

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 602 - L.D. 1481

An Act Regarding Clearance for Occupancy Under the Lead Poisoning Control Act

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this Act needs to take effect prior to the expiration of the 90-day period because there is a shortage of housing available in the State, which makes it difficult to find alternative housing for occupants of residential dwelling units that are undergoing lead abatement activities that require the occupants to be displaced from their units; and

Whereas, this Act authorizes the Department of Health and Human Services to waive a prohibition on renting an owner-occupied residential building of 3 dwelling units or less that has been ordered to be cleared of harmful lead-based substances and is vacant; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §1322, as amended by PL 2023, c. 82, §2, is further amended to read:

§1322. Child occupants

A person may not knowingly rent a dwelling that has been posted and ordered cleared of harmful lead-based substances in accordance with section 1321, except when waived by the department in accordance with this section. In circumstances where the presence of lead-based paint or building materials is unsuspected and becomes known when the dwelling is already rented to a family with children, the family of the children may not be evicted for that reason and the owner and occupant of the dwelling must be given written notice by the department advising of the existence of lead-based substances in the dwelling and ordering that within 30 days the lead-based substances be removed, replaced or securely and permanently covered.

Until the owner brings any residential dwelling or premises into compliance with this Act while a tenant is occupying a dwelling unit, the owner shall move the tenant to a substitute dwelling unit upon reasonable notice. The department may, on a case-by-case basis, waive this requirement if the department determines that the implementation of actions to reduce lead exposure or interim controls sufficiently protects the residents of the unit until full abatement is achieved. Pursuant to section 1321, subsection 3-A, the department may order the owner to implement lead exposure reduction actions or interim controls as determined by the department with reasonable notice. The owner shall pay reasonable moving expenses and any use and occupancy charges for a substitute dwelling unit that exceed the rent for the vacated dwelling unit for which the tenant remains responsible. "Substitute dwelling unit" means a dwelling unit of like or similar accommodation and in like or similar location that is lead-safe. If the tenant fails to accept the substitute dwelling unit selected by the owner while the owner is required to bring the vacated dwelling unit into compliance with this Act or the tenant fails to remain current in rent pursuant to the lease or tenancy at will under Title 14, section 6002, including the statutory period of right to cure, the owner is not obligated beyond 10 days after completion of remediation to reimburse the tenant for any expense or inconvenience other than moving expenses and any use and occupancy charges for the substitute dwelling unit selected by the owner that exceed the rent for the vacated dwelling unit.

The department may, on a case-by-case basis, waive the prohibition on renting and permit the owner of an owner-occupied residential dwelling of 3 dwelling units or fewer for which lead-based substances have been ordered to be removed, replaced or securely and permanently covered in accordance with section 1321 to rent a vacant unit or units in that residential dwelling before full abatement of the dwelling is achieved if the department determines that residents may be sufficiently protected from lead-based substances in the dwelling.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.