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An Act To Authorize Municipalities To Protect the Habitability of Rental Housing during Heating Fuel Emergencies

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the price of heating fuel this winter may result in some rental housing units being without necessary fuel supplies; and

Whereas, the municipalities in this State have an abiding interest in preventing the dislocation of citizens who rent or lease the properties in which they reside; and

Whereas, the authority of municipalities to directly provide heating fuel in emergency circumstances to privately owned leased premises and secure an appropriate reimbursement from the landlord is not a well-settled matter of law; and

Whereas, the authority of municipalities to protect the habitability of rental housing during heating fuel emergencies must be immediately clarified or established; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 14 MRSA §6026-A is enacted to read:

§ 6026-A. Municipal intervention to provide delivery of heating fuel

In accordance with the procedures provided in this section, the municipal officers of any town or city or their designee may provide for the delivery of heating fuel and any associated heating system repair activities to ensure the continued habitability of any premises leased for human habitation.

1. Leased premises must be out or nearly out of heating fuel. The leased premises must be out of heating fuel or nearly out of heating fuel such that the municipal officers or their designee can make a finding that an imminent threat to the continued habitability of the premises exists.

2. Attempt to contact landlord. The municipal officers or their designee must document a good faith attempt to contact the landlord of the premises under subsection 1 regarding:

A. The municipality's determination of the threat to habitability;

B. The municipality's intention to provide for the delivery of heating fuel;

C. The municipality's intention to subsequently recover the municipality's direct and administrative costs from the landlord; and

D. The landlord's ability to avert the municipality's actions by causing the delivery of adequate supplies of heating fuel by a time certain.

This communication to the landlord must be either in person, by telephone or by certified mail as may be warranted considering the degree or imminence of the threat.

3. Municipality may provide for delivery of heating fuel. If the landlord cannot be contacted in a timely manner or if the landlord does not cause the delivery of adequate supplies of heating fuel by a deadline identified by the municipal officers or their designee, the municipality may provide for the delivery of an adequate supply of heating fuel and whatever attendant activities may be necessary to ensure the proper functioning of the leased premises' heating system.

4. Lien. The municipality has a lien against the landlord of the leased premises for the amount of money spent by the municipality to provide for the adequate supply of heating fuel and attendant activities pursuant to this section, as well as all reasonably related administrative costs pursuant to subsection 3.

5. Filing of notice of lien; interest; costs. The municipal officers or their designee shall file a notice of the lien with the register of deeds of the county in which the property is located within 30 days of providing for the delivery of heating fuel. That filing secures the municipality's lien interest for an amount equal to the costs recoverable pursuant to this section. Not less than 10 days prior to the filing, the municipal officers or their designee shall send notification of the proposed action by certified mail, return receipt requested, to the owner of the real estate and any record holder of the mortgage. The lien notification must contain the title, address and telephone number of the municipal official or officers who authorized the provision of heating fuel, an itemized list of the costs to be recovered by lien and the provisions of this subsection regarding interest rates and costs. The lien is effective until enforced by an action for equitable relief or until discharged. Interest on the amount of money secured by the lien may be charged by the municipality at a rate determined by the municipal officers but in no event may the rate exceed the maximum rate of interest allowed by the Treasurer of State pursuant to Title 36, section 186. Interest accrues from and including the date the lien is filed. The costs of securing and enforcing the lien are recoverable upon enforcement.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill authorizes municipalities to provide for the delivery of heating fuel to rental housing units that are facing an imminent threat of becoming uninhabitable because of a lack of heating fuel. The bill establishes a set of procedures the municipality must follow before providing for the delivery of heating fuel that are designed to allow the landlord to avert municipal delivery of heating fuel by providing for the necessary delivery of heating fuel. The bill also provides for a municipal lien on the rental property in order to recover the direct and administrative costs associated with providing for the heating fuel.