

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1029

H.P. 704

House of Representatives, March 17, 2009

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

(EMERGENCY)

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Reference to the Committee on State and Local Government suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CASAVANT of Biddeford.  
Cosponsored by Senator SULLIVAN of York and  
Representatives: BEAUDETTE of Biddeford, BEAUDOIN of Biddeford, LAJOIE of  
Lewiston, LOVEJOY of Portland, PEOPLES of Westbrook, STUCKEY of Portland, TUTTLE  
of Sanford, WAGNER of Lewiston.

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

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

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

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

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

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

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

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

18           **§6026-A. Municipal intervention to provide delivery of heating fuel**

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

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

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

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

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

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

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

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

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

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

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

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

31 **SUMMARY**

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