens for unpaid rates; multiunit residential rental property

1. Liens for unpaid rates; consumer-owned water utilities. *A consumer-owned water utility has a lien on real estate served by that consumer-owned water utility to secure the payment of unpaid rates.*

[2005, c. 7, §2 (NEW) .]

2. Rental property; water utilities. *Notwithstanding section 706, when a landlord has applied for and is granted water utility service to a multiunit residential rental property, the water utility has a lien on the property and on any interest the landlord has in the multiunit residential rental property to secure payment for the water utility's service to that property with costs and with interest at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.*

[2005, c. 7, §2 (NEW) .]

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3. Method and procedure. *The method for obtaining, enforcing and receiving payment on a lien created under this section must be performed in the same manner and has the same effect and creates the same rights as provided in Title 38, section 1208 pertaining to the collection of unpaid rates by a sanitary district, except that a sanitary district lien created under Title 38, section 1208 continues with priority over a lien created under this section. The notice of impending automatic foreclosure must be substantially in the following form: (Same as Title 38, 1208 below)*

MRSA Title 38, §1208. Collection of unpaid rates

There shall be 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 shall take precedence over all other claims on such real estate, excepting only claims for taxes. [1965, c. 310, (NEW) .]

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 and the same must be committed to the treasurer. 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 same, the lien created may be enforced in the following manner. The treasurer, when a rate, toll, rent or other charge has been committed to the treasurer for collection, may, after the expiration of 3 months and within one year after the date when the same 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 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 same 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. [2001, c. 319, §1 (AMD) .]

The filing of the certificate in the registry of deeds shall be deemed to create, and shall create, a mortgage on the real estate therein described to the district which shall have priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and shall give to the district all the rights usually possessed by mortgagees, except that the district as mortgagee shall not have any right to possession of said real estate until the right of redemption provided for shall have expired. If the mortgage, together with interest and costs, shall not have been paid within 18 months after the date of filing of said certificate in the registry of deeds as provided, the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired. The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage provided for. In the event that said rate, toll, rent or other charge, with interest and costs, shall be paid within the period of redemption provided for, the treasurer of the district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages. [1979, c. 541, Pt. A, §276 (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. [1987, c. 29, §2 (NEW) .]

The treasurer of the district shall notify the party named on the sewer (water) 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

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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: (**References to sewer liens may be changed for water liens**)

STATE OF MAINE
Caribou Utilities District
NOTICE OF IMPENDING AUTOMATIC FORECLOSURE
SEWER (WATER) LIEN
Title 38, M.R.S.A., section 1208
IMPORTANT: DO NOT DISREGARD THIS NOTICE
YOU WILL LOSE YOUR PROPERTY UNLESS
YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH
A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE
Caribou Utilities District

TO: _____

You are the party named on the Sewer 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 (Water) Lien Certificate.

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

IF THE LIEN FORECLOSES,
THE Caribou Utilities District
WILL OWN
YOUR PROPERTY, SUBJECT ONLY TO
MUNICIPAL TAX LIENS.

If you 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
[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. [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. [1995, c. 21, §1 (NEW); 1995, c. 21, §2 (AFF).]

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1965, c. 310, (NEW). 1975, c. 770, §213 (AMD). 1977, c. 630, §§10,11 (AMD). 1977, c. 696, §389 (AMD). 1979, c. 541, §A276 (AMD). 1981, c. 183, §§1,2 (AMD). 1987, c. 29, §§1,2 (AMD). 1987, c. 548, (AMD). 1995, c. 21, §1 (AMD). 1995, c. 21, §2 (AFF). 2001, c. 319, §2 (NEW). 2001, c. 319, §§1,2 (AMD).

Sec. 16-C. Authority to disconnect water for nonpayment of sewer service.

Notwithstanding any other provision of law, in the event a user of the district's sewer system fails within a reasonable time to pay the district's rates, fees or charges for service, the district may disconnect water service to the user, as long as the disconnection is accomplished in accordance with procedures established in applicable law or rules governing disconnection of utility services and terms and conditions approved by the Public Utilities Commission. (Amended April 2010)

Sec. 17. Local referendum for town of Caribou; meeting, how called; form of ballot; certificate to secretary of state. *This act shall take effect except as hereinafter provided when approved by a majority of the legal voters of the proposed district present and voting for or against the acceptance of the district as hereinafter provided for in this section at the next annual town meeting or at a special town meeting, called and held at the regular voting places of the town by the officers of the town of Caribou authorized to call such meetings, called before that time and after this act shall become a law, but if and only if the total number of votes cast for and against the acceptance of this act in said election equals or exceeds 20% of the total vote for all candidates for governor cast in said town at the previous gubernatorial election. Such election shall be called, advertised and conducted according to the law relating to municipal elections, provided, however, that the board of registration in the town of Caribou shall not be required to prepare for posting or the town clerk to post said list of voters, and for the purpose of registration of voters, the board shall be in session the three secular days next preceding such election, the first two days thereof to be devoted to registration of voters and the last day to enable the board to verify the corrections of said lists and to complete and close up their records of the sessions. The town clerk shall reduce the subject of this act to the following question: "Shall the act to incorporate the Caribou Utilities District be accepted?" and the voters shall indicate by a cross placed against the words "Yes" or "No" their opinion of the same. A checklist shall be used at such election. The result shall be declared by the municipal officers and due certificate thereof filed with the Secretary of State by the clerk of the town.*

Sec. 18. Act void unless property of one or both of these companies are acquired. *If the utilities district shall fail to purchase or file its petition to take by eminent domain before July 1, 1946, as in this act provided, the plant, property, franchises, rights and*

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privileges owned by the Caribou Water Works Corporation and/or Caribou Sewer Company and used or usable in supplying water in the town of Caribou, then this act shall become null and void.

Sec. 19. Act effective 90 days after adjournment of legislature for purposes of local referendum. *This act shall take effect in 90 days after the final adjournment of the legislature, so far as necessary to empower the calling and holding of the special election authorized in section 17.*

Sec. 20. Successors or assigns of the aforesaid companies. *It is specifically authorized by this act that said Utilities District shall have the right to acquire by purchase or otherwise the franchises and properties of any of the aforesaid companies or their successors or assigns.*

Sec. 21. Existing statutes not affected; rights conferred subject to provisions of law. *Nothing herein contained is intended to repeal, or shall be construed as repealing, the whole or any part of any existing statutes, and all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 40 of the revised statutes and all acts amendatory thereof or additional thereto.*

(2009 Amendments effective September 12, 2009)