

# MAINE STATE LEGISLATURE

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SEVENTH REVISION

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REVISED STATUTES

OF THE  
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## CHAPTER 108.

### Forcible Entry and Detainer. Tenancies.

**Sec. 1. Forcible entry and detainer, against whom maintained.** R. S. c. 99, § 1. Process of forcible entry and detainer may be maintained against a disseisor who has not acquired any claim by possession and improvement; against a tenant holding under a written lease or contract, or person holding under such tenant, at the expiration or forfeiture of the term, without notice, if commenced within seven days from the expiration or forfeiture of the term; and against a tenant at will, whose tenancy has been terminated as provided in the following section.

18 Me. 268; 25 Me. 285; 30 Me. 180; 35 Me. 217; 46 Me. \*278, \*550; 57 Me. 390; 65 Me. 226; 67 Me. 266; 69 Me. 482; 70 Me. 209; 72 Me. 28, 45; 84 Me. 532; 96 Me. 119; 97 Me. 308, 317, 318; \*107 Me. 386; 108 Me. 260, 529; 113 Me. 213.

**Sec. 2. Tenancy at will, how determined; applies to buildings on land of another party.** R. S. c. 99, § 2. Tenancies at will may be determined by either party, by thirty days' notice in writing for that purpose, given to the other party, and not otherwise save by mutual consent, excepting cases where the tenant, if liable to pay rent, shall not be in arrears at the expiration of the notice, in which case the thirty days' notice aforesaid shall be made to expire upon a rent day. Either party may waive in writing said thirty days' notice, or any part thereof. When the tenancy is terminated, the tenant is liable to the process of forcible entry and detainer without further notice and without proof of any relation of landlord and tenant, unless he has paid, after service of the notice, rent that accrued after the termination of the tenancy. These provisions apply to tenancies of buildings erected on land of another party.

See c. 26, § 3; c. 135, § 26; 13 Me. 215; 21 Me. 116; 24 Me. 247; 35 Me. 506; \*36 Me. 135; \*46 Me. 552; 50 Me. 325; 62 Me. 117, 551; 67 Me. 266; 71 Me. 550; 72 Me. 28, 135; 74 Me. 500; 82 Me. 424; 84 Me. 532; 90 Me. 539; 93 Me. 188; 108 Me. 260, 529; 111 Me. 217; 114 Me. 112.

**Sec. 3. Jurisdiction.** R. S. c. 99, § 3. Trial justices and judges of municipal and police courts have jurisdiction of cases of forcible entry and detainer respecting estates within their counties. Such judges have exclusive jurisdiction of such cases within their cities or towns, unless interested.

38 Me. 484; 51 Me. 479; 53 Me. 159; 108 Me. 527.

**Sec. 4. How to be commenced; recognizance when plaintiff lives out of state.** R. S. c. 99, § 4. The process of forcible entry and detainer shall be commenced by inserting the substance of the complaint, as a declaration, in a writ of attachment, to be indorsed and served like other writs; and when the plaintiff lives out of the state, and a recognizance is required of him, any person may recognize in his behalf and shall be personally liable.

71 Me. 209; 108 Me. 530.

**Sec. 5. When writ of possession to issue; service.** R. S. c. 99, § 5. When the defendant is defaulted, or fails to show sufficient cause, judgment shall be rendered against him for possession of the premises, and a writ of possession be issued to remove him, which may be served by a constable.

**Sec. 6. Proceedings, when defendant files a brief statement of title.** R. S. c. 99, § 6. When the defendant pleads not guilty and files a brief statement of title in himself or in another person under whom he claims the premises, he

shall, except as hereinafter provided, recognize in a reasonable sum to the claimant, with sufficient sureties, conditioned to pay all intervening damages and costs and a reasonable rent for the premises; and the claimant shall in like manner recognize to the defendant, conditioned to enter the suit at the next term of the superior court, and to pay all costs adjudged against him. If either party neglects so to recognize, judgment shall be rendered against him as on nonsuit or default.

36 Me. 431; \*49 Me. 41; \*53 Me. 159; \*65 Me. 229; 68 Me. 120; 84 Me. 191; 113 Me. 522; 115 Me. 441.

**Sec. 7. Claimant may allege that brief statement is intended for delay.** R. S. c. 99, § 7. The claimant may make a written allegation that the brief statement of the defendant is frivolous and intended for delay, and the magistrate shall then examine the case so far as to ascertain the truth of such allegation, and if satisfied of the truth thereof, he shall proceed to try the cause upon the plea of not guilty, and if it is determined in favor of the claimant, he may issue a writ of possession for removal of the defendant; but this shall not prevent an appeal as provided in the following section.

**Sec. 8. Appeal; proceedings.** R. S. c. 99, § 8. Either party may appeal from a judgment to the superior court next to be held in the county. When the claimant appeals, he shall recognize in manner aforesaid to the defendant, except as hereinafter provided, conditioned to enter the suit and to pay all costs adjudged against him. When the defendant appeals, he shall recognize in like manner to the claimant, conditioned to enter the suit and to pay all intervening costs and such reasonable rent of the premises, as the magistrate shall adjudge, if the judgment is not reversed.

36 Me. 432; 68 Me. 120; 97 Me. 313.

**Sec. 9. When judgment is rendered for claimant, he shall have immediate possession, on filing recognizance.** R. S. c. 99, § 9. When judgment is rendered for the claimant, a writ of possession shall issue in all cases, if the claimant recognizes to the defendant in the manner before provided, conditioned to pay all such damages and costs as may be awarded against him if final judgment is rendered for the defendant; and if on trial the jury find for the defendant, they shall also find the damages sustained by him; in case of nonsuit his damages shall be assessed by the court; and in either case the claimant may give evidence of any claim for rent of the premises, to be set off against damages claimed by the defendant. If the defendant prevails, the court may or not, as justice requires, issue a writ to restore to him possession of the premises.

97 Me. 313.

**Sec. 10. Sums due for rent and damages, how recovered.** R. S. c. 99, § 10. 1917, c. 282. Sums due for rent on leases under seal or otherwise, and claims for damages to premises rented, may be recovered in an action of assumpsit on account annexed to the writ, specifying the items and amount claimed, but no action or suit at law in assumpsit, debt, covenant broken, or otherwise, shall be maintained for any sum or sums claimed to be due for rental or for any claim for damages for the breach of any of the conditions claimed to be broken on the part of the lessee, his legal representatives, assigns, or tenant, contained in a lease or written agreement to hire or occupy any building, buildings, or part of a building, during a period when such building, buildings, or part of a building, which the lessee, his assigns, legal representatives, or tenant may occupy or have a right to occupy, shall have been destroyed or damaged by fire or other unavoidable casualty, so that the same shall be thereby rendered unfit for use or habitation; and no agreement contained in a lease of any building, buildings

or part of a building or in any written instrument, shall be valid and binding upon the lessee, his legal representatives or assigns, to pay the rental stipulated in said lease or agreement, during a period when the building, buildings, or part of a building described therein shall have been destroyed or damaged by fire or other unavoidable casualty, so that the same shall be rendered unfit for use and habitation.

76 Me. 497; \*84 Me. 538; 93 Me. 187; 96 Me. \*103, 373; \*112 Me. 479.

Tenancies may be terminated on account of maintenance of nuisance as defined in c. 26, §§ 1, 3; upon conviction of keeping house of ill fame, c. 135, § 26.

Tenancies of mills may be terminated on account of unlawful obstruction of streams, c. 106, § 34.

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## CHAPTER 109.

### Waste and Trespass on Real Estate.

**Sec. 1. Remedy, if tenant commits waste.** R. S. c. 100, § 1. If a tenant in dower, by curtesy, for life, or for years, commits or suffers any waste on the premises, the person having the next immediate estate of inheritance, may recover the place wasted and the damages done to the premises, in an action of waste against him; and an heir may recover in the same action for waste done in his own time and in the time of his ancestor.

12 Me. 436; 19 Me. 291; 51 Me. 436.

**Sec. 2. Jury assess damages; action may be on the case.** R. S. c. 100, § 2. Any issue of fact shall be tried by a jury, with or without a view of the premises, as the court orders; and the jury that inquires of the waste shall assess the damages. An action on the case in the nature of waste, may be substituted for the action of waste.

37 Me. 365; 51 Me. 436; 52 Me. 143.

**Sec. 3. Remainder man or reversioner may sue.** R. S. c. 100, § 3. The remainder man, or reversioner for life or for years only, or in fee simple, or fee tail, after an intervening estate for life, may maintain such action, and recover the damages which he has suffered by the waste.

37 Me. 365; 51 Me. 436.

**Sec. 4. Action lies against executor, etc.** R. S. c. 100, § 4. Such action may be originally commenced against the executors or administrators of the tenant, or if commenced against him, it may be prosecuted against them after his death.

**Sec. 5. Part owners not to commit waste, without giving notice; treble damages in such cases.** R. S. c. 100, § 5. If any joint tenant or tenant in common of undivided lands, cuts down, destroys, or carries away trees, timber, wood, or underwood, standing or lying on such lands, or digs up or carries away ore, stone, or other valuable thing found thereon, or commits strip or waste, without first giving thirty days' notice in writing, under his hand, to all other persons, or to their agents or attorneys, and to mortgagors and mortgagees, if any there are, interested therein, of his intention to enter upon and improve the land; which notice to such persons interested as are unknown, or whose residence is unknown, or who are out of the state, may be published in the state paper three times, the first publication to be forty days before such entry; or if he does any such acts pending a process for partition of the premises, he shall forfeit three times the amount of damages; and any one or more of the co-ten-