

General Assembly

Substitute Bill No. 128

February Session, 2022

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 2022 supplement to the general statutes
- 2 is repealed and the following is substituted in lieu thereof (*Effective*
- 3 October 1, 2022, and applicable to actions filed on or after October 1, 2022):

(a) Any assessment of benefits or any installment thereof, not paid
within thirty days after the due date, shall be delinquent and shall be
subject to interest from such due date at the interest rate and in the
manner provided by the general statutes for delinquent property taxes.
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, in accordance with subdivision (2) of this 19 <u>subsection</u>, 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.

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

(c) [Any] (1) Except as provided in subdivision (2) of this subsection,
any municipality, by resolution of its legislative body, may assign, for
consideration, any and all liens filed by the tax collector to secure unpaid
sewer assessments as provided under the provisions of this chapter. The
consideration received by the municipality shall be negotiated between
the municipality and the assignee.

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

40 (d) The assignee or assignees of such liens shall have and possess the 41 same powers and rights at law or in equity as such municipality and 42 municipality's tax collector would have had if the lien had not been 43 assigned with regard to the precedence and priority of such lien, the 44 accrual of interest and the fees and expenses of collection, except that 45 any such assignee (1) shall not be insulated from liability by virtue of 46 the provisions of section 42-110c, and (2) shall be obligated to provide a 47 payoff statement, as defined in section 49-8a, in the same manner as a 48 mortgagee in accordance with the requirements of section 49-10a. The 49 assignee shall have the same rights to enforce such liens as any private

party holding a lien on real property, including, but not limited to,foreclosure and a suit on the debt.

52 (e) No such assignment executed on or after July 1, 2022, shall be valid 53 or enforceable unless memorialized in a contract executed by the 54 authority and the assignee that is in writing and provides: (1) The 55 manner in which the assignee will provide to the owner of the real 56 property that is the subject of the assignment one or more addresses and 57 telephone numbers that may be used for correspondence with the 58 assignee about the debt and payment thereof; (2) the earliest and latest 59 dates by which the assignee shall commence any foreclosure or suit on 60 the debt or the manner for determining such dates, except as may be 61 impacted by any payment arrangement, bankruptcy petition or other 62 circumstance, provided in no event shall the assignee commence a 63 foreclosure suit before one year has elapsed since the assignee's 64 purchase of the lien; (3) the structure and rates of attorney's fees that the 65 assignee may claim against the owner or owners of such real property 66 in any foreclosure, suit on the debt or otherwise, and a prohibition from 67 using as foreclosure counsel any attorney or law office that is owned by, 68 employs or contracts with any person having an interest in such 69 assignee; (4) confirmation that the owner of the real property for which 70 the lien has been filed shall be a third-party beneficiary entitled to 71 enforce the covenants and responsibilities of the assignee as contained 72 in the contract; (5) a prohibition on the assignee assigning the lien 73 without the municipality's prior written consent; (6) the detail and 74 frequency of reports provided to the municipality's tax collector 75 regarding the status of the assigned liens; (7) confirmation that the 76 assignee is not ineligible, pursuant to section 31-57b, to be assigned the 77 lien because of occupational safety and health law violations; (8) 78 disclosure of (A) all resolved and pending arbitrations and litigation 79 matters in which the assignee or any of its principals have been involved 80 within the last ten years, except foreclosure actions involving liens 81 purchased from or assigned by governmental entities, (B) all criminal 82 proceedings that the assignee or any of its principals has ever been the 83 subject, (C) any interest in the subject property held by the assignee or

84 any of its principals, officers or agents, and (D) each instance in which 85 the assignee or any of its principals was found to have violated any state 86 or local ethics law, regulation, ordinance, code, policy or standard, or to 87 have committed any other offense arising out of the submission of 88 proposals or bids or the performance of work on public contract; and (9) 89 such additional terms to which the municipality and the assignee 90 mutually agree, consistent with applicable law.

91 (f) The assignee, or any subsequent assignee, shall provide written 92 notice of an assignment, not later than sixty days after the date of such 93 assignment, to the owner and any holder of a mortgage on the real 94 property that is the subject of the assignment, provided such owner or 95 holder is of record as of the date of such assignment. Such notice shall 96 include information sufficient to identify (1) the property that is subject 97 to the lien and in which the holder has an interest, (2) the name and 98 addresses of the assignee, and (3) the amount of unpaid taxes, interest 99 and fees being assigned relative to the subject property as of the date of 100 the assignment.

101 (g) Not less than sixty days prior to commencing an action to 102 foreclose a lien under this section, the assignee shall provide a written 103 notice, by first-class mail, to the holders of all first or second security 104 interests on the property subject to the lien that were recorded before 105 the date the assessment of the lien sought to be enforced became 106 delinquent. Such notice shall set forth: (1) The amount of unpaid debt 107 owed to the assignee as of the date of the notice; (2) the amount of any 108 attorney's fees and costs incurred by the assignee in the enforcement of 109 the lien as of the date of the notice; (3) a statement of the assignee's 110 intention to foreclose the lien if the amounts set forth pursuant to 111 subdivisions (1) and (2) of this subsection are not paid to the assignee 112 on or before sixty days after the date on which the notice is provided; 113 (4) the assignee's contact information, including, but not limited to, the 114 assignee's name, mailing address, telephone number and electronic mail 115 address, if any; and (5) instructions concerning the acceptable means of 116 making a payment on the amounts owed to the assignee as set forth

pursuant to subdivisions (1) and (2) of this subsection. Any notice
required under this subsection shall be effective upon the date such
notice is provided.

(h) When providing the written notice required under subsection (g)
of this section, the assignee may rely on the last recorded security
interest of record in identifying the name and mailing address of the
holder of such interest, unless the holder of such interest is the plaintiff
in an action pending in Superior Court to enforce such interest, in which
case the assignee shall provide the written notice to the attorney
appearing on behalf of the plaintiff.

(i) Each aspect of a foreclosure, sale or other disposition under this
section, including, but not limited to, the costs, attorney fees, method,
advertising, time, date, place and terms, shall be commercially
reasonable.

Sec. 2. Section 7-258 of the 2022 supplement to the general statutes is
repealed and the following is substituted in lieu thereof (*Effective October*1, 2022, and applicable to actions filed on or after October 1, 2022):

134 (a) (1) Any charge for connection with or for the use of a sewerage 135 system, not paid within thirty days of the due date, shall thereupon be 136 delinquent and shall bear interest from the due date at the rate and in 137 the manner provided by the general statutes for delinquent property 138 taxes. Each addition of interest shall be collectible as a part of such 139 connection or use charge. Any such unpaid connection or use charge 140 shall constitute a lien upon the real estate against which such charge was 141 levied from the date it became delinquent. Each such lien may be 142 continued, recorded and released in the manner provided by the general 143 statutes for continuing, recording and releasing property tax liens. Each 144 such lien shall take precedence over all other liens and encumbrances 145 except taxes and may be foreclosed in the same manner as a lien for 146 property taxes in accordance with subdivision (2) of this subsection. The 147 municipality may by ordinance designate the tax collector or any other 148 person as collector of sewerage system connection and use charges and

149 such collector of sewerage system connection and use charges may 150 collect such charges in accordance with the provisions of the general statutes for the collection of property taxes. The municipality may 151 recover any such charges in a civil action against any person liable 152 153 therefor. For the purpose of establishing or revising such connection or 154 use charges and for the purpose of collecting such charges any 155 municipality may enter into agreements with any water company or 156 municipal water department furnishing water in such municipality for 157 the purchase from such water company or municipal water department 158 of information or services and such agreement may designate such 159 water company or municipal water department as a billing or collecting 160 agent of the collector of sewerage system connection and use charges in the municipality. Any water company or municipal water department 161 162 may enter into and fulfill any such agreements and may utilize for the 163 collection of such charges any of the methods utilized by it for the 164 collection of its water charges.

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

(b) [Any] (1) Except as provided in subdivision (2) of this subsection, any municipality, by resolution of its legislative body, may assign, for consideration, any and all liens filed by the tax collector or collector of sewerage system connection and use charges to secure unpaid sewerage connection and use charges as provided under the provisions of this chapter. The consideration received by the municipality shall be negotiated between the municipality and the assignee.

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

182 <u>owner-occupied real estate exceeds four thousand dollars.</u>

183 (c) The assignee or assignees of such liens shall have and possess the 184 same powers and rights at law or in equity as such municipality and 185 municipality's tax collector would have had if the lien had not been 186 assigned with regard to the precedence and priority of such lien, the 187 accrual of interest and the fees and expenses of collection, except that 188 any such assignee (1) shall not be insulated from liability for its conduct 189 by virtue of the provisions of section 42-110c, and (2) shall be obligated 190 to provide a payoff statement, as defined in section 49-8a, in the same 191 manner as a mortgagee in accordance with the requirements of section 192 49-10a. The assignee shall have the same rights to enforce such liens as 193 any private party holding a lien on real property, including, but not 194 limited to, foreclosure and a suit on the debt.

195 (d) No such assignment executed on or after July 1, 2022, shall be 196 valid or enforceable unless memorialized in a contract executed by the 197 authority and the assignee that is in writing and provides: (1) The 198 manner in which the assignee will provide to the owner of the real 199 property that is the subject of the assignment one or more addresses and 200 telephone numbers that may be used for correspondence with the 201 assignee about the debt and payment thereof; (2) the earliest and latest 202 dates by which the assignee shall commence any foreclosure or suit on 203 the debt or the manner for determining such dates, except as may be 204 impacted by any payment arrangement, bankruptcy petition or other 205 circumstance, provided in no event shall the assignee commence a 206 foreclosure suit before one year has elapsed since the assignee's 207 purchase of the lien; (3) the structure and rates of attorney's fees that the 208 assignee may claim against the owner or owners of such real property 209 in any foreclosure, suit on the debt or otherwise, and a prohibition from 210 using as foreclosure counsel any attorney or law office that is owned by, 211 employs or contracts with any person having an interest in such 212 assignee; (4) confirmation that the owner of the real property for which 213 the lien has been filed shall be a third-party beneficiary entitled to 214 enforce the covenants and responsibilities of the assignee as contained

215 in the contract; (5) a prohibition on the assignee assigning the lien 216 without the municipality's prior written consent; (6) the detail and 217 frequency of reports provided to the municipality's tax collector regarding the status of the assigned liens; (7) confirmation that the 218 219 assignee is not ineligible, pursuant to section 31-57b, to be assigned the 220 lien because of occupational safety and health law violations; (8) 221 disclosure of (A) all resolved and pending arbitrations and litigation 222 matters in which the assignee or any of its principals have been involved 223 within the last ten years, except foreclosure actions involving liens 224 purchased from or assigned by governmental entities, (B) all criminal 225 proceedings that the assignee or any of its principals has ever been the 226 subject, (C) any interest in the subject property held by the assignee or 227 any of its principals, officers or agents, and (D) each instance in which 228 the assignee or any of its principals was found to have violated any state 229 or local ethics law, regulation, ordinance, code, policy or standard, or to 230 have committed any other offense arising out of the submission of 231 proposals or bids or the performance of work on public contract; and (9) 232 such additional terms to which the municipality and the assignee 233 mutually agree consistent with applicable law.

234 (e) The assignee, or any subsequent assignee, shall provide written notice of an assignment, not later than sixty days after the date of such 235 236 assignment, to the owner and any holder of a mortgage on the real 237 property that is the subject of the assignment, provided such owner or 238 holder is of record as of the date of such assignment. Such notice shall 239 include information sufficient to identify (1) the property that is subject 240 to the lien and in which the holder has an interest, (2) the name and 241 addresses of the assignee, and (3) the amount of unpaid taxes, interest 242 and fees being assigned relative to the subject property as of the date of 243 the assignment.

(f) Not less than sixty days prior to commencing an action to foreclose
a lien under this section, the assignee shall provide a written notice, by
first-class mail, to the holders of all first or second security interests on
the property subject to the lien that were recorded before the date the

assessment of the lien sought to be enforced became delinquent. Such 248 249 notice shall set forth: (1) The amount of unpaid debt owed to the 250 assignee as of the date of the notice; (2) the amount of any attorney's fees 251 and costs incurred by the assignee in the enforcement of the lien as of 252 the date of the notice; (3) a statement of the assignee's intention to 253 foreclose the lien if the amounts set forth pursuant to subdivisions (1) 254 and (2) of this subsection are not paid to the assignee on or before sixty 255 days after the date the notice is provided; (4) the assignee's contact 256 information, including, but not limited to, the assignee's name, mailing 257 address, telephone number and electronic mail address, if any; and (5) 258 instructions concerning the acceptable means of making a payment on 259 the amounts owed to the assignee as set forth pursuant to subdivisions 260 (1) and (2) of this subsection. Any notice required under this subsection 261 shall be effective upon the date such notice is provided.

(g) When providing the written notice required under subsection (f) of this section, the assignee may rely on the last recorded security interest of record in identifying the name and mailing address of the holder of such interest, unless the holder of such interest is the plaintiff in an action pending in Superior Court to enforce such interest, in which case the assignee shall provide the written notice to the attorney appearing on behalf of the plaintiff.

(h) Each aspect of a foreclosure, sale or other disposition under this
section, including, but not limited to, the costs, attorney fees, method,
advertising, time, date, place and terms, shall be commercially
reasonable.

Sec. 3. Section 22a-506 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022, and applicable to actions filed on or after October 1, 2022*):

(a) An authority may (1) levy and collect benefit assessments upon
the lands and buildings within its jurisdiction that, in its judgment, are
especially benefited by a wastewater system; (2) establish, revise and
collect rates, fees, charges, penalties and assessments for the use and

benefits of a wastewater system; and (3) order the owner of any building
which is accessible to a wastewater system to connect to such system, all
in the manner provided in sections 7-249 to 7-257, inclusive, and sections
22a-416 to 22a-599, inclusive.

284 (b) (1) Any assessment of benefits, including any installment thereof, 285 and any charge, fee, fine or other amount that is not paid within thirty 286 days after the due date shall be delinquent, shall be subject to interest and shall constitute a lien upon the premises served and a charge upon 287 288 the owner thereof all in the manner provided both by the provisions of 289 the general statutes for delinquent property taxes and by section 7-258, 290 as amended by this act. The rules and regulations of the authority may 291 provide for the discontinuance of water pollution control service for 292 nonpayment of taxes, special assessments, fees, rates, penalties or other 293 charges therefor imposed under sections 22a-500 to 22a-519, inclusive. 294 Such lien shall take precedence over all other liens or encumbrances 295 except taxes and may be foreclosed against the lot or building served, in 296 accordance with subdivision (2) of this subsection, in the same manner 297 as a lien for taxes, provided all such liens shall continue until such time 298 as they shall be discharged or foreclosed by the authority without the 299 necessity of filing certificates of continuation, but in no event for longer 300 than ten years. The authority may institute a civil action against such 301 owner to recover the amount of any such fee or charge which remains 302 due and unpaid for thirty days along with interest thereon at the same 303 rate as unpaid taxes and with reasonable attorneys' fees, provided no 304 such civil action to recover such amount may be instituted against the 305 owner of an owner-occupied premises unless the principal for such 306 amount exceeds four thousand dollars.

307 (2) In the case of one or more liens for any assessment of benefits and
 308 any charge, fee, fine or other amount that is not paid within thirty days
 309 after the due date, as described in subdivision (1) of this subsection,
 310 upon any owner-occupied premises served, no such lien or liens may be
 311 foreclosed unless the principal for all such liens upon such owner 312 occupied premises served exceeds four thousand dollars.

Sec. 4. Section 49-920 of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022, and applicable to actions filed on or after October 1, 2022*):

(a) [Any] (1) Except as provided in subdivision (2) of this subsection,
any regional sewer authority established under an act of the General
Assembly, may assign, for consideration, any and all liens filed by such
regional sewer authority to secure unpaid sewer assessments or
connection or use charges of the authority. The consideration received
by the authority shall be negotiated between the authority and the
assignee.

323 (2) In the case of one or more liens filed by a regional sewer authority
 324 to secure unpaid sewer assessment or connection or use charges of the
 325 authority, as described in subdivision (1) of this subsection, upon any
 326 owner-occupied real estate, no such lien or liens may be assigned unless
 327 the principal for all such liens upon such owner-occupied real estate
 328 exceeds four thousand dollars.

329 (b) The assignee or assignees of such liens shall have and possess the 330 same powers and rights at law or in equity as such authority would have 331 had if the lien had not been assigned with regard to the precedence and 332 priority of such lien, the accrual of interest and the fees and expenses of 333 collection, except that any such assignee (1) shall not be insulated from 334 liability by section 42-110c, and (2) shall be obligated to provide a payoff 335 statement, as defined in section 49-8a, in the same manner as a 336 mortgagee in accordance with the requirements of section 49-10a. The 337 assignee shall have the same rights to enforce such liens as any private 338 party holding a lien on real property, including, but not limited to, 339 foreclosure and a suit on the debt.

(c) No such assignment executed on or after July 1, 2022, shall be valid
or enforceable unless memorialized in a contract executed by the
authority and the assignee that is in writing and provides: (1) The
manner in which the assignee will provide to the owner of the real
property that is the subject of the assignment one or more addresses and

telephone numbers that may be used for correspondence with the 345 346 assignee about the debt and payment thereof; (2) the earliest and latest 347 dates by which the assignee shall commence any foreclosure or suit on the debt or the manner for determining such dates, except as may be 348 349 impacted by any payment arrangement, bankruptcy petition or other 350 circumstance, provided in no event shall the assignee commence a 351 foreclosure suit before one year has elapsed since the assignee's 352 purchase of the lien; (3) the structure and rates of attorney's fees that the 353 assignee may claim against the owner or owners of such real property 354 in any foreclosure, suit on the debt or otherwise, and a prohibition from 355 using as foreclosure counsel any attorney or law office that is owned by, 356 employs or contracts with any person having an interest in such 357 assignee; (4) confirmation that the owner of the real property for which 358 the lien has been filed shall be a third-party beneficiary entitled to 359 enforce the covenants and responsibilities of the assignee as contained 360 in the contract; (5) a prohibition on the assignee assigning the lien 361 without the municipality's prior written consent; (6) the detail and 362 frequency of reports provided to the municipality's tax collector 363 regarding the status of the assigned liens; (7) confirmation that the 364 assignee is not ineligible, pursuant to section 31-57b, to be assigned the 365 lien because of occupational safety and health law violations; (8) 366 disclosure of (A) all resolved and pending arbitrations and litigation 367 matters in which the assignee or any of its principals have been involved 368 within the last ten years, except foreclosure actions involving liens purchased from or assigned by governmental entities, (B) all criminal 369 370 proceedings that the assignee or any of its principals has ever been the 371 subject, (C) any interest in the subject property held by the assignee or 372 any of its principals, officers or agents, and (D) each instance in which 373 the assignee or any of its principals was found to have violated any state 374 or local ethics law, regulation, ordinance, code, policy or standard, or to 375 have committed any other offense arising out of the submission of 376 proposals or bids or the performance of work on public contract; and (9) 377 such additional terms to which the municipality and the assignee 378 mutually agree consistent with applicable law.

379 (d) The assignee, or any subsequent assignee, shall provide written 380 notice of an assignment, not later than sixty days after the date of such 381 assignment, to the owner and any holder of a mortgage on the real 382 property that is the subject of the assignment, provided such owner or 383 holder is of record as of the date of such assignment. Such notice shall 384 include information sufficient to identify (1) the property that is subject 385 to the lien and in which the holder has an interest, (2) the name and 386 addresses of the assignee, and (3) the amount of unpaid taxes, interest 387 and fees being assigned relative to the subject property as of the date of 388 the assignment.

389 (e) Not less than sixty days prior to commencing an action to foreclose 390 a lien assigned under this section, the assignee shall provide a written 391 notice, by first-class mail to the holders of all first or second security 392 interests on the property subject to the lien that were recorded before 393 the date the assessment of such lien became delinquent. Such notice 394 shall set forth: (1) The amount of unpaid debt owed to the assignee as of 395 the date of the notice; (2) the amount of any attorney's fees and costs 396 incurred by the assignee in the enforcement of the lien as of the date of 397 the notice; (3) a statement of the assignee's intention to foreclose the lien 398 if the amounts set forth pursuant to subdivisions (1) and (2) of this 399 subsection are not paid to the assignee on or before sixty days after the 400 date the notice is provided; (4) the assignee's contact information, 401 including, but not limited to, the assignee's name, mailing address, 402 telephone number and electronic mail address, if any; and (5) 403 instructions concerning the acceptable means of making a payment on 404 the amounts owed to the assignee as set forth pursuant to subdivisions 405 (1) and (2) of this subsection. Any notice required under this subsection 406 shall be effective upon the date such notice is provided.

(f) When providing the written notice required under subsection (e)
of this section, the assignee may rely on the last recorded security
interest of record in identifying the name and mailing address of the
holder of such interest, unless the holder of such interest is the plaintiff
in an action pending in Superior Court to enforce such interest, in which

412 case the assignee shall provide the written notice to the attorney413 appearing on behalf of the plaintiff.

414 (g) Each aspect of a foreclosure, sale or other disposition under this 415 section, including, but not limited to, the costs, attorney fees, method, 416 advertising, time, date, place and terms, shall be commercially 417 reasonable. Costs and reasonable attorneys' fees incurred by the 418 assignee as a result of any foreclosure action or other legal proceeding 419 brought pursuant to this section and directly related to the proceeding 420 shall be taxed in any such proceeding against each person having title 421 to any property subject to the proceedings. Such costs and fees may be 422 collected by the assignee at any time after demand for payment has been 423 made by the assignee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022, and	7-254
	applicable to actions filed	
	on or after October 1, 2022	
Sec. 2	October 1, 2022, and	7-258
	applicable to actions filed	
	on or after October 1, 2022	
Sec. 3	October 1, 2022, and	22a-506
	applicable to actions filed	
	on or after October 1, 2022	
Sec. 4	October 1, 2022, and	49-920
	applicable to actions filed	
	on or after October 1, 2022	

PD Joint Favorable Subst.