

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

No. 1457

S.P. 465

In Senate, May 6, 1993

**An Act to Simplify Procedures for Property Abandoned by Tenants.**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LAWRENCE of York.

Cosponsored by Senator: HANDY of Androscoggin, Representatives: BOWERS of Washington,  
DAGGETT of Augusta.

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

2  
4       Sec. 1. 14 MRSA §6013, as amended by PL 1991, c. 265, §1, is further amended to read:

6       **§6013. Property abandoned by tenant**

8       Any property with a total value of \$500 or more that is  
10       abandoned or unclaimed by a tenant following the tenant's  
12       vacating the rental unit premises must be placed in a safe, dry  
and secured location and disposed of according to Title 33,  
chapter 37.

14       ~~The landlord shall place in storage in a safe, dry, secured  
location any property with a total value of less than \$500 that  
16       is abandoned or unclaimed by a tenant following the tenant's  
vacating the rental unit. The landlord shall send written notice  
18       by first class mail with proof of mailing to the last known  
address of the tenant concerning the landlord's intent to dispose  
20       of the abandoned property. The notice must include an itemized  
list of the items and containers of items of property abandoned.  
22       If the tenant claims the property within 14 days after the notice  
is sent, the landlord shall continue to store the property for at  
24       least 10 days after the tenant's response to allow the tenant  
time to take possession of the property. The landlord may  
26       condition the release of the property to the tenant upon the  
tenant's payment of all rental arrearages, damages and costs of  
28       storage. If the property remains unclaimed after the 14th day  
after notice has been sent or after the 10th day after the tenant  
30       claims the property, the landlord may sell the property for a  
reasonable fair market price and apply all proceeds to rental  
32       arrearages, damages and costs of storage and sale. All remaining  
balances must then be forwarded to the Treasurer of State.~~

34       Sec. 2. 33 MRSA §1818, as amended by PL 1991, c. 265, §§2 to  
36       5, is repealed.

38       Sec. 3. 33 MRSA §§1818-A and 1818-B are enacted to read:

40       **§1818-A. Property held by landlords**

42       1. Presumption of abandonment. Tangible and intangible  
property, held by a landlord, that has been left on the premises  
44       after a tenant has vacated the premises or 48 hours after the  
service of writ of possession, in accordance with Title 14,  
46       section 6005, is presumed abandoned and must be disposed of as  
set forth in this section.

48       2. Notice of abandoned property. Any property that is  
50       abandoned or unclaimed by a tenant following the tenant's

2 vacating the rental premises must be placed in a safe, dry and  
4 secure location. The landlord shall send written notice by first  
6 class mail, return receipt requested, to the last known address  
8 of the tenant describing the landlord's intent to dispose of the  
10 abandoned property. The notice must include an itemized list of  
12 the abandoned property and a statement that the tenant may claim  
14 and recover the possession of the property within 21 days from  
16 the mailing date of the notice. The notice must also state the  
18 landlord's intention regarding the further disposition of the  
20 property if it is not reclaimed before the expiration of the  
22 21-day period and state that the landlord may condition release  
24 of the property to the tenant upon the tenant's payment of the  
26 landlord's actual costs of storage for the property. A landlord  
28 who uses the form notice in section 1818-B is determined to have  
30 met the requirements of this section.

3. Sale and disposal of abandoned property. If the  
18 abandoned property remains unclaimed after the expiration of the  
20 21-day notice period set forth in subsection 2, then the landlord  
22 shall dispose of the property as follows.

22 A. Abandoned property that has a total fair market value of  
24 less than \$500 becomes the property of the landlord after  
26 the expiration of the 21-day period, and the landlord may  
28 elect to discard, retain, donate or sell the abandoned  
30 property. If the landlord elects to sell the property, the  
32 landlord shall apply the proceeds of the sale to claims for  
34 unpaid rent, damages to the premises and the actual expenses  
36 of storage, notice and sale. In any action brought by the  
38 tenant for damages against the landlord for wrongfully  
40 disposing of the property under this subsection, the  
42 landlord bears the burden of proof as to the valuation of  
44 the property.

36 B. Abandoned property that has a total fair market value of  
38 \$500 or more must be sold at public or private sale,  
40 provided that 30 days prior to a public sale or within 30  
42 days after a private sale, written notification of the sale  
44 is given to the tenant at the tenant's last known address.  
46 This notice may be combined with the notice required by  
48 subsection 2. The landlord shall maintain records of the  
50 sale including the date, method of advertisement, if any,  
52 the name and address of each purchaser, the items purchased  
54 at the sale and the amount paid for each item.

46 At any time prior to the actual sale of the property, the  
48 tenant may recover possession of the property and the  
50 landlord may condition the release of that property to the  
52 tenant upon the tenant's payment of the landlord's actual

2 costs of storage, notice and preparation for the sale of the  
3 property.

4 After sale of the property, the landlord may apply any  
5 proceeds from the sale to unpaid rent, damages to the  
6 premises and the actual expenses of storage, notice and  
7 sale. Any balance must be paid to the tenant and  
8 accompanied by a statement itemizing the deductions taken by  
9 the landlord from the proceeds of the sale. If the tenant's  
10 whereabouts are not known, any balance must be reported and  
11 delivered to the administrator in accordance with the  
12 provisions of this Act.

13  
14 C. Mobile homes that are abandoned must be reported to the  
15 administrator as required by this Act. If the administrator  
16 refuses delivery of the mobile home and authorizes a holder  
17 to sell that mobile home, the landlord shall sell the mobile  
18 home in accordance with any requirements imposed by the  
19 administrator. Prior to the sale, the landlord shall give  
20 30 days written notification to the tenant at the tenant's  
21 last known address. The landlord shall maintain records of  
22 the sale, including the date, method of advertisement, the  
23 name and address of the purchaser and the sale price. At  
24 any time prior to the actual sale of the mobile home, the  
25 tenant may recover possession of the mobile home and the  
26 landlord may condition the release of that property to the  
27 tenant upon the tenant's payment of the landlord's actual  
28 costs of storage, notice and preparation for the sale of the  
29 property.

30  
31  
32 After the sale of the mobile home the landlord may apply any  
33 proceeds from the sale to unpaid rent, damages to the  
34 premises and the actual expenses of storage, notice and  
35 sale. Any balance and the records of the sale must be  
36 reported and delivered to the administrator in accordance  
37 with this Act.

38 The record of the sale must include the name and last known  
39 address of the owner prior to sale, a description of the  
40 property, the proceeds of the sale, an itemization of any  
41 authorized deductions subtracted from the sale proceeds and  
42 the balance remaining.

43  
44 **§1818-B. Notice of abandoned property**

45 The following form notice must be used by a landlord to  
46 comply with the notice requirements of section 1818-A:

47  
48 Date.....

Name.....

2 Address of tenant.....

4 This is to inform you that property has been left unclaimed  
6 at your former rental premises at (address of rental premises).  
8 The following is an itemized list of the property that has been  
10 left at the premises.

12 Pursuant to the provisions of the Maine Revised Statutes,  
14 Title 33, section 1818-A, you have 21 days from the postmark date  
16 of this letter to reclaim possession of your property. The  
18 release of your property may be conditioned upon payment of  
20 actual costs for the storage of this property. To make  
22 arrangements for the return of your property, please contact  
24 (name, address and telephone number of landlord or agent).

26 If you do not take possession of your property before the  
28 expiration of the 21-day period, your property will be disposed  
30 of as follows (check appropriate box).

32  Your property has a total fair market value of  
34 less than \$500. After the expiration of the  
36 21-day period mentioned above, you will lose  
38 ownership rights to the property and the landlord  
40 may elect to discard, retain, donate or sell the  
42 property.

44  Your property has a total fair market value of  
46 \$500 or more. After the expiration of the 21-day  
48 period mentioned above, your property will be sold  
at a public or private sale as described below:

Public sale (state date, time and place of  
public sale); or

Private sale.

You may recover possession of the property prior to the  
actual sale of the property. The release of the property may be  
conditioned upon payment of the actual costs of storage, notice  
and preparation for the sale of the property.

Mobile home. A report will be made to the  
Treasurer of State who will either accept delivery  
of the mobile home or give further instruction as  
to the terms and conditions for the sale of the  
mobile home. You may reclaim possession of your  
mobile home at any time prior to the sale and the  
release of the mobile home may be conditioned on

2                   the payment of actual costs of storage, notice and  
3                   preparation for the sale of the mobile home.

4                   YOUR FAILURE TO ACT MAY RESULT IN THE LOSS OF YOUR PROPERTY.

6                   Sec. 4. 38 MRSA §1853, sub-§6, as enacted by PL 1987, c. 691,  
7                   §4, is amended to read:

8                   **6. Property refused by the administrator.** If the  
10 administrator refuses to accept tangible personal property  
11 presumed abandoned under section ~~1818~~ 1818-A, subsection 1, and  
12 that property cannot be reasonably sold under section ~~1818~~,  
13 ~~subsection 2~~ 1818-A, subsection 3, paragraphs A, B and C, then  
14 the landlord, after notice to the owner or tenant as provided in  
15 section ~~1818~~ 1819, subsection 2, paragraph A, subparagraphs (1)  
16 and (2), shall hold that property for the owner to claim for 60  
17 days. If that property is unclaimed after that period, then the  
18 landlord ~~shall be~~ is relieved of all liability for delivering  
19 that property and the landlord may dispose of it as the landlord  
20 wishes.

22                   **STATEMENT OF FACT**

24                   This bill amends existing abandoned property laws regarding  
25 the treatment of property abandoned by tenants. The bill  
26 streamlines and simplifies the procedure for handling abandoned  
27 property by requiring a 21-day notice period and by providing a  
28 form notice to facilitate compliance with the law.

30                   The bill also:

32                   1. Permits landlords to keep, discard, donate or sell  
33 abandoned property with a total fair market value of less than  
34 \$500 after the expiration of the 21-day notice period;

36                   2. Allows landlords to dispose of abandoned property with a  
37 total fair market value of \$500 or more, without notification to  
38 and permission from the Treasurer of State, unless the property  
39 is an abandoned mobile home;

42                   3. Allows landlords to condition release of the abandoned  
43 property to the former tenant prior to the actual sale upon the  
44 tenant's payment of the actual costs of storage, notice and  
45 preparation costs of the sale; and

46                   4. Corrects a statutory section reference that is in error.