

MAINE STATE LEGISLATURE

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DMG
R. O. S.

L.D. 1203

Date: 6/15/15

(Filing No. S-260)

JUDICIARY

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STATE OF MAINE

SENATE

127TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 430, L.D. 1203, Bill, "An Act To Address the Detrimental Effects of 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 MRS §3106-A is enacted to read:

§3106-A. Municipal authority to manage abandoned properties

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

A. "Property defects" means the conditions 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.

B. "Responsible parties" means the owner or owners of record.

2. Municipal authority. In accordance with this section, the municipal officers or the officers' designee may regulate the care, maintenance and security of property determined to be abandoned under subsection 4, if the responsible parties fail to address the property defects after notice and an opportunity to comply. The municipality may recover its costs from the responsible parties. The authorities 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 properties 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 abandoned property.

3. Notice of foreclosure; designation of representative. When initiating a foreclosure action on a property, a foreclosing mortgagee shall notify the municipality where the property is situated and designate an in-state representative responsible for the property.

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1 **4. Determination of abandonment.** Before a municipality may initiate corrective
2 action measures to address property defects pursuant to this section, either a court or the
3 municipal officers must have determined that the property has been abandoned according
4 to the evidence of abandonment described in Title 14, section 6326, subsection 2,
5 paragraph A, C, D, E, F, G or H.

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

9 (1) State the scheduled date, time and location of the hearing; and

10 (2) Inform the responsible parties that, upon a finding of abandonment, the
11 municipality may require the responsible parties to correct any property defects
12 within 30 days of the issuance of a notice to correct or, if a permit is required to
13 correct property defects, the municipality may require the responsible parties to
14 promptly seek a permit and to correct the defects within 30 days of the issuance
15 of the permit.

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

18 C. An order issued by the municipality determining that a property is abandoned may
19 be combined with the notice to correct set forth in subsection 5.

20 **5. Notice to correct.** Upon a finding of abandonment, the municipal officers may
21 give written notice to the responsible parties to correct identified property defects. The
22 municipal notice to correct under this section must:

23 A. Identify the property defects;

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

26 C. Identify the measures the municipality will take if the responsible parties have not
27 remedied the property defects identified within 30 days of the notice to correct;

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

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

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

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

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

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7. In-state representatives. Mortgagees who have initiated a foreclosure on a property shall designate a representative whose place of business is within this State to be responsible for responding to municipal inquiries regarding the property. The foreclosing mortgagee shall provide the municipality in which the property is located with the contact information for the mortgagee's in-state representative. For the purposes of this subsection, "contact information" means both a mailing address and a direct telephone number with a functioning voice mailbox, as well as the responsible party's direct e-mail address when available.

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

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

SUMMARY

This amendment authorizes municipalities to provide for the care, maintenance and security of abandoned properties without adoption of an ordinance as proposed in the bill. The amendment retains the provisions of the bill regarding how abandonment is determined and allowing municipalities to recover their cost of maintaining abandoned properties through the application of a supplemental tax on the property. The amendment gives responsible parties 30 days from the date a permit is issued to correct identified property defects before the municipality will take corrective action if a permit is necessary. The definition of "responsible parties" is limited to record owners, and the daily fine against mortgagees and mortgagors for nonmaintenance as proposed in the bill has been removed. The amendment also requires lenders to notify municipalities of the initiation of a foreclosure proceeding and to provide an in-state representative to respond to municipal inquiries.

FISCAL NOTE REQUIRED

(See attached)



127th MAINE LEGISLATURE

LD 1203

LR 422(02)

An Act To Address the Detrimental Effects of Abandoned Property

Fiscal Note for Bill as Amended by Committee Amendment 'A'(S-260)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increases the number of civil suits.

The collection of additional filing fees may also increase General Fund revenue by minor amounts.