

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1203

S.P. 430

In Senate, April 2, 2015

### An Act To Address the Detrimental Effects of Abandoned Property

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator LIBBY of Androscoggin.  
Cosponsored by Representative LAJOIE of Lewiston and  
Senators: DUTREMBLE of York, KATZ of Kennebec, Representatives: BROOKS of  
Lewiston, CHIPMAN of Portland, GOLDEN of Lewiston, MELARAGNO of Auburn,  
ROTUNDO of Lewiston, STANLEY of Medway.

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

2 **Sec. 1. 30-A MRSA §3106-A** is enacted to read:

3 **§3106-A. Municipal authority to manage abandoned properties**

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

6 A. "Property defects" means the conditions that, in the judgment of the municipality,  
7 contribute to blight as a result of the continued lack of care, maintenance or security  
8 of a property.

9 B. "Responsible parties" includes the owner of record and each record holder of any  
10 mortgage on the real estate of an abandoned property.

11 **2. Municipal authority.** In accordance with this section, the municipal officers may  
12 regulate the care, maintenance and security of property determined to be abandoned  
13 under subsection 5. The authorities established by this section may not be construed to  
14 replace or supplant any municipal authority to provide for basic necessities under Title  
15 14, section 6026-A or address dangerous properties under Title 17, chapter 91, subchapter  
16 4. Municipal action under this section may not be interpreted to bestow any  
17 responsibility on the municipality to safeguard or otherwise preserve or protect  
18 abandoned property.

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

22 A. The ordinance may require responsible parties to assume maintenance  
23 responsibilities for abandoned properties.

24 B. The ordinance may provide that the municipal officers or their designee may take  
25 action to remedy property defects at an abandoned property if the responsible parties  
26 fail to address the property defects after notice and an opportunity to comply and that  
27 the municipality may recover its costs from the responsible parties.

28 **4. Notice of foreclosure; designation of representative.** When initiating a  
29 foreclosure action on a property, a foreclosing mortgagee shall notify the municipality  
30 where the property is situated and designate an in-state representative responsible for the  
31 property. This notification and designation requirement applies regardless of whether the  
32 municipality has adopted an ordinance pursuant to this section.

33 **5. Determination of abandonment.** Before a municipality may act under an  
34 ordinance adopted pursuant to this section, either a court or the municipal officers must  
35 have determined that the property has been abandoned according to the evidence of  
36 abandonment described in Title 14, section 6326.

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

- 1                   (1) State the scheduled date, time and location of the hearing; and  
2                   (2) Inform the responsible parties that, upon a finding of abandonment, the  
3                   municipality may require the responsible parties to correct any property defects  
4                   within 30 days of issuing a notice to correct.

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

7                   C. An order issued by the municipality determining that a property is abandoned may  
8                   be combined with the notice to correct set forth in subsection 6.

9                   **6. Notice to correct.** If the municipal officers or their designee determines that the  
10                  responsible parties have violated an ordinance adopted pursuant to this section by failing  
11                  to remedy property defects at an abandoned property, the municipal officers or their  
12                  designee may give written notice to the responsible parties to correct the property defects.  
13                  The municipal notice to correct under this section must:

14                  A. Identify the property defects;

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

17                  C. State those measures that the municipality will take if the responsible parties have  
18                  not remedied the property defects identified within 30 days of the notice to correct;

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

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

23                  **7. Notice process.** A notice required to be given under this section is governed by  
24                  the following.

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

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

32                  **8. In-state representatives.** A responsible party that has been served with notice to  
33                  correct pursuant to subsection 6 shall designate a representative whose place of business  
34                  is within this State to be responsible for addressing property defects at the property. The  
35                  responsible party shall provide the municipality where the property is located with the  
36                  contact information for the responsible party's in-state representative. Failure to provide  
37                  the municipality with the contact information of an in-state representative within 14 days  
38                  of receipt of a notice to correct creates a rebuttable presumption that the responsible party  
39                  does not intend to address property defects. For the purposes of this subsection, "contact  
40                  information" means both a mailing address and a direct telephone number with a

1 functioning voice mailbox, as well as the responsible party's direct e-mail address when  
2 available.

3 **9. Fine.** Not less than 30 days following receipt or publication of the municipal  
4 notice to correct pursuant to subsection 7, the municipality is authorized to assess a fine  
5 of \$2,000 for each day the responsible parties have failed to remedy the property defects  
6 identified in the notice to correct.

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

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

17 **SUMMARY**

18 This bill authorizes municipalities, through the adoption of an appropriate ordinance,  
19 to provide for the care, maintenance and security of abandoned properties.