

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 675**

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S. P. 229

In Senate, February 10, 1971

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Tanous of Penobscot.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT to Amend the Laws Relating to Forcible Entry and Detainer.**

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

**Sec. 1. R. S., T. 14, § 6001, amended.** Section 6001 of Title 14 of the Revised Statutes is amended by adding at the end the following 2 new paragraphs:

The process of forcible entry and detainer shall not be maintained against a tenant by a 3rd party lessee, grantee, assignee or donee of the tenant's premises, if the primary purpose of any conveyance to such lessee, assignee, grantee or donee is to accomplish eviction of the tenant.

Where the tenant proves that within the past 6 months he has complained as an individual, or that a complaint has been made in his behalf, in good faith of conditions in or affecting his dwelling unit which may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of such code, ordinance, regulation or statute or such a body has filed a notice or complaint of such a violation, a presumption shall arise that the action of forcible entry and detainer was commenced in retaliation for such complaint or notice. No writ of possession shall issue in the absence of rebuttal of the presumption of retaliation. No writ of possession shall issue when the tenant proves that the action of forcible entry and detainer was commenced in retaliation for the tenant's membership in an organization concerned with landlord-tenant relationships.

**Sec. 2. R. S., T. 14, § 6002, amended.** The first 2 sentences of section 6002 of Title 14 of the Revised Statutes are amended to read as follows:

Tenancies at will ~~may~~ **must** be ~~determined~~ **terminated** by either party by 30 days' notice, **except as provided in subsection 1**, 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 30 days' notice shall be made to expire upon a rent day, **provided that either party may waive in writing said 30 days' notice at the time said notice is given, and at no other time prior to the giving of such notice.** ~~Either party may waive in writing said 30 days' notice or any part thereof.~~

**Sec. 3. R. S., T. 14, § 6002, sub-§ 1, additional.** Section 6002 of Title 14 of the Revised Statutes is amended by adding a new subsection 1 to read as follows:

1. **Damage to premises.** In the event that the landlord can show, by affirmative proof, that the tenant, the tenant's family or invitee of the tenant has caused intentional and substantial damage to the demised premises, the tenancy may be terminated by the landlord by 7 days' notice in writing for that purpose given to the tenant.

#### STATEMENT OF FACT

The intent of the amendment to section 6001 of Title 14 of the Revised Statutes is to do away with the lease out or so-called straw lease situation whereby a landlord can evict a tenant by temporarily leasing or selling his property to another person. Additionally, the intent of the 2nd paragraph of the amendment to section 6001 is to provide a tenant a defense against a retaliatory eviction which occurs after a tenant has complained to an official of a violation of the building, housing, sanitary or other code or a retaliatory eviction for membership in an organization concerned with landlord-tenant relationships.

The intent of the amendment to section 6002 of Title 14 is to attempt to cure the problem of unknowing waiver of notice by a tenant. Under the new provision the waiver would occur after notice of eviction and not before or at the beginning of the tenancy as is presently the practice. The amendment will also provide relief to the landlord in the situation where the tenant is damaging the property.