

SENATE BILL 688

M3, N1

8lr0791

By: **Senator Brochin**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Foreclosures – Unpaid Water and Sanitary Charges – Prohibition**

3 FOR the purpose of prohibiting the forced sale or foreclosure of a property due to
4 unpaid water, sewer, or other sanitary system bills; repealing provisions of law
5 authorizing a sale of property to enforce a lien for unpaid benefit assessments or
6 other charges; repealing provisions rendered inconsistent with this Act; and
7 generally relating to collection of unpaid bills and other charges by sanitary
8 commissions.

9 BY adding to

10 Article – Real Property
11 Section 14–130
12 Annotated Code of Maryland
13 (2003 Replacement Volume and 2007 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Environment
16 Section 9–658, 9–662, 9–679, and 9–724
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2007 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Real Property**

22 **14–130.**

23 **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LIEN OR**
24 **JUDGMENT ARISING FROM ANY UNPAID WATER, SEWER, OR OTHER SANITARY**
25 **SYSTEM CHARGES, FEES, OR ASSESSMENTS CHARGED FOR A PROPERTY MAY**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **NOT BE ENFORCED BY A TAX SALE OF, AN ACTION TO FORECLOSE ON, OR A**
2 **JUDICIALLY APPROVED SALE OF THE PROPERTY.**

3 **Article – Environment**

4 9–658.

5 (a) When the sanitary commission has determined a benefit assessment, and
6 except as otherwise provided in this section, the sanitary commission shall levy a
7 benefit assessment, so that the levy will be effective on the July 1 that next follows the
8 first March 31 that occurs on or before which the construction is completed on the
9 project for which the benefit assessment is made.

10 (b) (1) The Allegany County Sanitary Commission may make the levy of a
11 benefit assessment effective on the date on which the construction is completed on the
12 project for which the benefit assessment is made.

13 (2) If the Allegany County Sanitary Commission makes a levy on the
14 date on which the construction is completed, it shall prorate the levy on the basis of
15 the benefit assessment for an entire year and the time remaining until July 1.

16 (c) (1) The Dorchester County Sanitary Commission may make the levy of
17 a benefit assessment effective on:

18 (i) The date on which the construction is substantially
19 completed; or

20 (ii) The system is in use for the project for which the benefit
21 assessment is made.

22 (2) If the Dorchester County Sanitary Commission makes a levy on
23 the date on which the construction is substantially completed or when the system is in
24 use, it shall prorate the levy on the basis of the benefit assessment for an entire year
25 and the time remaining until July 1.

26 (d) While unpaid, benefit assessments and other charges are a lien on the
27 parcel for which made.

28 (e) The lien granted by this section is subordinate only to State taxes and
29 municipal taxes.

30 (f) (1) As to each lien that arises against a parcel in the district, the
31 sanitary commission shall keep a public record that:

32 (i) Identifies the owners of the parcel;

1 (ii) Describes the parcel and gives any lot number of record that
2 applies to the parcel; and

3 (iii) Shows the amount of the lien.

4 (2) The sanitary commission shall file the record of liens among the
5 land records of the county where the parcel is located.

6 (3) The record of liens shall be legal notice of all existing liens in the
7 district.

8 (g) [(1)] To enforce the collection of unpaid benefit assessments or other
9 charges that are at least 60 days overdue, [the sanitary commission, at any time, may:

10 (i) Sue any person who was an owner of record of the parcel at
11 any time since the benefit assessment was last paid; or

12 (ii) File a bill in equity to enforce a lien through a decree of sale
13 of property against any person who was an owner of record of the parcel at any time
14 since the benefit assessment was last paid.

15 (2) In addition to the actions that the sanitary commission may take
16 under paragraph (1) of this subsection,] in Allegany County, Dorchester County, and
17 Somerset County, the sanitary commission may disconnect the service.

18 [(3) When recorded, the lien is legal notice to any person who has any
19 interest in a parcel.]

20 [(h) (1) The governing body of Kent County may authorize by local law the
21 sale of real property to enforce a lien based on unpaid benefit assessments or other
22 charges under this subtitle. The procedures for establishment, notification, and
23 enforcement of a lien authorized by the governing body in accordance with this
24 subsection shall conform to the provisions of Chapter 152 of the Code of Kent County,
25 governing collection of real property taxes in arrears.

26 (2) If the sale of real property is authorized under paragraph (1) of
27 this subsection, in addition to any remedy under subsection (g) of this section, the
28 sanitary commission may request that the county tax collector conduct a sale of real
29 property to enforce a lien at a county tax sale in accordance with the same procedures
30 governing the sale of property for delinquent property taxes and the county tax
31 collector may conduct the sale.

32 (i) (1) In addition to any remedy under subsection (g) of this section, the
33 Allegany County Sanitary Commission may request the county tax collector to conduct
34 a sale of real property to enforce a lien representing any unpaid benefit assessment or
35 other charges under this subtitle at a county tax sale in accordance with the same
36 procedures governing the sale of property for delinquent property taxes.

1 (2) The tax collector in Allegany County may conduct a county tax sale
2 for the purpose of enforcing a lien as specified in paragraph (1) of this subsection.]

3 9–662.

4 (a) For each project that it operates, a district may charge the owners of
5 parcels serviced by or connected to the project:

6 (1) A minimum charge; and

7 (2) A usage charge that is based on the use of the project by the owner
8 of the parcel.

9 (b) The district shall use funds received from charges made under this
10 section:

11 (1) To operate, maintain, and repair the project;

12 (2) To maintain proper depreciation allowances;

13 (3) To pay operation expenses of the district;

14 (4) To repay advances made by member counties under § 9–628 of this
15 subtitle; and

16 (5) To pay the principal and interest on bonds issued under this
17 subtitle.

18 (c) For water service, the sanitary commission:

19 (1) Shall make a minimum charge:

20 (i) That is based on the size of the meter serving the property
21 and is uniform throughout the service area for each size of meter; and

22 (ii) That, for properties to which no meter is connected, is
23 reasonable and uniform throughout the service area; and

24 (2) Subject to the meter size and uniformity requirements of this
25 subsection, may change the minimum charge as necessary.

26 (d) For sewerage service, the sanitary commission shall:

27 (1) Make a minimum charge that is reasonable and uniform
28 throughout the service area; and

1 (2) Collect, each year, the minimum charge in the same manner as the
2 sanitary commission collects benefit assessments.

3 (e) If a minimum charge for sewerage service is unpaid, the minimum charge
4 has the same status as an unpaid benefit assessment.

5 (f) For solid waste disposal systems, the sanitary commission shall make a
6 minimum charge that is reasonable and uniform throughout the service area.

7 (g) If the sanitary commission uses a water meter, the sanitary commission
8 shall connect the water meter at the sanitary commission's expense.

9 (h) For water usage, the sanitary commission shall make a charge that:

10 (1) Is based on meter readings; or

11 (2) If no water meter is connected to the property, is:

12 (i) Based on the estimated water usage; and

13 (ii) Uniform among unmetered properties in the service area.

14 (i) For sewerage systems and solid waste disposal systems, the sanitary
15 commission shall make a reasonable usage charge.

16 (j) Except for bills for minimum charges for sewerage services, the sanitary
17 commission:

18 (1) Shall send to each property owner:

19 (i) For water service, a bill for minimum charges and usage
20 charges for water once each 3 or 6 months; and

21 (ii) For other charges, a bill once each 3, 6, or 12 months; and

22 (2) May stagger the frequency and dates of bills sent under this
23 section.

24 (k) The property owner promptly shall pay any bill sent under this section.

25 (1) If a water bill is unpaid for 30 days after being sent, and after written
26 notice is left on the premises or mailed to the last known address of the owner, the
27 sanitary commission may:

28 (1) Disconnect water service to the property; and

29 (2) Require, before reconnecting water service, payment of the entire
30 water bill plus a reconnection charge reasonably related to the cost of reconnection, as

1 established by ordinance of the governing body of the county or municipal corporation
2 in which the water service is provided.

3 [(m) (1) If a charge for which a bill sent under this section is in default 60
4 days after the bill is sent, the charge is in default.

5 (2) When a charge is in default, it is a lien on the property and the
6 sanitary commission may collect the charge in the same manner as benefit
7 assessments.]

8 9-679.

9 (a) In accordance with the rules and regulations that the Dorchester County
10 Commissioners approve:

11 (1) The Sanitary Commission shall make benefit assessments on the
12 property in a shared facility area in an amount that is enough to:

13 (i) Pay the principal and interest on each bond issued and any
14 other obligation incurred by the Sanitary Commission in constructing the shared
15 facility; and

16 (ii) Pay any other costs incurred in building the shared facility;
17 and

18 (2) The Sanitary Commission may establish reasonable charges on
19 each parcel in the shared facility area.

20 (b) (1) The Sanitary Commission shall give to the owner of each parcel in
21 the shared facility area written notice of:

22 (i) The class and subclass of the parcel;

23 (ii) The benefit assessment for the parcel; and

24 (iii) The time and place of the hearing to which the owner is
25 entitled under this section.

26 (2) The Sanitary Commission shall mail the notice to the owner at the
27 last known address of the owner on the Dorchester County tax assessment records.

28 (c) The Sanitary Commission shall give each property owner an opportunity
29 for a hearing before the Sanitary Commission.

30 (d) After the hearing, the Sanitary Commission may adjust the classification
31 or benefit assessment as appropriate.

1 (e) The Sanitary Commission shall make the levy of each benefit assessment
2 the Sanitary Commission determines under this section so that the levy is effective for
3 the July 1 that follows the first March 31 that occurs on or after the date:

4 (1) Construction is completed on the shared facility; or

5 (2) The shared facility is acquired.

6 (f) While unpaid, benefit assessments and other charges are a lien on the
7 parcel for which made.

8 (g) The lien granted by this subsection is subordinate only to State taxes and
9 municipal taxes.

10 (h) (1) As to each lien that arises against a parcel in the shared facility
11 area, the Sanitary Commission shall keep a public record that:

12 (i) Identifies the owners of the parcel;

13 (ii) Describes the parcel and gives any lot number of record that
14 applies to the parcel; and

15 (iii) Shows the amount of the lien.

16 (2) The Sanitary Commission shall file the record of liens with the
17 Clerk of the Circuit Court for Dorchester County, for filing among the land records for
18 Dorchester County.

19 (3) The record of liens shall be legal notice of all existing liens in the
20 shared facility area.

21 (i) [(1) To enforce the collection of unpaid benefit assessments or other
22 charges that are at least 60 days overdue, the Sanitary Commission, at any time, may:

23 (i) Sue any person who was an owner of record of the parcel at
24 any time since the benefit assessment was last paid; or

25 (ii) File a bill in equity to enforce a lien through a decree of sale
26 of property against any person who was an owner of record of the parcel at any time
27 since the benefit assessment was last paid.

28 (2)] When recorded, the lien shall be legal notice to any person who has
29 any interest in a parcel.

30 9-724.

31 (a) The rates for water service shall:

1 (1) Be based on estimates of the amount of water used by the types of
2 users specified in the rates; and

3 (2) Consist of:

4 (i) A minimum charge based on the size of the meter on the
5 water connection leading to the property; and

6 (ii) A charge for water used, based on the amount of water
7 passing through the meter during the period between the last 2 readings.

8 (b) (1) At its own expense, the political subdivision shall place a meter on
9 each water connection.

10 (2) If the political subdivision does not have meters available to install
11 in all property that is connected to the system in a locality, the political subdivision
12 shall charge a flat rate to all property in which meters are not installed.

13 (c) (1) The political subdivision shall send bills for water service quarterly
14 or twice a year to each property served.

15 (2) The bills are payable at the office of the political subdivision on
16 receipt.

17 (3) If any bill remains unpaid after 30 days from the date the bill is
18 sent, the political subdivision shall:

19 (i) Notify the owner of the property served, in writing, that the
20 bill is in arrears and that water service will be discontinued;

21 (ii) Leave the notice on the owner's property or mail the notice
22 to the last known address of the owner; and

23 (iii) Discontinue water service to the property until the owner
24 pays the bill and a reconnection charge reasonably related to the cost of reconnection,
25 as established by ordinance of the governing body of the county or municipal
26 corporation in which the water service is provided.

27 (4) If any bill remains unpaid after 60 days from the date of sending
28 the notice[:

29 (i) The bill and the penalty imposed under paragraph (3)(iii) of
30 this subsection shall be collectible from the property owner in the same manner and
31 subject to the same interest as taxes are collectible in the county in which the water or
32 sewerage system lies; and

1 (ii) The] **THE** water service charges and all penalties shall be a
2 first lien on the property.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2008.