



# Senate

General Assembly

**File No. 320**

January Session, 2021

Substitute Senate Bill No. 968

*Senate, April 7, 2021*

The Committee on Planning and Development reported through SEN. CASSANO of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING FORECLOSURE, ASSIGNMENT AND OTHER ENFORCEMENT ACTIONS FOR UNPAID SEWER ASSESSMENTS AND OTHER FEES AND CHARGES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-254 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2021, and*  
3 *applicable to actions filed on or after October 1, 2021*):

4 (a) Any assessment of benefits or any installment thereof, not paid  
5 within thirty days after the due date, shall be delinquent and shall be  
6 subject to interest from such due date at the interest rate and in the  
7 manner provided by the general statutes for delinquent property taxes.  
8 Each addition of interest shall be collectible as a part of such assessment.

9 (b) (1) Whenever any installment of an assessment becomes  
10 delinquent, the interest on such delinquent installment shall be as  
11 provided in subsection (a) of this section or five dollars, whichever is  
12 greater. Any unpaid assessment and any interest due thereon shall

13 constitute a lien upon the real estate against which the assessment was  
14 levied from the date of such levy. Each such lien may be continued,  
15 recorded and released in the manner provided by the general statutes  
16 for continuing, recording and releasing property tax liens. Each such  
17 lien shall take precedence over all other liens and encumbrances except  
18 taxes and may be enforced, except as provided in subdivision (2) of this  
19 subsection, in the same manner as property tax liens. The tax collector  
20 of the municipality may collect such assessments in accordance with any  
21 mandatory provision of the general statutes for the collection of  
22 property taxes and the municipality may recover any such assessment  
23 in a civil action against any person liable therefor.

24 (2) In the case of one or more liens for any unpaid assessment and  
25 any interest due thereon, as described in subdivision (1) of this  
26 subsection, upon any owner-occupied real estate, no such lien or liens  
27 may be enforced unless the principal for all such liens upon such owner-  
28 occupied real estate exceeds ten thousand dollars.

29 (c) (1) [Any] Except as provided in subdivision (2) of this subsection,  
30 any municipality, by resolution of its legislative body, may assign, for  
31 consideration, any and all liens filed by the tax collector to secure unpaid  
32 sewer assessments as provided under the provisions of this chapter. The  
33 consideration received by the municipality shall be negotiated between  
34 the municipality and the assignee. The assignee or assignees of such  
35 liens shall have and possess the same powers and rights at law or in  
36 equity as such municipality and municipality's tax collector would have  
37 had if the lien had not been assigned with regard to the precedence and  
38 priority of such lien, the accrual of interest and the fees and expenses of  
39 collection. The assignee shall have the same rights to enforce such liens  
40 as any private party holding a lien on real property, including, but not  
41 limited to, foreclosure and a suit on the debt. Costs and reasonable  
42 attorneys' fees incurred by the assignee as a result of any foreclosure  
43 action or other legal proceeding brought pursuant to this section and  
44 directly related to the proceeding shall be taxed in any such proceeding  
45 against each person having title to any property subject to the  
46 proceedings. Such costs and fees may be collected by the assignee at any

47 time after demand for payment has been made by the assignee.

48 (2) In the case of one or more liens filed by the tax collector to secure  
49 unpaid sewer assessments, as described in subdivision (1) of this  
50 subsection, upon any owner-occupied real estate, no such lien or liens  
51 may be assigned unless the principal for all such liens upon such owner-  
52 occupied real estate exceeds ten thousand dollars.

53 (d) Every aspect of any foreclosure action or other legal proceeding  
54 brought pursuant to this section, including, but not limited to, costs,  
55 attorneys' fees, method, advertising, time, date, place and terms, shall  
56 be commercially reasonable.

57 Sec. 2. Section 7-258 of the general statutes is repealed and the  
58 following is substituted in lieu thereof (*Effective October 1, 2021, and*  
59 *applicable to actions filed on or after October 1, 2021*):

60 (a) (1) Any charge for connection with or for the use of a sewerage  
61 system, not paid within thirty days of the due date, shall thereupon be  
62 delinquent and shall bear interest from the due date at the rate and in  
63 the manner provided by the general statutes for delinquent property  
64 taxes. Each addition of interest shall be collectible as a part of such  
65 connection or use charge. Any such unpaid connection or use charge  
66 shall constitute a lien upon the real estate against which such charge was  
67 levied from the date it became delinquent. Each such lien may be  
68 continued, recorded and released in the manner provided by the general  
69 statutes for continuing, recording and releasing property tax liens. Each  
70 such lien shall take precedence over all other liens and encumbrances  
71 except taxes and may be foreclosed, except as provided in subdivision  
72 (2) of this subsection, in the same manner as a lien for property taxes.  
73 The municipality may by ordinance designate the tax collector or any  
74 other person as collector of sewerage system connection and use charges  
75 and such collector of sewerage system connection and use charges may  
76 collect such charges in accordance with the provisions of the general  
77 statutes for the collection of property taxes. The municipality may  
78 recover any such charges in a civil action against any person liable  
79 therefor. For the purpose of establishing or revising such connection or

80 use charges and for the purpose of collecting such charges any  
81 municipality may enter into agreements with any water company or  
82 municipal water department furnishing water in such municipality for  
83 the purchase from such water company or municipal water department  
84 of information or services and such agreement may designate such  
85 water company or municipal water department as a billing or collecting  
86 agent of the collector of sewerage system connection and use charges in  
87 the municipality. Any water company or municipal water department  
88 may enter into and fulfill any such agreements and may utilize for the  
89 collection of such charges any of the methods utilized by it for the  
90 collection of its water charges.

91 (2) In the case of one or more liens for any unpaid connection or use  
92 charge, as described in subdivision (1) of this subsection, upon any  
93 owner-occupied real estate, no such lien or liens may be foreclosed  
94 unless the principal for all such liens upon such owner-occupied real  
95 estate exceeds ten thousand dollars.

96 (b) (1) [Any] Except as provided in subdivision (2) of this subsection,  
97 any municipality, by resolution of its legislative body, may assign, for  
98 consideration, any and all liens filed by the tax collector or collector of  
99 sewerage system connection and use charges to secure unpaid sewerage  
100 connection and use charges as provided under the provisions of this  
101 chapter. The consideration received by the municipality shall be  
102 negotiated between the municipality and the assignee. The assignee or  
103 assignees of such liens shall have and possess the same powers and  
104 rights at law or in equity as such municipality and municipality's tax  
105 collector would have had if the lien had not been assigned with regard  
106 to the precedence and priority of such lien, the accrual of interest and  
107 the fees and expenses of collection. The assignee shall have the same  
108 rights to enforce such liens as any private party holding a lien on real  
109 property, including, but not limited to, foreclosure and a suit on the  
110 debt. Costs and reasonable attorneys' fees incurred by the assignee as a  
111 result of any foreclosure action or other legal proceeding brought  
112 pursuant to this section and directly related to the proceeding shall be  
113 taxed in any such proceeding against each person having title to any

114 property subject to the proceedings. Such costs and fees may be  
115 collected by the assignee at any time after demand for payment has been  
116 made by the assignee.

117 (2) In the case of one or more liens filed by the tax collector or collector  
118 of sewerage system connection and use charges to secure unpaid  
119 sewerage connection and use charges, as described in subdivision (1) of  
120 this subsection, upon any owner-occupied real estate, no such lien or  
121 liens may be assigned unless the principal for all such liens upon such  
122 owner-occupied real estate exceeds ten thousand dollars.

123 (c) Every aspect of any foreclosure action or other legal proceeding  
124 brought pursuant to this section, including, but not limited to, costs,  
125 attorneys' fees, method, advertising, time, date, place and terms, shall  
126 be commercially reasonable.

127 Sec. 3. Section 22a-506 of the general statutes is repealed and the  
128 following is substituted in lieu thereof (*Effective October 1, 2021, and*  
129 *applicable to actions filed on or after October 1, 2021*):

130 (a) An authority may (1) levy and collect benefit assessments upon  
131 the lands and buildings within its jurisdiction that, in its judgment, are  
132 especially benefited by a wastewater system; (2) establish, revise and  
133 collect rates, fees, charges, penalties and assessments for the use and  
134 benefits of a wastewater system; and (3) order the owner of any building  
135 which is accessible to a wastewater system to connect to such system, all  
136 in the manner provided in sections 7-249 to 7-257, inclusive, and sections  
137 22a-416 to 22a-599, inclusive.

138 (b) (1) Any assessment of benefits, including any installment thereof,  
139 and any charge, fee, fine or other amount that is not paid within thirty  
140 days after the due date shall be delinquent, shall be subject to interest  
141 and shall constitute a lien upon the premises served and a charge upon  
142 the owner thereof all in the manner provided both by the provisions of  
143 the general statutes for delinquent property taxes and by section 7-258,  
144 as amended by this act. The rules and regulations of the authority may  
145 provide for the discontinuance of water pollution control service for

146 nonpayment of taxes, special assessments, fees, rates, penalties or other  
147 charges therefor imposed under sections 22a-500 to 22a-519, inclusive.  
148 Such lien shall take precedence over all other liens or encumbrances  
149 except taxes and may be foreclosed against the lot or building served,  
150 except as provided in subdivision (2) of this subsection, in the same  
151 manner as a lien for taxes, provided all such liens shall continue until  
152 such time as they shall be discharged or foreclosed by the authority  
153 without the necessity of filing certificates of continuation, but in no  
154 event for longer than ten years. The authority may institute a civil action  
155 against such owner to recover the amount of any such fee or charge  
156 which remains due and unpaid for thirty days along with interest  
157 thereon at the same rate as unpaid taxes and with reasonable attorneys'  
158 fees, except that no such civil action to recover such amount may be  
159 instituted against the owner of an owner-occupied premises unless the  
160 principal for such amount exceeds ten thousand dollars.

161 (2) In the case of one or more liens for any assessment of benefits and  
162 any charge, fee, fine or other amount that is not paid within thirty days  
163 after the due date, as described in subdivision (1) of this subsection,  
164 upon any owner-occupied premises served, no such lien or liens may be  
165 foreclosed unless the principal for all such liens upon such owner-  
166 occupied premises served exceeds ten thousand dollars.

167 Sec. 4. Section 49-92o of the general statutes is repealed and the  
168 following is substituted in lieu thereof (*Effective October 1, 2021, and*  
169 *applicable to actions filed on or after October 1, 2021*):

170 (a) (1) [Any] Except as provided in subdivision (2) of this subsection,  
171 any regional sewer authority established under an act of the General  
172 Assembly, may assign, for consideration, any and all liens filed by such  
173 regional sewer authority to secure unpaid sewer assessments or  
174 connection or use charges of the authority. The consideration received  
175 by the authority shall be negotiated between the authority and the  
176 assignee. The assignee or assignees of such liens shall have and possess  
177 the same powers and rights at law or in equity as such authority would  
178 have had if the lien had not been assigned with regard to the precedence

179 and priority of such lien, the accrual of interest and the fees and  
 180 expenses of collection. The assignee shall have the same rights to enforce  
 181 such liens as any private party holding a lien on real property,  
 182 including, but not limited to, foreclosure and a suit on the debt. Costs  
 183 and reasonable attorneys' fees incurred by the assignee as a result of any  
 184 foreclosure action or other legal proceeding brought pursuant to this  
 185 section and directly related to the proceeding shall be taxed in any such  
 186 proceeding against each person having title to any property subject to  
 187 the proceedings. Such costs and fees may be collected by the assignee at  
 188 any time after demand for payment has been made by the assignee.

189 (2) In the case of one or more liens filed by a regional sewer authority  
 190 to secure unpaid sewer assessments or connection or use charges of the  
 191 authority, as described in subdivision (1) of this subsection, upon any  
 192 owner-occupied real estate, no such lien or liens may be assigned unless  
 193 the principal for all such liens upon such owner-occupied real estate  
 194 exceeds ten thousand dollars.

195 (b) Every aspect of any foreclosure action or other legal proceeding  
 196 brought pursuant to this section, including, but not limited to, costs,  
 197 attorneys' fees, method, advertising, time, date, place and terms, shall  
 198 be commercially reasonable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021, and applicable to actions filed on or after October 1, 2021</i>	7-254
Sec. 2	<i>October 1, 2021, and applicable to actions filed on or after October 1, 2021</i>	7-258
Sec. 3	<i>October 1, 2021, and applicable to actions filed on or after October 1, 2021</i>	22a-506
Sec. 4	<i>October 1, 2021, and applicable to actions filed on or after October 1, 2021</i>	49-92o

**Statement of Legislative Commissioners:**

In Sec. 4(a)(2), "assessment" was changed to "assessments" for consistency.

**PD**      *Joint Favorable Subst. -LCO*



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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** See Below

### **Explanation**

The bill prevents municipal water pollution control authorities (WCPAs) from assigning or enforcing a lien on owner-occupied property until the outstanding principal reaches \$10,000.

By restricting the use of liens, the bill potentially reduces the amount of outstanding debt a municipal WCPA may collect. It is anticipated that any revenue loss a WCPA realizes as a result of the bill would be offset by increased sewer use fees and assessments on all users.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to municipal sewer fees and assessments.

**OLR Bill Analysis****sSB 968*****AN ACT CONCERNING FORECLOSURE, ASSIGNMENT AND OTHER ENFORCEMENT ACTIONS FOR UNPAID SEWER ASSESSMENTS AND OTHER FEES AND CHARGES.*****SUMMARY**

This bill imposes restrictions on assigning or enforcing liens for delinquent sewer benefit assessments (assessments) or sewer use and connection charges (charges).

Under the bill, liens on owner-occupied property for municipal or regional sewer or water pollution control authority (WPCA) assessments or charges are not assignable or subject to certain enforcement actions until the principal exceeds \$10,000. Under the bill, unlike liens imposed by regional entities, for municipal WPCA liens, this threshold is calculated separately for (1) use and connection charges and (2) benefit assessments.

Under current law, there is no minimum below which a WPCA lien cannot be assigned. Current law also authorizes several lien enforcement options, which generally do not require waiting until the delinquency exceeds a specified threshold. By law, WPCA liens (like property tax liens) become unenforceable if they are not enforced within 15 years of becoming due (CGS § 12-175).

The bill also requires each aspect (e.g., attorney's fees, advertising, venue, and terms) of specified lien foreclosure actions or other enforcement proceedings to be "commercially reasonable," which the bill does not define. This reasonableness standard applies to all foreclosures and other legal proceedings concerning (1) liens for municipal WPCA assessments or charges and (2) assigned liens for regional WPCA assessments or charges.

EFFECTIVE DATE: October 1, 2021, and applicable to actions filed on or after that date.

**ENFORCING WPCA LIENS**

The bill limits the enforcement actions available to collect on WPCA liens on owner-occupied properties in the following ways:

1. municipal WPCA benefit assessments cannot be enforced (e.g., through foreclosure or non-judicial tax sale) until the combined principal exceeds \$10,000 (§ 1);
2. municipal WPCA use and connection charges cannot be foreclosed until the combined principal exceeds \$10,000 (§ 2); and
3. regional WPCA assessments and charges cannot be foreclosed or subject to a civil recovery action until the combined principal exceeds \$10,000 (§§ 3 & 4).

**BACKGROUND**

***Related Bill***

sSB 941 (File 251), favorably reported by the Banking Committee, requires certain (1) disclosures to be provided in a contract between a sewer or water lien assignee and the original lienholder and (2) notices to be provided before foreclosing these liens. It also imposes a “commercially reasonable” standard on enforcement proceedings.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable

Yea 17    Nay 9    (03/21/2021)