

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 281

S.P. 108

In Senate, February 9, 1987

Reference to the Committee on Legal Affairs suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate  
Presented by Senator MAYBURY of Penobscot.

Cosponsored by Senator DOW of Kennebec, Representative  
HANDY of Lewiston, Representative MURPHY of Berwick.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Require the Prompt Issuance and  
2 Service of Writs of Possession.  
3

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

6 14 MRSA §6002, sub-§4 is enacted to read:

7 4. Writ of possession; issuance and service. In  
8 the case of tenancies at will terminated under this  
9 section, except as provided in this subsection, the  
10 provisions relating to the process of forcible entry  
11 and detainer apply.

12 A. When the defendant is defaulted or fails to  
13 show sufficient cause, judgment shall be immedi-  
14 ately rendered against the defendant by the Dis-  
15 trict Court for possession of the premises and a

1 writ of possession shall issue on the date of the  
2 judgment to remove him. The writ of possession  
3 may be served by a constable or sheriff.

4 B. There may be no appeal from the judgment.

5 C. Upon receipt of the writ of possession, the  
6 sheriff or constable charged with service shall  
7 cause the writ to be served upon the defendant as  
8 soon as possible and no later than 48 hours of  
9 receipt of this writ. Nothing contained in this  
10 subsection may be construed to impair the validi-  
11 ty of a writ served more than 48 hours after re-  
12 ceipt by the constable or sheriff.

13 D. The plaintiff shall be entitled to immediate  
14 relief in either the District Court or Superior  
15 Court in the county where the property is lo-  
16 ated, to enforce the prompt issuance and service  
17 of writs in accordance with this subsection. The  
18 courts may issue such orders as may be necessary  
19 to enforce the provisions of this subsection.  
20 The relief shall be on an order to show cause re-  
21 quiring the responsible person to appear in court  
22 at a time certain not exceeding 36 hours after  
23 the filing of a petition to appear and show cause  
24 why he should not be ordered to issue or serve  
25 the writ, as the case may be, and the court may  
26 order relief in the nature of mandamus, injunc-  
27 tion or such other order as the court may deem  
28 appropriate.

29 E. When a writ of possession has been served on  
30 the defendant by a constable or sheriff and the  
31 defendant fails to remove himself or his posses-  
32 sions within 48 hours of service by the constable  
33 or sheriff, the defendant is deemed a trespasser  
34 without right and the defendant's goods and prop-  
35 erty are considered by law to be abandoned and  
36 subject to section 6013.

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STATEMENT OF FACT

2           When judgment has been found in favor of the  
3 landlord in an eviction case, this bill specifies  
4 when the writ of possession must be issued and served  
5 upon the tenant.

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