

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 829

H. P. 669

House of Representatives, February 28, 1979

On Motion of Mr. Hobbins of Saco, referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Berube of Lewiston.

Cosponsor: Mr. Nadeau of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT Concerning Writ of Possession.

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

14 MRSA § 6005 is amended to read:

§ 6005. Writ of possession; service

When the defendant is defaulted or fails to show sufficient cause, judgment shall be rendered against him **by the District Court** for possession of the premises and a writ of possession be issued to remove him, which may be served by a constable.

When a writ of possession has been served on the defendant by a constable or sheriff and the defendant fails to remove himself or his possessions within 48 hours of service by the constable or sheriff, the defendant shall be deemed a trespasser without right and the defendant's goods and property shall be considered by law to be abandoned and subject to attachment.

STATEMENT OF FACT

The first paragraph has been amended to clarify that it is the District Court which issues writ of possessions. The 2nd paragraph has been added to solve a time problem which has been plaguing the landlord for years. The typical eviction

procedure requires that if a tenant is behind in rent the tenant must be given either a 7-day notice or a 30-day notice. If the tenant is given a 30-day notice, at the end of that 30 days the tenant is summoned to court 7 days following the end of the 30-day period, provided that day falls on a certain day of the week on which the court holds a hearing. Following the hearing the court may issue a 5 day writ of possession which indicates that at the end of the 5-day period the landlord may have possession of his apartment. The 2nd paragraph resolves the problem where a landlord has given notice to a tenant by a sheriff of the fact that the dwelling unit now belongs to the landlord. In many cases the tenant refuses to leave requiring a costly process of hiring a professional mover to move the items in which many cases would be considered junk and requires the landlord to place these items in storage at his own expenses, the law being vague as to how long the items must be kept in storage by the landlord and whether the landlord must pay for an indefinite period of time for the storage of the goods, which value may be nonexistent.