

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 610, L.D. 891, Bill, "An Act To Help Municipalities Dispose of Certain Abandoned Property"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 30-A MRSa §3106-A is enacted to read:

§3106-A. Municipal authority to manage abandoned mobile homes

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

A. "Mobile home" has the same meaning as in Title 10, section 9091, subsection 1.

B. "Property defect" means a condition that, in the judgment of the municipality, contribute to blight as a result of the continued lack of care, maintenance or security of a property.

C. "Responsible party" includes the owner of record for a mobile home and each record holder of any lien on the mobile home other than a municipality.

2. Municipal authority. In accordance with this section, the municipal officers may regulate the care, maintenance and security of a mobile home determined to be abandoned under subsection 4. The authority established by this section may not be construed to replace or supplant any municipal authority to provide for basic necessities under Title 14, section 6026-A or address dangerous buildings under Title 17, chapter 91, subchapter 4. Municipal action under this section may not be interpreted to bestow any responsibility on the municipality to safeguard or otherwise preserve or protect an abandoned mobile home. A municipality is authorized to take corrective action in accordance with this section, up to and including taking possession of and disposing of an abandoned mobile home and all related personal property.

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

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 610, L.D. 891

1 A. The ordinance may require a responsible party to assume maintenance
2 responsibilities for abandoned mobile homes.

3 B. The ordinance may provide that the municipal officers or their designees may take
4 action to a remedy property defect at an abandoned mobile home if the responsible
5 party fails to address the property defect after notice and an opportunity to comply
6 and that the municipality may recover its costs from the responsible party.

7 **4. Determination of abandonment.** Before a municipality may act under an
8 ordinance adopted pursuant to this section, either a court or the municipal officers must
9 have determined that the mobile home has been abandoned according to the evidence of
10 abandonment described in Title 14, section 6326, subsection 2.

11 A. The municipal officers shall provide notice to the responsible party and hold a
12 hearing before making a determination that a mobile home has been abandoned. The
13 notice of hearing must:

- 14 (1) State the scheduled date, time and location of the hearing; and
- 15 (2) Inform the responsible party that, upon a finding of abandonment, the
16 municipality may require the responsible party to correct any property defects
17 within 60 days of issuing a notice to correct.

18 B. A hearing under paragraph A must be held not less than 7 days after receipt or
19 publication of the notice.

20 C. An order issued by the municipality determining that a mobile home is abandoned
21 may be combined with the notice to correct set forth in subsection 5.

22 **5. Notice to correct.** If the municipal officers or their designees determine that the
23 responsible party has violated an ordinance adopted pursuant to this section by failing to
24 remedy a property defect at an abandoned mobile home, the municipal officers or their
25 designees may give written notice to the responsible party to correct the property defect.
26 The municipal notice to correct under this subsection must:

- 27 A. Identify the property defect;
- 28 B. State the municipality's intention to take appropriate preventive or corrective
29 measures to address the property defect;
- 30 C. State those measures that the municipality will take if the responsible party has
31 not remedied the property defect identified within 60 days of the notice to correct;
- 32 D. State the municipality's intention to subsequently recover the municipality's
33 direct, legal and administrative costs from the responsible party;
- 34 E. Inform the responsible party of the responsible party's ability to avert the
35 municipality's actions by remedying the property defect as identified in the notice;
36 and
- 37 F. State the municipality's intention to take possession of and dispose of the mobile
38 home and all related personal property if the responsible party has not remedied the
39 property defect identified within 60 days of the notice to correct.

COMMITTEE AMENDMENT

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6. Notice process. A notice required to be given under this section is governed by the following.

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

B. If the name or address of the responsible party cannot be determined with reasonable diligence, or notice was otherwise not successful pursuant to paragraph A, the notice must be published twice consecutively in a daily or weekly newspaper having general circulation in the municipality in which the mobile home is located.

C. In addition to the notice provided in paragraph A or B, notice must also be attached to the mobile home.

7. Fine. After 60 days following receipt or publication of the municipal notice to correct pursuant to subsection 6, the municipality is authorized to assess a fine of \$500 for each day the responsible party has failed to remedy the property defect identified in the notice to correct, except:

A. When a responsible party has provided written notice to the municipality of the responsible party's unequivocal intent to surrender all ownership of the mobile home and related personal property; or

B. When a responsible party has provided written notice to the municipality of the responsible party's intent to remedy any property defects identified in the notice provided pursuant to subsection 5. In that case, a fine may not be assessed until 60 days from the municipality's receipt of such notice.

8. Costs. A responsible party is jointly and severally liable to a municipality for its direct, legal and administrative costs incurred while remedying or attempting to remedy the property defect pursuant to an ordinance adopted in accordance with this section.

9. Appeals. An appeal to a determination of abandonment by the municipal officers pursuant to subsection 4 is to the Superior Court pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B.

10. Petition. A landowner in a municipality that has adopted an ordinance pursuant to this section may petition the municipality to inspect a suspected abandoned mobile home that does not belong to the landowner but is located on real estate owned by the landowner. Upon receipt of this petition, the municipality shall investigate the property and may initiate proceedings consistent with this section if the property is determined to be abandoned.'

SUMMARY

This amendment, which replaces the bill, authorizes municipalities, through the adoption of an appropriate ordinance, to provide for the care, maintenance and security of abandoned mobile homes, up to and including taking possession and disposing of the abandoned mobile home. It establishes the following criteria, process and notice requirements for implementation of the ordinance.

- 1 1. Either a court or the municipal officers may make the determination that a mobile
2 home has been abandoned according to the evidence of abandonment.
- 3 2. The municipal officers must provide notice to correct to the responsible party, the
4 owner of record of the mobile home and any recorded lienholders and must hold a
5 hearing, with proper notice to the responsible party, prior to making a determination of
6 abandonment.
- 7 3. After a determination of abandonment, the municipality may issue to the
8 responsible party a notice of the municipality's intention to take corrective action within
9 60 days if the property defects have not been remedied by the responsible party.
- 10 4. Corrective action by the municipality includes recovering costs from the
11 responsible party and may include a \$500 per day fine and taking possession and
12 disposing of the mobile home and all related personal property.
- 13 5. The notice required for the abandonment hearing and for the notice to correct must
14 be attached to the mobile home. Additionally, the notice must be either hand-delivered or
15 mailed by certified mail, or, if that delivery is not successful, the notice must be published
16 twice consecutively in a daily or weekly newspaper.
- 17 6. A responsible party may appeal a finding of abandonment by the municipal
18 officers to the Superior Court.
- 19 7. A landowner may petition the municipality to investigate a suspected abandoned
20 mobile home that does not belong to the landowner but is located on the landowner's
21 property and the municipality may take appropriate action consistent with the procedures
22 in this amendment.