



Senate

General Assembly

File No. 251

January Session, 2021

Substitute Senate Bill No. 941

Senate, April 1, 2021

The Committee on Banking reported through SEN. KASSER of the 36th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE ASSIGNMENT OF CERTAIN PROPERTY, TAX, WATER AND SEWER LIENS.

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

1 Section 1. Section 12-195h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) Any municipality, by resolution of its legislative body, as defined
4 in section 1-1, may assign, for consideration, any and all liens filed by
5 the tax collector to secure unpaid taxes on real property as provided
6 under the provisions of this chapter. The consideration received by the
7 municipality shall be negotiated between the municipality and the
8 assignee.

9 (b) The assignee or assignees of such liens shall have and possess the
10 same powers and rights at law or in equity [as such] that such
11 municipality and municipality's tax collector would have had if the lien
12 had not been assigned with regard to the precedence and priority of
13 such lien, the accrual of interest and the fees and expenses of collection

14 and of preparing and recording the assignment, except that any such
15 assignee (1) shall not be insulated from liability for its conduct by virtue
16 of the provisions of section 42-110c, and (2) shall be obligated to provide
17 a payoff statement, as defined in section 49-8a, in the same manner as a
18 mortgagee in accordance with the requirements of section 49-10a. The
19 assignee shall have the same rights to enforce such liens as any private
20 party holding a lien on real property including, but not limited to,
21 foreclosure and a suit on the debt.

22 (c) No such assignment executed on or after July 1, 2022, shall be valid
23 or enforceable unless memorialized in a contract executed by the
24 municipality and the assignee that is in writing and provides: (1) The
25 manner in which the assignee will provide to the owner of the real
26 property that is the subject of the assignment one or more addresses and
27 telephone numbers that may be used for correspondence with the
28 assignee about the debt and payment thereof; (2) the earliest and latest
29 dates by which the assignee shall commence any foreclosure or suit on
30 the debt or the manner for determining such dates, except as may be
31 impacted by any payment arrangement, bankruptcy petition or other
32 circumstance, provided in no event shall the assignee commence a
33 foreclosure suit before one year has elapsed since the assignee's
34 purchase of the lien; (3) the structure and rates of attorney's fees that the
35 assignee may claim against the owner or owners of such real property
36 in any foreclosure, suit on the debt or otherwise, and a prohibition from
37 using as foreclosure counsel any attorney or law office that is owned by,
38 employs or contracts with any person having an interest in such
39 assignee; (4) confirmation that the owner of the real property for which
40 the lien has been filed shall be a third-party beneficiary entitled to
41 enforce the covenants and responsibilities of the assignee as contained
42 in the contract; (5) a prohibition on the assignee assigning the lien
43 without the municipality's prior written consent; (6) the detail and
44 frequency of reports provided to the municipality's tax collector
45 regarding the status of the assigned liens; (7) confirmation that the
46 assignee is not ineligible, pursuant to section 31-57b, to be assigned the
47 lien because of occupational safety and health law violations; (8)
48 disclosure of (A) all resolved and pending arbitrations and litigation

49 matters in which the assignee or any of its principals have been involved
50 within the last ten years, except foreclosure actions involving liens
51 purchased from or assigned by governmental entities, (B) all criminal
52 proceedings that the assignee or any of its principals has ever been the
53 subject, (C) any interest in the subject property held by the assignee or
54 any of its principals, officers or agents, and (D) each instance in which
55 the assignee or any of its principals was found to have violated any state
56 or local ethics law, regulation, ordinance, code, policy or standard, or to
57 have committed any other offense arising out of the submission of
58 proposals or bids or the performance of work on public contract; and (9)
59 such additional terms to which the municipality and the assignee
60 mutually agree, consistent with applicable law.

61 (d) The assignee, or any subsequent assignee, shall provide written
62 notice of an assignment, not later than [thirty] sixty days after the date
63 of such assignment, to the owner and any holder of a mortgage, on the
64 real property that is the subject of the assignment, provided such owner
65 or holder is of record as of the date of such assignment. Such notice shall
66 include information sufficient to identify (1) the property that is subject
67 to the lien and in which the holder has an interest, (2) the name and
68 addresses of the assignee, and (3) the amount of unpaid taxes, interest
69 and fees being assigned relative to the subject property as of the date of
70 the assignment.

71 (e) Not less than sixty days prior to commencing an action to foreclose
72 a lien under this section, the assignee shall provide a written notice, by
73 first-class mail, to the holders of all first or second security interests on
74 the property subject to the lien that were recorded before the date the
75 assessment the lien sought to be enforced became delinquent. Such
76 notice shall set forth: (1) The amount of unpaid debt owed to the
77 assignee as of the date of the notice; (2) the amount of any attorney's fees
78 and costs incurred by the assignee in the enforcement of the lien as of
79 the date of the notice; (3) a statement of the assignee's intention to
80 foreclose the lien if the amounts set forth pursuant to subdivisions (1)
81 and (2) of this subsection are not paid to the assignee on or before sixty
82 days after the date the notice is provided; (4) the assignee's contact

83 information, including, but not limited to, the assignee's name, mailing
84 address, telephone number and electronic mail address, if any; and (5)
85 instructions concerning the acceptable means of making a payment on
86 the amounts owed to the assignee as set forth pursuant to subdivisions
87 (1) and (2) of this subsection. Any notice required under this subsection
88 shall be effective upon the date such notice is provided.

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

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

100 Sec. 2. Section 7-254 of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective October 1, 2021*):

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

107 (b) Whenever any installment of an assessment becomes delinquent,
108 the interest on such delinquent installment shall be as provided in
109 subsection (a) of this section or five dollars, whichever is greater. Any
110 unpaid assessment and any interest due thereon shall constitute a lien
111 upon the real estate against which the assessment was levied from the
112 date of such levy. Each such lien may be continued, recorded and
113 released in the manner provided by the general statutes for continuing,
114 recording and releasing property tax liens. Each such lien shall take

115 precedence over all other liens and encumbrances except taxes and may
116 be enforced in the same manner as property tax liens. The tax collector
117 of the municipality may collect such assessments in accordance with any
118 mandatory provision of the general statutes for the collection of
119 property taxes and the municipality may recover any such assessment
120 in a civil action against any person liable therefor.

121 (c) Any municipality, by resolution of its legislative body, may assign,
122 for consideration, any and all liens filed by the tax collector to secure
123 unpaid sewer assessments as provided under the provisions of this
124 chapter. The consideration received by the municipality shall be
125 negotiated between the municipality and the assignee.

126 (d) The assignee or assignees of such liens shall have and possess the
127 same powers and rights at law or in equity as such municipality and
128 municipality's tax collector would have had if the lien had not been
129 assigned with regard to the precedence and priority of such lien, the
130 accrual of interest and the fees and expenses of collection, except that
131 any such assignee (1) shall not be insulated from liability by virtue of
132 the provisions of section 42-110c, and (2) shall be obligated to provide a
133 payoff statement, as defined in section 49-8a, in the same manner as a
134 mortgagee in accordance with the requirements of section 49-10a. The
135 assignee shall have the same rights to enforce such liens as any private
136 party holding a lien on real property, including, but not limited to,
137 foreclosure and a suit on the debt. [Costs and reasonable attorneys' fees
138 incurred by the assignee as a result of any foreclosure action or other
139 legal proceeding brought pursuant to this section and directly related to
140 the proceeding shall be taxed in any such proceeding against each
141 person having title to any property subject to the proceedings. Such
142 costs and fees may be collected by the assignee at any time after demand
143 for payment has been made by the assignee.]

144 (e) No such assignment executed on or after July 1, 2022, shall be valid
145 or enforceable unless memorialized in a contract executed by the
146 authority and the assignee that is in writing and provides: (1) The
147 manner in which the assignee will provide to the owner of the real

148 property that is the subject of the assignment one or more addresses and
149 telephone numbers that may be used for correspondence with the
150 assignee about the debt and payment thereof; (2) the earliest and latest
151 dates by which the assignee shall commence any foreclosure or suit on
152 the debt or the manner for determining such dates, except as may be
153 impacted by any payment arrangement, bankruptcy petition or other
154 circumstance, provided in no event shall the assignee commence a
155 foreclosure suit before one year has elapsed since the assignee's
156 purchase of the lien; (3) the structure and rates of attorney's fees that the
157 assignee may claim against the owner or owners of such real property
158 in any foreclosure, suit on the debt or otherwise, and a prohibition from
159 using as foreclosure counsel any attorney or law office that is owned by,
160 employs or contracts with any person having an interest in such
161 assignee; (4) confirmation that the owner of the real property for which
162 the lien has been filed shall be a third-party beneficiary entitled to
163 enforce the covenants and responsibilities of the assignee as contained
164 in the contract; (5) a prohibition on the assignee assigning the lien
165 without the municipality's prior written consent; (6) the detail and
166 frequency of reports provided to the municipality's tax collector
167 regarding the status of the assigned liens; (7) confirmation that the
168 assignee is not ineligible, pursuant to section 31-57b, to be assigned the
169 lien because of occupational safety and health law violations; (8)
170 disclosure of (A) all resolved and pending arbitrations and litigation
171 matters in which the assignee or any of its principals have been involved
172 within the last ten years, except foreclosure actions involving liens
173 purchased from or assigned by governmental entities, (B) all criminal
174 proceedings that the assignee or any of its principals has ever been the
175 subject, (C) any interest in the subject property held by the assignee or
176 any of its principals, officers or agents, and (D) each instance in which
177 the assignee or any of its principals was found to have violated any state
178 or local ethics law, regulation, ordinance, code, policy or standard, or to
179 have committed any other offense arising out of the submission of
180 proposals or bids or the performance of work on public contract; and (9)
181 such additional terms to which the municipality and the assignee
182 mutually agree, consistent with applicable law.

183 (f) The assignee, or any subsequent assignee, shall provide written
184 notice of an assignment, not later than sixty days after the date of such
185 assignment, to the owner and any holder of a mortgage on the real
186 property that is the subject of the assignment, provided such owner or
187 holder is of record as of the date of such assignment. Such notice shall
188 include information sufficient to identify (1) the property that is subject
189 to the lien and in which the holder has an interest, (2) the name and
190 addresses of the assignee, and (3) the amount of unpaid taxes, interest
191 and fees being assigned relative to the subject property as of the date of
192 the assignment.

193 (g) Not less than sixty days prior to commencing an action to
194 foreclose a lien under this section, the assignee shall provide a written
195 notice, by first-class mail, to the holders of all first or second security
196 interests on the property subject to the lien that were recorded before
197 the date the assessment of the lien sought to be enforced became
198 delinquent. Such notice shall set forth: (1) The amount of unpaid debt
199 owed to the assignee as of the date of the notice; (2) the amount of any
200 attorney's fees and costs incurred by the assignee in the enforcement of
201 the lien as of the date of the notice; (3) a statement of the assignee's
202 intention to foreclose the lien if the amounts set forth pursuant to
203 subdivisions (1) and (2) of this subsection are not paid to the assignee
204 on or before sixty days after the date on which the notice is provided;
205 (4) the assignee's contact information, including, but not limited to, the
206 assignee's name, mailing address, telephone number and electronic mail
207 address, if any; and (5) instructions concerning the acceptable means of
208 making a payment on the amounts owed to the assignee as set forth
209 pursuant to subdivisions (1) and (2) of this subsection. Any notice
210 required under this subsection shall be effective upon the date such
211 notice is provided.

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

217 case the assignee shall provide the written notice to the attorney
218 appearing on behalf of the plaintiff.

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

223 Sec. 3. Section 7-258 of the general statutes is repealed and the
224 following is substituted in lieu thereof (*Effective October 1, 2021*):

225 (a) Any charge for connection with or for the use of a sewerage
226 system, not paid within thirty days of the due date, shall thereupon be
227 delinquent and shall bear interest from the due date at the rate and in
228 the manner provided by the general statutes for delinquent property
229 taxes. Each addition of interest shall be collectible as a part of such
230 connection or use charge. Any such unpaid connection or use charge
231 shall constitute a lien upon the real estate against which such charge was
232 levied from the date it became delinquent. Each such lien may be
233 continued, recorded and released in the manner provided by the general
234 statutes for continuing, recording and releasing property tax liens. Each
235 such lien shall take precedence over all other liens and encumbrances
236 except taxes and may be foreclosed in the same manner as a lien for
237 property taxes. The municipality may by ordinance designate the tax
238 collector or any other person as collector of sewerage system connection
239 and use charges and such collector of sewerage system connection and
240 use charges may collect such charges in accordance with the provisions
241 of the general statutes for the collection of property taxes. The
242 municipality may recover any such charges in a civil action against any
243 person liable therefor. For the purpose of establishing or revising such
244 connection or use charges and for the purpose of collecting such charges
245 any municipality may enter into agreements with any water company
246 or municipal water department furnishing water in such municipality
247 for the purchase from such water company or municipal water
248 department of information or services and such agreement may
249 designate such water company or municipal water department as a

250 billing or collecting agent of the collector of sewerage system connection
251 and use charges in the municipality. Any water company or municipal
252 water department may enter into and fulfill any such agreements and
253 may utilize for the collection of such charges any of the methods utilized
254 by it for the collection of its water charges.

255 (b) Any municipality, by resolution of its legislative body, may
256 assign, for consideration, any and all liens filed by the tax collector or
257 collector of sewerage system connection and use charges to secure
258 unpaid sewerage connection and use charges as provided under the
259 provisions of this chapter. The consideration received by the
260 municipality shall be negotiated between the municipality and the
261 assignee.

262 (c) The assignee or assignees of such liens shall have and possess the
263 same powers and rights at law or in equity as such municipality and
264 municipality's tax collector would have had if the lien had not been
265 assigned with regard to the precedence and priority of such lien, the
266 accrual of interest and the fees and expenses of collection, except that
267 any such assignee (1) shall not be insulated from liability for its conduct
268 by virtue of the provisions of section 42-110c, and (2) shall be obligated
269 to provide a payoff statement, as defined in section 49-8a, in the same
270 manner as a mortgagee in accordance with the requirements of section
271 49-10a. The assignee shall have the same rights to enforce such liens as
272 any private party holding a lien on real property, including, but not
273 limited to, foreclosure and a suit on the debt. [Costs and reasonable
274 attorneys' fees incurred by the assignee as a result of any foreclosure
275 action or other legal proceeding brought pursuant to this section and
276 directly related to the proceeding shall be taxed in any such proceeding
277 against each person having title to any property subject to the
278 proceedings. Such costs and fees may be collected by the assignee at any
279 time after demand for payment has been made by the assignee.]

280 (d) No such assignment executed on or after July 1, 2022, shall be
281 valid or enforceable unless memorialized in a contract executed by the
282 authority and the assignee that is in writing and provides: (1) The

283 manner in which the assignee will provide to the owner of the real
284 property that is the subject of the assignment one or more addresses and
285 telephone numbers that may be used for correspondence with the
286 assignee about the debt and payment thereof; (2) the earliest and latest
287 dates by which the assignee shall commence any foreclosure or suit on
288 the debt or the manner for determining such dates, except as may be
289 impacted by any payment arrangement, bankruptcy petition or other
290 circumstance, provided in no event shall the assignee commence a
291 foreclosure suit before one year has elapsed since the assignee's
292 purchase of the lien; (3) the structure and rates of attorney's fees that the
293 assignee may claim against the owner or owners of such real property
294 in any foreclosure, suit on the debt or otherwise, and a prohibition from
295 using as foreclosure counsel any attorney or law office that is owned by,
296 employs or contracts with any person having an interest in such
297 assignee; (4) confirmation that the owner of the real property for which
298 the lien has been filed shall be a third-party beneficiary entitled to
299 enforce the covenants and responsibilities of the assignee as contained
300 in the contract; (5) a prohibition on the assignee assigning the lien
301 without the municipality's prior written consent; (6) the detail and
302 frequency of reports provided to the municipality's tax collector
303 regarding the status of the assigned liens; (7) confirmation that the
304 assignee is not ineligible, pursuant to section 31-57b, to be assigned the
305 lien because of occupational safety and health law violations; (8)
306 disclosure of (A) all resolved and pending arbitrations and litigation
307 matters in which the assignee or any of its principals have been involved
308 within the last ten years, except foreclosure actions involving liens
309 purchased from or assigned by governmental entities, (B) all criminal
310 proceedings that the assignee or any of its principals has ever been the
311 subject, (C) any interest in the subject property held by the assignee or
312 any of its principals, officers or agents, and (D) each instance in which
313 the assignee or any of its principals was found to have violated any state
314 or local ethics law, regulation, ordinance, code, policy or standard, or to
315 have committed any other offense arising out of the submission of
316 proposals or bids or the performance of work on public contract; and (9)
317 such additional terms to which the municipality and the assignee

318 mutually agree consistent with applicable law.

319 (e) The assignee, or any subsequent assignee, shall provide written
320 notice of an assignment, not later than sixty days after the date of such
321 assignment, to the owner and any holder of a mortgage on the real
322 property that is the subject of the assignment, provided such owner or
323 holder is of record as of the date of such assignment. Such notice shall
324 include information sufficient to identify (1) the property that is subject
325 to the lien and in which the holder has an interest, (2) the name and
326 addresses of the assignee, and (3) the amount of unpaid taxes, interest
327 and fees being assigned relative to the subject property as of the date of
328 the assignment.

329 (f) Not less than sixty days prior to commencing an action to foreclose
330 a lien under this section, the assignee shall provide a written notice, by
331 first-class mail, to the holders of all first or second security interests on
332 the property subject to the lien that were recorded before the date the
333 assessment of the lien sought to be enforced became delinquent. Such
334 notice shall set forth: (1) The amount of unpaid debt owed to the
335 assignee as of the date of the notice; (2) the amount of any attorney's fees
336 and costs incurred by the assignee in the enforcement of the lien as of
337 the date of the notice; (3) a statement of the assignee's intention to
338 foreclose the lien if the amounts set forth pursuant to subdivisions (1)
339 and (2) of this subsection are not paid to the assignee on or before sixty
340 days after the date the notice is provided; (4) the assignee's contact
341 information, including, but not limited to, the assignee's name, mailing
342 address, telephone number and electronic mail address, if any; and (5)
343 instructions concerning the acceptable means of making a payment on
344 the amounts owed to the assignee as set forth pursuant to subdivisions
345 (1) and (2) of this subsection. Any notice required under this subsection
346 shall be effective upon the date such notice is provided.

347 (g) When providing the written notice required under subsection (f)
348 of this section, the assignee may rely on the last recorded security
349 interest of record in identifying the name and mailing address of the
350 holder of such interest, unless the holder of such interest is the plaintiff

351 in an action pending in Superior Court to enforce such interest, in which
352 case the assignee shall provide the written notice to the attorney
353 appearing on behalf of the plaintiff.

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

358 Sec. 4. Section 7-239 of the general statutes is repealed and the
359 following is substituted in lieu thereof (*Effective October 1, 2021*):

360 (a) The legislative body shall establish just and equitable rates or
361 charges for the use of the waterworks system authorized in this
362 subsection, to be paid by the owner of each lot or building which is
363 connected with and uses such system, and may change such rates or
364 charges from time to time. Such rates or charges shall be sufficient in
365 each year for the payment of the expense of operation, repair,
366 replacements and maintenance of such system and for the payment of
367 the sums in this subsection required to be paid into the sinking fund. In
368 establishing such rates or charges, the legislative body shall consider
369 measures that promote water conservation and reduce the demand on
370 the state's water and energy resources. Such rates or charges may
371 include: (1) Demand projections that recognize the effects of
372 conservation, (2) implementation of metering and measures to provide
373 timely price signals to consumers, (3) multiyear rate plans, (4) measures
374 to reduce system water losses, and (5) alternative rate designs that
375 promote conservation. No such rate or charge shall be established until
376 after a public hearing at which all the users of the waterworks system
377 and the owners of property served or to be served and others interested
378 shall have an opportunity to be heard concerning such proposed rate or
379 charge. Notice of such hearing shall be given, at least ten days before the
380 date set therefor, in a newspaper having a circulation in such
381 municipality. Such notice shall set forth a schedule of rates or charges,
382 and a copy of the schedule of rates or charges established shall be kept
383 on file in the office of the legislative body and in the office of the clerk

384 of the municipality, and shall be open to inspection by the public. The
385 rates or charges so established for any class of users or property served
386 shall be extended to cover any additional premises thereafter served
387 which are within the same class, without the necessity of a hearing
388 thereon. Any change in such rates or charges may be made in the same
389 manner in which they were established, provided, if any change is made
390 substantially pro rata as to all classes of service, no hearing shall be
391 required. The provisions of this section shall not apply to the sale of
392 bottled water.

393 (b) If any rates or charges established pursuant to this section are not
394 paid within thirty days after the due date, demand for such rates or
395 charges may be made on the owner of the premises served in the manner
396 provided in subsection (a) of section 12-155, and thereafter an alias tax
397 warrant may be issued in the manner provided in sections 12-135 and
398 12-162. The rates or charges established pursuant to this section, if not
399 paid when due, shall constitute a lien upon the premises served and a
400 charge against the owner thereof, which lien and charge shall bear
401 interest at the same rate as would unpaid taxes. Such a lien not released
402 of record prior to October 1, 1993, shall not continue for more than two
403 years unless the superintendent of the waterworks system has filed a
404 certificate of continuation of the lien in the manner provided under
405 section 12-174 for the continuance of tax liens, and when so continued
406 shall be valid for fifteen years. A lien described in this section shall take
407 precedence over all other liens or encumbrances except taxes and may
408 be foreclosed against the lot or building served in the same manner as a
409 lien for taxes.

410 (c) Any municipality, by resolution of its legislative body, may assign,
411 for consideration, any and all liens filed by the superintendent of the
412 waterworks system or tax collector to secure unpaid water charges as
413 provided under the provisions of this chapter. The consideration
414 received by the municipality shall be negotiated between the
415 municipality and the assignee.

416 (d) The assignee or assignees of such liens shall have and possess the

417 same powers and rights at law or in equity as such municipality and
418 municipality's tax collector would have had if the lien had not been
419 assigned with regard to the precedence and priority of such lien, the
420 accrual of interest and the fees and expenses of collection, except that
421 any such assignee (1) shall not be insulated from liability for its conduct
422 by virtue of the provisions of section 42-110c, and (2) any such assignee
423 shall be obligated to provide a payoff statement, as defined in section
424 49-8a, in the same manner as a mortgagee in accordance with the
425 requirements of section 49-10a. The assignee shall have the same rights
426 to enforce such liens as any private party holding a lien on real property,
427 including, but not limited to, foreclosure and a suit on the debt.

428 (e) No such assignment executed on or after July 1, 2022, shall be valid
429 or enforceable unless memorialized in a contract executed by the
430 authority and the assignee that is in writing and provides: (1) The
431 manner in which the assignee will provide to the owner of the real
432 property that is the subject of the assignment one or more addresses and
433 telephone numbers that may be used for correspondence with the
434 assignee about the debt and payment thereof; (2) the earliest and latest
435 dates by which the assignee shall commence any foreclosure or suit on
436 the debt or the manner for determining such dates, except as may be
437 impacted by any payment arrangement, bankruptcy petition or other
438 circumstance, provided in no event shall the assignee commence a
439 foreclosure suit before one year has elapsed since the assignee's
440 purchase of the lien; (3) the structure and rates of attorney's fees that the
441 assignee may claim against the owner or owners of such real property
442 in any foreclosure, suit on the debt or otherwise, and a prohibition from
443 using as foreclosure counsel any attorney or law office that is owned by,
444 employs or contracts with any person having an interest in such
445 assignee; (4) confirmation that the owner of the real property for which
446 the lien has been filed shall be a third-party beneficiary entitled to
447 enforce the covenants and responsibilities of the assignee as contained
448 in the contract; (5) a prohibition on the assignee assigning the lien
449 without the municipality's prior written consent; (6) the detail and
450 frequency of reports provided to the municipality's tax collector
451 regarding the status of the assigned liens; (7) confirmation that the

452 assignee is not ineligible, pursuant to section 31-57b, to be assigned the
453 lien because of occupational safety and health law violations; (8)
454 disclosure of (A) all resolved and pending arbitrations and litigation
455 matters in which the assignee or any of its principals have been involved
456 within the last ten years, except foreclosure actions involving liens
457 purchased from or assigned by governmental entities, (B) all criminal
458 proceedings that the assignee or any of its principals has ever been the
459 subject, (C) any interest in the subject property held by the assignee or
460 any of its principals, officers or agents, and (D) each instance in which
461 the assignee or any of its principals was found to have violated any state
462 or local ethics law, regulation, ordinance, code, policy or standard, or to
463 have committed any other offense arising out of the submission of
464 proposals or bids or the performance of work on public contract; and (9)
465 such additional terms to which the municipality and the assignee
466 mutually agree consistent with applicable law.

467 (f) The assignee, or any subsequent assignee, shall provide written
468 notice of an assignment, not later than sixty days after the date of such
469 assignment, to the owner and any holder of a mortgage on the real
470 property that is the subject of the assignment, provided such owner or
471 holder is of record as of the date of such assignment. Such notice shall
472 include information sufficient to identify (1) the property that is subject
473 to the lien and in which the holder has an interest, (2) the name and
474 addresses of the assignee, and (3) the amount of unpaid taxes, interest
475 and fees being assigned relative to the subject property as of the date of
476 the assignment.

477 (g) Not less than sixty days prior to commencing an action to
478 foreclose a lien under this section, the assignee shall provide a written
479 notice, by first-class mail, to the holders of all first or second security
480 interests on the property subject to the lien that were recorded before
481 the date the assessment of the lien sought to be enforced became
482 delinquent. Such notice shall set forth: (1) The amount of unpaid debt
483 owed to the assignee as of the date of the notice; (2) the amount of any
484 attorney's fees and costs incurred by the assignee in the enforcement of
485 the lien as of the date of the notice; (3) a statement of the assignee's

486 intention to foreclose the lien if the amounts set forth pursuant to
487 subdivisions (1) and (2) of this subsection are not paid to the assignee
488 on or before sixty days after the date the notice is provided; (4) the
489 assignee's contact information, including, but not limited to, the
490 assignee's name, mailing address, telephone number and electronic mail
491 address, if any; and (5) instructions concerning the acceptable means of
492 making a payment on the amounts owed to the assignee as set forth
493 pursuant to subdivisions (1) and (2) of this subsection. Any notice
494 required under this subsection shall be effective upon the date such
495 notice is provided.

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

503 (i) Each aspect of a foreclosure, sale or other disposition under this
504 section, including, but not limited to, the costs, attorney fees, method,
505 advertising, time, date, place and terms, shall be commercially
506 reasonable. Costs and reasonable attorneys' fees incurred by the
507 assignee as a result of any foreclosure action or other legal proceeding
508 brought pursuant to this section and directly related to the proceeding
509 shall be taxed in any such proceeding against each person having title
510 to any property subject to the proceedings. Such costs and fees may be
511 collected by the assignee at any time after demand for payment has been
512 made by the assignee.

513 [(d)] (j) The amount of any such rate or charge which remains due
514 and unpaid for thirty days may, with reasonable attorneys' fees, be
515 recovered by the legislative body in a civil action in the name of the
516 municipality against such owners. The municipality shall be subject to
517 the same rates or charges under the same conditions as other users of
518 such waterworks system.

519 Sec. 5. Section 49-92p of the general statutes is repealed and the
520 following is substituted in lieu thereof (*Effective October 1, 2021*):

521 (a) Any regional water authority established under an act of the
522 General Assembly, may assign, for consideration, any and all liens filed
523 by such regional water authority to secure unpaid water assessments or
524 connection or use charges of the authority. The consideration received
525 by the authority shall be negotiated between the authority and the
526 assignee.

527 (b) The assignee or assignees of such liens shall have and possess the
528 same powers and rights at law or in equity as such authority would have
529 had if the lien had not been assigned with regard to the precedence and
530 priority of such lien, the accrual of interest and the fees and expenses of
531 collection, except that such assignee (1) shall not be insulated from
532 liability for its conduct by virtue of the provisions of section 42-110c, and
533 (2) shall be obligated to provide a payoff statement, as defined in section
534 49-8a, in the same manner as a mortgagee in accordance with the
535 requirements of section 49-10a. The assignee shall have the same rights
536 to enforce such liens as any private party holding a lien on real property,
537 including, but not limited to, foreclosure and a suit on the debt.

538 (c) No such assignment executed on or after July 1, 2022, shall be valid
539 or enforceable unless memorialized in a contract executed by the
540 authority and the assignee that is in writing and provides: (1) The
541 manner in which the assignee will provide to the owner of the real
542 property that is the subject of the assignment one or more addresses and
543 telephone numbers that may be used for correspondence with the
544 assignee about the debt and payment thereof; (2) the earliest and latest
545 dates by which the assignee shall commence any foreclosure or suit on
546 the debt or the manner for determining such dates, except as may be
547 impacted by any payment arrangement, bankruptcy petition or other
548 circumstance, provided in no event shall the assignee commence a
549 foreclosure suit before one year has elapsed since the assignee's
550 purchase of the lien; (3) the structure and rates of attorney's fees that the
551 assignee may claim against the owner or owners of such real property

552 in any foreclosure, suit on the debt or otherwise, and a prohibition from
553 using as foreclosure counsel any attorney or law office that is owned by,
554 employs or contracts having any person with an interest in such
555 assignee; (4) confirmation that the owner of the real property for which
556 the lien has been filed shall be a third-party beneficiary entitled to
557 enforce the covenants and responsibilities of the assignee as contained
558 in the contract; (5) a prohibition on the assignee assigning the lien
559 without the municipality's prior written consent; (6) the detail and
560 frequency of reports provided to the municipality's tax collector
561 regarding the status of the assigned liens; (7) confirmation that the
562 assignee is not ineligible, pursuant to section 31-57b, to be assigned the
563 lien because of occupational safety and health law violations; (8)
564 disclosure of (A) all resolved and pending arbitrations and litigation
565 matters in which the assignee or any of its principals have been involved
566 within the last ten years, except foreclosure actions involving liens
567 purchased from or assigned by governmental entities, (B) all criminal
568 proceedings that the assignee or any of its principals has ever been the
569 subject, (C) any interest in the subject property held by the assignee or
570 any of its principals, officers or agents, and (D) each instance in which
571 the assignee or any of its principals was found to have violated any state
572 or local ethics law, regulation, ordinance, code, policy or standard, or to
573 have committed any other offense arising out of the submission of
574 proposals or bids or the performance of work on public contract; and (9)
575 such additional terms to which the municipality and the assignee
576 mutually agree consistent with applicable law.

577 (d) The assignee, or any subsequent assignee, shall provide written
578 notice of an assignment, not later than sixty days after the date of such
579 assignment, to the owner and any holder of a mortgage on the real
580 property that is the subject of the assignment, provided such owner or
581 holder is of record as of the date of such assignment. Such notice shall
582 include information sufficient to identify (1) the property that is subject
583 to the lien and in which the holder has an interest, (2) the name and
584 addresses of the assignee, and (3) the amount of unpaid taxes, interest
585 and fees being assigned relative to the subject property as of the date of
586 the assignment.

587 (e) Not less than sixty days prior to commencing an action to foreclose
588 a lien under this section, the assignee shall provide a written notice, by
589 first-class mail to the holders of all first or second security interests on
590 the property subject to the lien that were recorded before the date the
591 assessment of the lien sought to be enforced became delinquent. Such
592 notice shall set forth: (1) The amount of unpaid debt owed to the
593 assignee as of the date of the notice; (2) the amount of any attorney's fees
594 and costs incurred by the assignee in the enforcement of the lien as of
595 the date of the notice; (3) a statement of the assignee's intention to
596 foreclose the lien if the amounts set forth pursuant to subdivisions (1)
597 and (2) of this subsection are not paid to the assignee on or before sixty
598 days after the date the notice is provided; (4) the assignee's contact
599 information, including, but not limited to, the assignee's name, mailing
600 address, telephone number and electronic mail address, if any; and (5)
601 instructions concerning the acceptable means of making a payment on
602 the amounts owed to the assignee as set forth pursuant to subdivisions
603 (1) and (2) of this subsection. Any notice required under this subsection
604 shall be effective upon the date such notice is provided.

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

612 (g) Each aspect of a foreclosure, sale or other disposition under this
613 section, including, but not limited to, the costs, attorney fees, method,
614 advertising, time, date, place and terms, shall be commercially
615 reasonable. Costs and reasonable attorneys' fees incurred by the
616 assignee as a result of any foreclosure action or other legal proceeding
617 brought pursuant to this section and directly related to the proceeding
618 shall be taxed in any such proceeding against each person having title
619 to any property subject to the proceedings. Such costs and fees may be
620 collected by the assignee at any time after demand for payment has been

621 made by the assignee.

622 Sec. 6. Section 49-92o of the general statutes is repealed and the
623 following is substituted in lieu thereof (*Effective October 1, 2021*):

624 (a) Any regional sewer authority established under an act of the
625 General Assembly, may assign, for consideration, any and all liens filed
626 by such regional sewer authority to secure unpaid sewer assessments or
627 connection or use charges of the authority. The consideration received
628 by the authority shall be negotiated between the authority and the
629 assignee.

630 (b) The assignee or assignees of such liens shall have and possess the
631 same powers and rights at law or in equity as such authority would have
632 had if the lien had not been assigned with regard to the precedence and
633 priority of such lien, the accrual of interest and the fees and expenses of
634 collection, except that any such assignee (1) shall not be insulated from
635 liability by section 42-110c, and (2) shall be obligated to provide a payoff
636 statement, as defined in section 49-8a, in the same manner as a
637 mortgagee in accordance with the requirements of section 49-10a. The
638 assignee shall have the same rights to enforce such liens as any private
639 party holding a lien on real property, including, but not limited to,
640 foreclosure and a suit on the debt.

641 (c) No such assignment executed on or after July 1, 2022, shall be valid
642 or enforceable unless memorialized in a contract executed by the
643 authority and the assignee that is in writing and provides: (1) The
644 manner in which the assignee will provide to the owner of the real
645 property that is the subject of the assignment one or more addresses and
646 telephone numbers that may be used for correspondence with the
647 assignee about the debt and payment thereof; (2) the earliest and latest
648 dates by which the assignee shall commence any foreclosure or suit on
649 the debt or the manner for determining such dates, except as may be
650 impacted by any payment arrangement, bankruptcy petition or other
651 circumstance, provided in no event shall the assignee commence a
652 foreclosure suit before one year has elapsed since the assignee's
653 purchase of the lien; (3) the structure and rates of attorney's fees that the

654 assignee may claim against the owner or owners of such real property
655 in any foreclosure, suit on the debt or otherwise, and a prohibition from
656 using as foreclosure counsel any attorney or law office that is owned by,
657 employs or contracts with any person having an interest in such
658 assignee; (4) confirmation that the owner of the real property for which
659 the lien has been filed shall be a third-party beneficiary entitled to
660 enforce the covenants and responsibilities of the assignee as contained
661 in the contract; (5) a prohibition on the assignee assigning the lien
662 without the municipality's prior written consent; (6) the detail and
663 frequency of reports provided to the municipality's tax collector
664 regarding the status of the assigned liens; (7) confirmation that the
665 assignee is not ineligible, pursuant to section 31-57b, to be assigned the
666 lien because of occupational safety and health law violations; (8)
667 disclosure of (A) all resolved and pending arbitrations and litigation
668 matters in which the assignee or any of its principals have been involved
669 within the last ten years, except foreclosure actions involving liens
670 purchased from or assigned by governmental entities, (B) all criminal
671 proceedings that the assignee or any of its principals has ever been the
672 subject, (C) any interest in the subject property held by the assignee or
673 any of its principals, officers or agents, and (D) each instance in which
674 the assignee or any of its principals was found to have violated any state
675 or local ethics law, regulation, ordinance, code, policy or standard, or to
676 have committed any other offense arising out of the submission of
677 proposals or bids or the performance of work on public contract; and (9)
678 such additional terms to which the municipality and the assignee
679 mutually agree consistent with applicable law.

680 (d) The assignee, or any subsequent assignee, shall provide written
681 notice of an assignment, not later than sixty days after the date of such
682 assignment, to the owner and any holder of a mortgage on the real
683 property that is the subject of the assignment, provided such owner or
684 holder is of record as of the date of such assignment. Such notice shall
685 include information sufficient to identify (1) the property that is subject
686 to the lien and in which the holder has an interest, (2) the name and
687 addresses of the assignee, and (3) the amount of unpaid taxes, interest
688 and fees being assigned relative to the subject property as of the date of

689 the assignment.

690 (e) Not less than sixty days prior to commencing an action to foreclose
691 a lien assigned under this section, the assignee shall provide a written
692 notice, by first-class mail to the holders of all first or second security
693 interests on the property subject to the lien that were recorded before
694 the date the assessment of such lien became delinquent. Such notice
695 shall set forth: (1) The amount of unpaid debt owed to the assignee as of
696 the date of the notice; (2) the amount of any attorney's fees and costs
697 incurred by the assignee in the enforcement of the lien as of the date of
698 the notice; (3) a statement of the assignee's intention to foreclose the lien
699 if the amounts set forth pursuant to subdivisions (1) and (2) of this
700 subsection are not paid to the assignee on or before sixty days after the
701 date the notice is provided; (4) the assignee's contact information,
702 including, but not limited to, the assignee's name, mailing address,
703 telephone number and electronic mail address, if any; and (5)
704 instructions concerning the acceptable means of making a payment on
705 the amounts owed to the assignee as set forth pursuant to subdivisions
706 (1) and (2) of this subsection. Any notice required under this subsection
707 shall be effective upon the date such notice is provided.

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

715 (g) Each aspect of a foreclosure, sale or other disposition under this
716 section, including, but not limited to, the costs, attorney fees, method,
717 advertising, time, date, place and terms, shall be commercially
718 reasonable. Costs and reasonable attorneys' fees incurred by the
719 assignee as a result of any foreclosure action or other legal proceeding
720 brought pursuant to this section and directly related to the proceeding
721 shall be taxed in any such proceeding against each person having title

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	12-195h
Sec. 2	October 1, 2021	7-254
Sec. 3	October 1, 2021	7-258
Sec. 4	October 1, 2021	7-239
Sec. 5	October 1, 2021	49-92p
Sec. 6	October 1, 2021	49-92o

Statement of Legislative Commissioners:

In Section 3(d), "2019" was changed to "2022" for accuracy.

BA *Joint Favorable Subst.*

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.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill establishes several requirements for when municipalities sell or transfer tax, water and sewer liens to third parties. This has no fiscal impact as it is not anticipated to impact the number of liens created or their value.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 941*****AN ACT CONCERNING THE ASSIGNMENT OF CERTAIN PROPERTY, TAX, WATER AND SEWER LIENS.*****SUMMARY**

This bill imposes new restrictions on entities that acquire the right to enforce real property liens securing specified delinquent tax, sewer, and water charges (i.e., lien assignees). The bill applies to liens for delinquent:

1. real property taxes (§ 1) and any other liens that by law may be enforced using the same procedure as applies to these taxes (e.g., statutory special taxing district assessments, see CGS § 7-328);
2. sewer benefit assessments or sewer use and connection charges imposed by municipal water pollution control authorities or regional sewer authorities (§§ 2, 3 & 6); and
3. water charges imposed by municipal water companies and regional water authorities (§§ 4 & 5).

The bill makes any lien assignment executed on or after July 1, 2022, unenforceable unless memorialized in a written contract between the assignee and municipality or authority. The contract must include the disclosure and other provisions the bill specifies.

Under the bill:

1. the assignee must provide (a) a written payoff statement upon request and (b) written notices before beginning a foreclosure;
2. all aspects of a foreclosure sale or other disposition (e.g., costs, venue, and terms) must be “commercially reasonable,” which is

undefined; and

3. the assignee is liable for any act deemed an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (see BACKGROUND).

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2021

REQUIRED CONTRACT PROVISIONS

General Provisions

For assignments executed on or after July 1, 2022, the bill specifies the provisions that must be included in the contract between the assignee and municipality or authority. The provisions must:

1. specify how the assignee will provide its contact information to the property owner, including an address and telephone number;
2. indicate the earliest and latest dates by which the assignee must begin any foreclosure or suit on the debt or how to determine the dates, except as may be impacted by a payment arrangement, bankruptcy petition, or other circumstance, but the assignee may not begin a foreclosure suit within one year after the lien was purchased;
3. specify the attorney's fee structure and rates that the assignee may claim against the property owner or owners and ban using an attorney or law office that is owned by, employs, or contracts with anyone having an interest in the assignee;
4. confirm that the property owner for which the lien has been filed is a third-party beneficiary entitled to enforce the contract's covenants and responsibilities;
5. prohibit the assignee from assigning the lien without the municipality's prior written consent;

6. specify the detail and frequency of reports provided to the municipality's tax collector on the status of the assigned liens;
7. confirm that the assignee is not ineligible to be assigned the liens because of occupational safety and health law violations;
8. incorporate the bill's disclosure requirements (see below); and
9. include any additional terms to which the parties agree, consistent with applicable law.

Disclosures

The contract must disclose:

1. all resolved and pending arbitration and litigation matters in which the assignee or any of its principals have been involved within the last 10 years, except foreclosure actions involving liens purchased from or assigned by governmental entities;
2. all criminal proceedings that the assignee or any of its principals have ever been the subject of;
3. any interest in the subject property held by the assignee or any of its principals, officers, or agents; and
4. each instance in which the assignee or any of its principals was found to have violated a state or local ethics law, regulation, ordinance, code, policy, or standard, or to have committed any other offense arising from submitting proposals or bids for, or performing work on, a public contract.

PAYOFF STATEMENTS

The bill requires an assignee to provide a payoff statement (i.e., a statement showing the unpaid balance and accruing interest) in the same manner that a mortgagee must provide one to a mortgagor in a mortgage foreclosure situation.

By law, a mortgagee, upon the written request of the mortgagor, the

mortgagor's attorney, or other authorized agent, must provide a written payoff statement or reinstatement payment statement to the person requesting one. The mortgagee must do so by the date specified in the request, provided the request date is at least seven business days after the date of receipt of the written request (CGS § 49-10a).

FORECLOSURE REQUIREMENTS

By law, the assignees have the same powers and rights to enforce an assigned lien as the municipality, the municipality's tax collector, or the authority had, which include the right to enforce the lien through foreclosure.

The bill requires assignees to provide notices to the property owner and other specified interest parties when foreclosing on a lien.

Written Notice to Holders of First or Second Security Interests

Under the bill, at least 60 days before beginning a foreclosure action, the assignee must send written notice, by first class mail, to the holders of all first or second security interests on the property that were recorded before the taxes or charges became delinquent.

The notice is effective on the date it is provided and must include:

1. the amount of unpaid debt owed to the assignee as of the notice's date;
2. the amount of any attorney's fees and costs incurred by the assignee in enforcing the lien as of the notice's date;
3. a statement of the assignee's intention to foreclose the lien if these amounts are not paid to the assignee within 60 days after the date on which notice is provided;
4. the assignee's contact information (i.e., name, address, telephone number, and email address, if any); and
5. instructions on acceptable means of making a payment.

When sending this notice, the assignee may use the name and mailing address last recorded for the holder of the interest. If the holder of the interest is a plaintiff in a pending related court case to enforce the interest, the assignee must instead provide the written notice to the plaintiff's attorney.

Written Notice to Mortgage Owners and Holders

The bill increases the amount of time that an assignee has to notify the owner about a property tax lien assignment. Under current law, within 30 days after the assignment the assignee must provide written notice to any holder of a mortgage (i.e., mortgagee) on the subject property, provided the holder is of record as of the date of the assignment. The bill increases the notification period to within 60 days after the assignment and requires that the notice also goes to the owner (presumably the property owner).

The bill also extends the notice requirement that applies to tax lien assignments to the assignment of liens securing unpaid sewer benefit assessments, sewer use and connection charges, or water charges.

As is the case for tax lien assignments, the notice must include information to identify the:

1. property subject to the lien;
2. name and addresses of the assignee; and
3. amount of unpaid taxes, interest, and fees being assigned as of the date of the assignment. (Presumably, "tax" means unpaid assessments or charges, as applicable.)

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution

in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney’s fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

Related Bill

SB 968, favorably reported by the Planning and Development Committee, limits the circumstances under which certain liens may be enforced or assigned and requires that aspects of related foreclosure actions or other legal proceedings be commercially reasonable.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/17/2021)