

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Protect the Public from Dangerous Buildings

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

Sec. 1. 17 MRSA §2851, as amended by PL 1997, c. 6, §1, is further amended to read:

§ 2851. Dangerous buildings

~~Whenever the~~The municipal officers in the case of a municipality; or the county commissioners in the case of the unorganized or deorganized areas in their county, ~~find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupaney to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice pursuant to section 2857 and hearing on this matter adjudge the same a building to be a nuisance or dangerous, in accordance with subsection 2-A, and may make and record an order, in accordance with subsection 3, prescribing what disposal must be made of that building or structure. The order may allow for delay of disposal if the owner or party in interest has demonstrated the ability and willingness to satisfactorily rehabilitate the building. If an appeal pursuant to section 2852 is not filed or, if an appeal pursuant to section 2852 is filed and the Superior Court does not order, stay or overturn the order to dispose of the building, the municipal officers or the county commissioners shall cause the nuisance to be abated or removed in compliance with the order.~~

For the purposes of this subchapter, "building" means a building or structure or any portion of a building or structure or any wharf, pier, pilings or any portion of a wharf, pier or pilings thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, and "parties in interest" has the same meaning as in Title 14, section 6321.

1. Notice. ~~The notice must be served on the owner and all parties in interest, as defined in Title 14, section 6321, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure.~~

2. Notice; how published. ~~When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper.~~

2-A. Standard. To adjudge a building to be a nuisance or dangerous, the municipal officers or county commissioners must find that the building is structurally unsafe, unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property.

3. Recording of the order. TheAn order made by the municipal officers or county commissioners under this section must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in subsection 2section 2857.

4. Proceedings in Superior Court. In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the structurebuilding is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties-in-interestparties in interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the structurebuilding, it shall award costs as authorized by this subchapter to the municipality or the county. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.

Sec. 2. 17 MRSA §2852, as amended by PL 1997, c. 6, §2, is further amended to read:

§ 2852. Appeal; hearing

An appeal from a decision of the municipal officers or county commissioners under section 2851 must be to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B.

Sec. 3. 17 MRSA §2853, as amended by PL 1979, c. 27, §5, is further amended to read:

§ 2853. Recovery of expenses

If no appeal is filed, the municipal officers of such municipality shall cause said nuisance to be abated or removed in compliance with their order, and allAll expenses thereof shallincurred by a municipality or county related to an order issued under section 2851, including, but not limited to, expenses relating to the abatement or removal of a building, must be repaid to the municipality or county by the owner or eo-ownerparty in interest within 30 days after demand, or a special tax may be assessed by the assessors against the land on which saidthe building was located for the amount of suchthe expenses and suchthat amount shallmust be included in the next annual warrant to the tax collector of said townthe municipality or county for collection; and shallmust be collected in the same manner as other state, county and municipal taxes are collected.

In the case of any claim for expenses incurred in the abatement or removal of any wharf, pier, pilings or any portion thereof ~~which that~~ extends beyond the low water mark, the special tax authorized by this section ~~shall~~ must apply to the land from which ~~sue~~ the wharf, pier or pilings extended or to which they were adjacent, ~~provided if~~ the owner of the land is also the owner of the said wharf, pier, pilings or portion thereof.

Expenses ~~shall include, but not by way of limitation~~ are not limited to, the costs of title searches, location reports, service or process, reasonable attorney's fees, costs of removal of the ~~structure~~ building, any costs incurred in securing the ~~structure, building~~ pending its removal, and all other costs incurred by the municipality ~~which or county that~~ are reasonably related to the removal of the ~~structure~~ building. In addition to levying a special tax, the municipality or county may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner.

Sec. 4. 17 MRSA §2856, as enacted by PL 1979, c. 27, §6, is amended to read:

§ 2856. Securing dangerous buildings

In addition to other proceedings authorized by this subchapter, a municipality ~~shall have~~ has the right to secure ~~structures which~~ buildings that pose a serious threat to the public health and safety and to recover its expenses in so doing as provided in ~~this subchapter~~ section 2853. If a building is secured under this section, notice, in accordance with section 2851, ~~subsection 1, shall~~ 2857 must be given. This notice need not be given before securing the ~~structure~~ building if the threat to the public health and safety requires prompt action.

Sec. 5. 17 MRSA §2857, as enacted by PL 1979, c. 27, §6, is amended to read:

§ 2857. Notice; recording

Notice required under section 2851 or section 2856 must be served on the owner and parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. When the name or address of an owner or party in interest is unknown or is not ascertainable with reasonable diligence, the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper.

The municipal or county clerk shall cause an attested copy of the notice to be recorded in the Registry of Deeds located within the county where the ~~structure~~ building is situated. Recording of this notice ~~shall be deemed to put~~ puts any person claiming under the owner of a ~~structure~~ building subject to proceedings under this subchapter on notice of the pendency of the proceedings.

Sec. 6. 17 MRSA §2858, as enacted by PL 1979, c. 27, §6, is amended to read:

§ 2858. Consent to removal

The owner ~~and parties in interest~~ or a party in interest of a dangerous ~~structure~~ building may consent to its removal and to the recovery of the expenses incurred by a municipality or county by means of a special tax as set forth in this subchapter. Notices of the consent ~~shall~~ must be recorded in the Registry of Deeds located in the county where the ~~structure~~ building is situated.

Sec. 7. 17 MRSA §2859, sub-§1, as corrected by RR 2007, c. 2, §5, is amended to read:

1. Commencement of action. A municipality, acting through its building official, code enforcement officer, fire chief or municipal officers, shall file a verified complaint setting forth such facts as would justify a conclusion that a building ~~or structure~~ is "dangerous," as ~~that term is defined~~described in section 2851~~;~~, and shall state in the complaint that the public health, safety or welfare requires the immediate removal of that building ~~or structure~~.

Sec. 8. 17 MRSA §2859, sub-§2, ¶A, as enacted by PL 1981, c. 43, is amended to read:

A. Requiring the owner and all ~~parties-in-interest, as that term is defined in the statutes governing foreclosure by civil action,~~parties in interest to appear and show cause why the building ~~or structure~~ should not be ordered demolished;

Sec. 9. 17 MRSA §2859, sub-§§4 and 5, as enacted by PL 1981, c. 43, are amended to read:

4. Hearing. After hearing, the court shall enter judgment. If the judgment requires removal of the building ~~or structure~~, the court shall award costs to the municipality as authorized by this subchapter. The award of costs may be contested and damages sought in a separate action to the extent permitted by subsection 7.

5. Appeal. ~~No~~A judgment requiring demolition issued pursuant to this section may not be appealed. The owner of a building ~~or structure which~~that is the subject of an order issued under this section; or a ~~party-in-interest,~~party in interest may appeal the award of costs, if any, or seek damages for wrongful removal pursuant to subsection 7.

Sec. 10. 17 MRSA §2859, sub-§7, as amended by PL 1995, c. 450, §6, is further amended to read:

7. Damages. Any complaint that either seeks damages for the wrongful removal of a building ~~or structure~~ or challenges the award of costs must be filed no later than 30 days from the date of the judgment or order that is the subject of the appeal. The damages that may be awarded for wrongful demolition are limited to the actual value of the ~~structure~~building at the time of its removal. The provisions of Title 14, section 7552 do not apply. If the municipality ~~should prevail~~prevails, the court may award it its costs in defending any appeal, which may include, but are not limited to, reasonable attorney's fees.

SUMMARY

This bill amends the law governing dangerous buildings to provide an option under which the municipal officers or county commissioners may delay the disposal of a dangerous building if the owner or party in interest has demonstrated ability and willingness to satisfactorily rehabilitate the building. The bill clarifies the language in current law regarding recovery of expenses related to an order prescribing disposal of a dangerous building. The bill also makes several changes to clarify terminology and cross-references.