



127th MAINE LEGISLATURE

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Legislative Document

No. 1203

S.P. 430

In Senate, April 2, 2015

An Act To Address the Detrimental Effects of Abandoned Property

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator LIBBY of Androscoggin.
Cosponsored by Representative LAJOIE of Lewiston and
Senators: DUTREMBLE of York, KATZ of Kennebec, Representatives: BROOKS of
Lewiston, CHIPMAN of Portland, GOLDEN of Lewiston, MELARAGNO of Auburn,
ROTUNDO of Lewiston, STANLEY of Medway.

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

2 **Sec. 1. 30-A MRSA §3106-A** is enacted to read:

3 **§3106-A. Municipal authority to manage abandoned properties**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Property defects" means the conditions that, in the judgment of the municipality,
7 contribute to blight as a result of the continued lack of care, maintenance or security
8 of a property.

9 B. "Responsible parties" includes the owner of record and each record holder of any
10 mortgage on the real estate of an abandoned property.

11 **2. Municipal authority.** In accordance with this section, the municipal officers may
12 regulate the care, maintenance and security of property determined to be abandoned
13 under subsection 5. The authorities established by this section may not be construed to
14 replace or supplant any municipal authority to provide for basic necessities under Title
15 14, section 6026-A or address dangerous properties under Title 17, chapter 91, subchapter
16 4. Municipal action under this section may not be interpreted to bestow any
17 responsibility on the municipality to safeguard or otherwise preserve or protect
18 abandoned property.

19 **3. Adoption by ordinance.** The procedures and standards governing the
20 implementation of a municipality's authority to manage certain abandoned properties
21 pursuant to this section must be established by municipal ordinance.

22 A. The ordinance may require responsible parties to assume maintenance
23 responsibilities for abandoned properties.

24 B. The ordinance may provide that the municipal officers or their designee may take
25 action to remedy property defects at an abandoned property if the responsible parties
26 fail to address the property defects after notice and an opportunity to comply and that
27 the municipality may recover its costs from the responsible parties.

28 **4. Notice of foreclosure; designation of representative.** When initiating a
29 foreclosure action on a property, a foreclosing mortgagee shall notify the municipality
30 where the property is situated and designate an in-state representative responsible for the
31 property. This notification and designation requirement applies regardless of whether the
32 municipality has adopted an ordinance pursuant to this section.

33 **5. Determination of abandonment.** Before a municipality may act under an
34 ordinance adopted pursuant to this section, either a court or the municipal officers must
35 have determined that the property has been abandoned according to the evidence of
36 abandonment described in Title 14, section 6326.

37 A. The municipal officers shall provide notice to the responsible parties and hold a
38 hearing before making a determination that a property has been abandoned. The
39 notice of hearing must:

- 1 (1) State the scheduled date, time and location of the hearing; and
2 (2) Inform the responsible parties that, upon a finding of abandonment, the
3 municipality may require the responsible parties to correct any property defects
4 within 30 days of issuing a notice to correct.

5 B. A hearing under paragraph A may be held no less than 7 days after receipt or
6 publication of the notice.

7 C. An order issued by the municipality determining that a property is abandoned may
8 be combined with the notice to correct set forth in subsection 6.

9 **6. Notice to correct.** If the municipal officers or their designee determines that the
10 responsible parties have violated an ordinance adopted pursuant to this section by failing
11 to remedy property defects at an abandoned property, the municipal officers or their
12 designee may give written notice to the responsible parties to correct the property defects.
13 The municipal notice to correct under this section must:

14 A. Identify the property defects;

15 B. State the municipality's intention to take appropriate preventive or corrective
16 measures to address the property defects;

17 C. State those measures that the municipality will take if the responsible parties have
18 not remedied the property defects identified within 30 days of the notice to correct;

19 D. State the municipality's intention to subsequently recover the municipality's
20 direct, legal and administrative costs from the responsible parties; and

21 E. Inform the responsible parties of their ability to avert the municipality's actions by
22 remedying the property defects as identified in the notice.

23 **7. Notice process.** A notice required to be given under this section is governed by
24 the following.

25 A. Notice must be hand-delivered or mailed by certified mail, return receipt
26 requested, to the responsible parties. Notice is sufficient if the signed receipt is
27 returned or the certified mail is returned as refused by the recipient.

28 B. If the address of the responsible parties cannot be determined with reasonable
29 diligence, the notice is sufficient if it is published twice consecutively in a daily or
30 weekly newspaper having general circulation in the municipality in which the
31 property is located.

32 **8. In-state representatives.** A responsible party that has been served with notice to
33 correct pursuant to subsection 6 shall designate a representative whose place of business
34 is within this State to be responsible for addressing property defects at the property. The
35 responsible party shall provide the municipality where the property is located with the
36 contact information for the responsible party's in-state representative. Failure to provide
37 the municipality with the contact information of an in-state representative within 14 days
38 of receipt of a notice to correct creates a rebuttable presumption that the responsible party
39 does not intend to address property defects. For the purposes of this subsection, "contact
40 information" means both a mailing address and a direct telephone number with a

1 functioning voice mailbox, as well as the responsible party's direct e-mail address when
2 available.

3 **9. Fine.** Not less than 30 days following receipt or publication of the municipal
4 notice to correct pursuant to subsection 7, the municipality is authorized to assess a fine
5 of \$2,000 for each day the responsible parties have failed to remedy the property defects
6 identified in the notice to correct.

7 **10. Costs.** All responsible parties are jointly and severally liable to a municipality
8 for its direct, legal and administrative costs incurred while remedying or attempting to
9 remedy the property defects pursuant to an ordinance adopted in accordance with this
10 section. The responsible parties shall reimburse the municipality for its costs within 30
11 days after demand, or a special tax may be assessed against the property in the amount of
12 those costs and may be collected in the same manner as other state, county and municipal
13 taxes are collected.

14 **11. Appeals.** An appeal from a finding of abandonment by the municipal officers
15 pursuant to this section is to the Superior Court, pursuant to the provisions of the Maine
16 Rules of Civil Procedure, Rule 80B.

17 **SUMMARY**

18 This bill authorizes municipalities, through the adoption of an appropriate ordinance,
19 to provide for the care, maintenance and security of abandoned properties.