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Legislative Document

No. 1459

S.P. 505

In Senate, April 18, 2017

An Act To Protect the Public from Dangerous Buildings

Reference to the Committee on State and Local Government 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 SHEATS of Auburn and
Senator: DIAMOND of Cumberland, Representatives: FREY of Bangor, MOONEN of
Portland.

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

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

4 **§2851. Dangerous buildings**

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

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

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

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

35 ~~**2-A. Standard.** To adjudge a building to be a nuisance or dangerous, the municipal~~
36 ~~officers or county commissioners must find that the building is structurally unsafe,~~
37 ~~unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or~~
38 ~~occupancy to which it is put; constitutes a hazard to health or safety because of~~
39 ~~inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise~~
40 ~~dangerous to life or property.~~

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

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

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

20 **§2852. Appeal; hearing**

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

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

26 **§2853. Recovery of expenses**

27 ~~If no appeal is filed, the municipal officers of such municipality shall cause said~~
28 ~~nuisance to be abated or removed in compliance with their order, and all~~ All expenses
29 ~~thereof shall~~ incurred by a municipality or county related to an order issued under section
30 2851, including, but not limited to, expenses relating to the abatement or removal of a
31 building, must be repaid to the municipality or county by the owner or ~~co-owner~~ party in
32 interest within 30 days after demand, or a special tax may be assessed by the assessors
33 against the land on which ~~said~~ the building was located for the amount of ~~such~~ the
34 expenses and ~~such that~~ that amount ~~shall~~ must be included in the next annual warrant to the
35 tax collector of ~~said town~~ the municipality or county for collection, and ~~shall~~ must be
36 collected in the same manner as other state, county and municipal taxes are collected.

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

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

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

9 **§2856. Securing dangerous buildings**

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

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

18 **§2857. Notice; recording**

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

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

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

31 **§2858. Consent to removal**

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

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

