

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 113

H. P. 103

House of Representatives, January 18, 1979

Referred to the Committee on Legal Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Beaulieu of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Revise the Statute Relating to the Removal of Dangerous Buildings.

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

Sec. 1. 17 MRSA § 2851, sub-§ 1, as repealed and replaced by PL 1965, c. 284, is repealed and the following enacted in its place:

1. Notice. The notice shall be served on the owner and all parties in interest, as defined in Title 14, section 6321, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure.

Sec. 2. 17 MRSA § 2851, sub-§ 3, as repealed and replaced by PL 1965, c. 284, is amended to read:

3. Order. The order made by the municipal officers shall be recorded by the municipal clerk who shall forthwith ~~send an attested copy thereof to the owner or co-owner by certified mail to his last known address, or if~~ **cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If** the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in subsection 2.

Sec. 3. 17 MRSA § 2851, sub-§ 4 is enacted to read:

4. Proceedings in Superior Court. In addition to proceedings before the municipal officers, the municipality may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the structure is located. The complaint shall identify the location of the property and set forth the reasons why the municipality seeks its removal. Service of the complaint shall be made upon the owner and parties-in-interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the structure, it shall award costs, as authorized by this subchapter to the municipality. Appeal from a decision of the Superior Court shall be to the law court in accordance with the Maine Rules of Civil Procedure.

Sec. 4. 17 MRSA § 2852, as repealed and replaced by PL 1965, c. 284, is repealed and the following enacted in its place:

§ 2852. Appeal; hearing

An appeal from a decision of the municipal officers shall be to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B.

Sec. 5. 17 MRSA § 2853, as last amended by PL 1977, c. 707, § 5-A, is further amended by adding at the end a new paragraph to read:

Expenses shall include, but not by way of limitation, the costs of title searches, location reports, service or process, costs of removal of the structure, any costs incurred in securing the structure, pending its removal, and all other costs incurred by the municipality which are reasonably related to the removal of the structure. In addition to levying a special tax, the municipality may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner.

Sec. 6. 17 MRSA §§ 2856-2858 are enacted to read:

§ 2856. Securing dangerous structures

In addition to other proceedings authorized by this subchapter, a municipality shall have the right to secure structures which pose a serious threat to the public health and safety and to recover its expenses in so doing as provided in this subchapter.

§ 2857. Recording of notice

The municipal clerk shall cause an attested copy of the notice to be recorded in the Registry of Deeds located within the county where the structure is situated. Recording of this notice shall be deemed to put any person claiming under the owner of a structure subject to proceedings under this subchapter on notice of the pendency of the proceedings.

§ 2858. Consent to removal

The owner and parties-in-interest of a dangerous structure may consent to its removal and to the recovery of the expenses incurred by a municipality by means of a special tax as set forth in this subchapter. Notices of the consent shall be recorded in the Registry of Deeds located in the county where the structure is situated.

STATEMENT OF FACT

The intent of this bill is to improve the removal of dangerous structures, to enable municipalities to recover the costs incurred by them in both securing and also removing these structures, and to provide for removal of these structures by consent of the owner.