

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

**REPORT TO THE JOINT COMMITTEE ON UTILITIES AND ENERGY ON L.D.
2074, “An Act Regarding Energy Efficiency Standards for Residential
Rental Properties”**

December 31, 2007

I. BACKGROUND

The 122nd Legislature enacted Public Law 2005, Chapter 534 (14 M.R.S.A. §6030-C, and 35-A M.R.S.A. §10006) with the purpose of informing prospective tenants of the energy efficiency characteristics of residential properties used as primary residences, and requiring landlords to provide an energy efficiency disclosure statement to prospective tenants.

The statute, effective since August of 2006, has raised some awareness among landlords and renters about the disclosure form and the law’s goals. Compliance appears to be on the rise, although the requirements are far from universally accepted or even known.

The law includes a directive to the Maine Public Utilities Commission (Commission) to submit a report to the Joint Committee on Utilities and Energy (Committee) on whether the law is achieving its stated goals and to make an assessment of whether the disclosure form developed under the law is sufficient to its purposes. This report is the Commission’s response to that directive.

II. HISTORY

The 122nd Legislature enacted Public Law 2005, Chapter 109, which required the Commission and the Maine State Housing Authority (MSHA) to coordinate among interested stakeholders discussions about energy efficiency and appropriate efficiency standards for rental properties and to develop an energy efficiency disclosure form appropriate for landlords to provide to renters. Subsequent stakeholder meetings included representatives of the Maine Apartment Owners and Managers Association, the Maine League of Young Voters, the MSHA, the Commission and the bill’s sponsor.

In early 2006, the Commission and MSHA presented a report to the Committee detailing the results of those discussions, which included agreement among stakeholders on a disclosure form and suggested energy efficiency standards for residential rental properties.

The report also made recommendations for program implementation, and under the Committee’s leadership the 122nd Legislature enacted PL 2005, Chapter 534 (Chapter 534). The measure requires landlords of residential properties to provide the disclosure statement, directs the Commission and

MSHA to jointly develop the disclosure form and develop suggested energy efficiency standards, and directs the Commission to make an assessment to be reported to the Committee.

Chapter 534 aims to help consumers judge the amount of energy (whether from electricity, natural gas, wood or fuel oil) a rental property requires, before deciding whether to rent the property. In addition, the form and standards may result in improved energy efficiency over time, as landlords and renters become more knowledgeable about ways to improve building efficiencies. The law became effective on August 23, 2006.

A. Disclosure Form

Chapter 534 requires landlords of residential property to provide potential tenants a disclosure statement that details information about the energy efficiency of the rental property. The landlord is also required to provide the statement to anyone who asks for it in person. In addition, the statement is to be posted in a prominent location at the property being offered for lease or rent.

Chapter 534 further requires that when entering into a contract with a tenant or prior to having received a deposit for the rental property, the landlord must provide the tenant the disclosure statement, which must in turn be signed by the tenant. The signed disclosure statement will be retained by the landlord for a minimum of seven years.

The disclosure form asks for specific details on whether a unit meets or partially meets energy standards outlined in the document for items such as heating, insulation, and appliances. The disclosure form is appended to the report as Attachment A.

B. Suggested Energy Efficiency Standards

The suggested standards developed to comply with Chapter 534 were established during 2005 for presentation to the Legislature, and became effective on May 12, 2006. They include recommendations for space heating systems, insulation, windows and doors, and appliances. They focus on proper maintenance and inspection practices, as well as the installation of energy efficient material or equipment (EnergyStar-rated) when new investments are made in a rental property.

The standards include deadlines for meeting their specifications, but landlords are not, as a statutory matter, mandated to meet them. However, the standards provide guidance to landlords seeking to improve the efficiency of rental properties.

There are no penalties associated with failure to comply with the standards or with the requirement to provide a disclosure form to potential renters or others. The statute is silent on the consequences of non-compliance. A fact sheet developed by Commission staff adds, however, that if a tenant believes that a landlord did not comply with the law, the tenant should contact an attorney to determine the best approach to the problem.

The suggested standards are appended to this report as Attachment B.

C. Dissemination

As noted above, Chapter 534 requires landlords to provide the disclosure form to prospective tenants or anyone who asks for it in person, and to post the form prominently at the rental location. But as with similar programs – such as lead disclosure forms – public awareness of the law is at least in part a function of promotion and marketing. The law provides no new resources to carry out its goals, and so its penetration into the public consciousness depends on good faith efforts by the stakeholders.

Such efforts have been under way. The Commission and MSHA provide the form, suggested standards, and fact sheets on their web sites or upon request, and Commission staff have promoted the program in appearances at forums around the state where landlords were likely to congregate, such as MSHA's October 2007 Affordable Housing Conference.

The Commission also contacted potential allies outside the immediate stakeholder group. Staff met with several regional landlords' associations. The University of Maine system was contacted and now includes a prominent link to information about the disclosure requirement on its Student Affairs housing page.

MSHA sent a notice of Chapter 534 to all of its associated owners and managers almost two months before it became effective. MSHA's notice included the law itself, a fact sheet, the disclosure form, and links to the PUC web site.

The Maine Apartment Owners and Managers Association published an article regarding the statute in its newsletter and has continued to inform its members through quarterly newsletters and on an ad hoc basis.

Stakeholders met after Chapter 534 was enacted in July of 2007, and the League of Young Voters Education Fund subsequently launched a volunteer canvassing effort in Portland that aimed to raise awareness among city renters about the disclosure requirement and other facts about energy efficiency. The League's "Rent G.R.E.E.N." canvassing effort ran from July 11th through

September 18th in Portland's legislative districts 1, 2 and 3 – an area that encompasses several thousand rental units. In addition to door-to-door contacts, the effort included presence at one or two public events each week, including music concerts, art shows, and farmers markets.

The canvassing initiative had multiple goals: raising general awareness among renters about the importance of energy efficiency in the home; educating renters about specific efficiency measures they or their landlords could employ in the home; providing materials and a free energy-efficient light bulb to renters and; establishing whether renters were aware of the disclosure form requirement.

There were 84 volunteers who spent a total of 286 hours canvassing or at events. They handed out materials to 684 respondents and received press coverage by MPBN Radio. The successes and lessons learned from that initiative are discussed below.

III. ASSESSMENT

A. The Disclosure Form's Sufficiency

Commission staff believes that while minor adjustments to the disclosure form may be warranted on a periodic basis, substantive changes are not necessary unless energy efficiency codes and standards are changed or they are made mandatory. In addition, since the Commission's role was to develop a consensus document among stakeholders, any such update would properly include at least the initial group of stakeholders and possibly even a larger group.

B. The Standards' Sufficiency

As formulated, the standards outline basic steps landlords may take to improve the efficiency of their properties. The Commission's Efficiency Maine program also provides a wide array of assistance and incentives for businesses wishing to invest in energy efficiency. MSHA also assists in such efforts, most notably through its Weatherization and Appliance Replacement program.

In addition, the Legislature has enacted Public Law 2007, Chapter 93, "Resolve to Improve the Energy Efficiency of Residential and Commercial Buildings." The Commission and MSHA are implementing that measure, and will make recommendations about ways to improve compliance with construction codes that relate to energy efficiency.

The outcome of that effort may provide information about Maine's housing stock and stakeholder views that would be valuable in any consideration of changes to the energy efficiency guidelines provided under Chapter 534.

C. Effectiveness of Dissemination Efforts

The Commission has two data sets that shed some light on how well renters and landlords are informed about the disclosure form.

- Records of the number of times the disclosure form has been viewed or downloaded from the Commission's web site. From August 2006 through September of 2007, the web page that outlines the program was viewed a total of 6,292 times. The form itself (either as a word or pdf file) was viewed a total of 3,040 times. That represents about 2 percent of the 155,000 renter households in Maine in 2006.

Those numbers do not account, however, for landlords or renters who may have acquired the disclosure form through means other than a download from the website. Nor does this statistic indicate that only 2 percent of rental households are aware of the form. As discussed below, other indicators seem to indicate awareness of the requirements does appear to be higher than 2 percent.

- Data collected at Commission request by state electric utilities which indicate whether renters signing up for electric service at a new location were aware of the disclosure form. These show that more than 10 percent of Maine landlords are making the energy disclosure form available to tenants. The percentage of renters reporting receipt of the form in the last five months of 2007 are as follows:

Central Maine Power: 13.4%
Bangor Hydro-Electric: 10.2%
Maine Public Service: 10.4%

These statistics show that statewide, awareness of the form and compliance with statute is somewhat higher than 10 percent. In addition, the League of Young Voters Fund made recommendations to the Commission in a report on its canvassing project. The League recommends a permanent, statewide program that aims to raise renter and landlord awareness of the disclosure form and of energy efficiency issues in general.

The League recommends the creation of stronger incentives for landlords to implement the disclosure form requirements, including setting a deadline for compliance. It also recommends creation of a state-funded, statewide marketing and canvassing campaign to promote the disclosure form

requirements and other programs aimed at improving landlord and renter participation in energy efficiency initiatives.

IV. CONCLUSION

The Commission finds that the disclosure form and stakeholder efforts are meeting the law's goals – although to a limited degree. The form is in use and with the suggested standards it is creating awareness among landlords and renters about the importance of energy efficiency measures. The Commission would be happy to present this report to the Committee and respond to questions the Committee may have about the report. If the Committee would like to the Commission to make such a presentation, the Commission recommends that the other stakeholders discussed above be invited to attend the presentation and offer their comments on the report and how to proceed with issues raised by Chapter 534.

Suggested Energy Efficiency Standards for Rental Units

Space Heating System

1. Perform manufacturer's recommended or appropriate maintenance on existing heating system Deadline: 2012
2. Inspect, repair and insulate exposed heating ductwork and pipes in unheated areas Deadline: 2012
3. When an old system is replaced or a new system installed, install a properly sized, energy-efficient system (Energy Star, sized using Manual J process or equivalent)

Insulation

1. Seal holes and cracks in walls, floors, and ceilings Deadline: 2012
2. Seal holes and cracks in foundations where wind can blow on pipes Deadline: 2012
3. Insulate wall cavities to capacity Deadline: 2015
4. Insulate attic cavities Deadline: 2015
5. Fill joist bays over crawl spaces or similar unheated areas Deadline: 2012

Windows and Doors

1. Install storms or double pane or better windows Deadline: 2015
2. Install insulated doors or storm doors Deadline: 2015

Appliances

1. Replace pre-1995 refrigerators with energy efficient models (Energy Star or equivalent) Deadline: 2012
2. Insulate accessible domestic hot water pipes Deadline: 2012
3. When an old gas stove is replaced or a new one installed, install a unit with electric ignition

Exemptions: The owner of a rental unit is exempt from following these efficiency practices when the practice is prohibited by historic district requirements or the structural configuration of the unit makes the practice impractical or impossible.

May 12, 2006

Developed pursuant to P.L. 2005 Ch. 534

Available on the Maine Public Utilities Commission or Maine State Housing Authority web pages (www.maine.gov/mpuc or www.mainehousing.org)