

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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Legislative Document

No. 1709

S.P. 611

In Senate, January 11, 1994

**An Act to Clarify the Assignment of Hotel Revenues as Rent under  
Maine Law.**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on Judiciary 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 CONLEY of Cumberland.

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

4 Sec. 1. 33 MRSA c. 9, sub-c. I-A is enacted to read:

6 SUBCHAPTER I-A

8 RENTS, ISSUES OR PROFITS

10 §511. Definitions

12 As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Rents, issues or profits. "Rents, issues or profits"  
16 means amounts payable by or on behalf of any lessee, tenant or  
18 other person having a possessory interest in real estate on  
20 account of or pursuant to any written or oral lease or other  
22 instrument evidencing a possessory interest in real property, or  
24 pursuant to any form of tenancy implied by law, and amounts  
26 payable by or on behalf of the licensee, permittee or other  
28 person occupying or using real property under license or  
30 permission of the owner or person entitled to possession.  
32 "Rents, issues or profits" applies regardless of whether the  
34 licensee, permittee or other person acquires an interest in the  
36 real property under the laws of this State, and regardless of  
whether services are rendered or available in connection with the  
occupation or use of the real property. "Rents, issues or  
profits" includes, but is not limited to, revenues and proceeds  
arising from the operation of hotels, motels, campgrounds and  
other real estate occupied or used by the licensee, permittee or  
other person, whether or not on a transient basis. "Rents,  
issues or profits" does not include farm products as defined in  
Title 11, section 9-109, subsection (3), timber, the proceeds  
from the sale of farm products or timber or the proceeds from the  
recovery or severance of any mineral deposits located on or under  
the real property.

38 2. Assignment of rents, issues or profits. "Assignment of  
40 rents, issues or profits" means any evidence of an assignment,  
42 transfer, pledge, mortgage or conveyance of an interest in  
44 leases, licenses to real property or rents, issues or profits, as  
46 described in the document, whether set forth in a separate  
48 instrument or contained in a mortgage, deed of trust, conditional  
sales contract or other deed or instrument of conveyance.  
"Assignment of rents, issues or profits" includes, but is not  
limited to, any assignment of rents, issues or profits made and  
delivered to secure obligations to the assignee.

50 §512. Recording of assignment

2 The recording, in accordance with chapter, 11 of a written  
4 document containing an assignment of rents, issues or profits is  
6 valid and enforceable from the time of recording to pass the  
8 interest granted, pledged, assigned or transferred as against the  
10 assignor, and is perfected from the time of recording against  
12 subsequent assignees, lien creditors and purchasers for a  
14 valuable consideration from the assignor.

16 **§513. Effect of assignment**

18 The assignee of an assignment of rents, issues or profits is  
20 entitled, but not required, in accordance with the terms of the  
22 assignment, to collect and receive any accrued and unpaid or  
24 subsequently accruing rents, issues or profits subject to the  
26 assignment without the appointment of a receiver, an act to take  
28 possession of the property or a further demand on the assignor.  
30 Unless otherwise agreed, the assignee is entitled to notify any  
32 tenant or other obligor to make payment to the assignee and to  
34 take control of any proceeds to which the assignee may be  
36 entitled. The assignee may deduct reasonable expenses of  
38 realization from the collections.

40 **§514. Effect on other laws**

42 This subchapter does not preclude other methods of creating,  
44 perfecting, collecting, sequestering or enforcing a security  
46 interest in rents, issues or profits otherwise recognized by the  
48 laws of this State.

50 **§515. Application**

52 This subchapter applies to all rents, issues or profits  
54 arising on or after enactment of this section, regardless of the  
56 date of execution or recording of the assignment of, rents,  
58 issues or profits.

60 **STATEMENT OF FACT**

62 This bill clarifies the effect of assignment of rents,  
64 issues or profits under Maine law. This legislation is necessary  
66 to respond to 2 recent bankruptcy court decisions that have held  
68 that, under Maine law, hotel revenues do not constitute rent or  
70 products or proceeds of the real estate comprising the hotel. In  
72 re *Majestic Hotel Assoc.*, 131 B.R. 523 (Bankr. D. Me. 1991); In  
74 re *The Green Corporation*, Chapter 11 Case No. 92-10903, slip op.  
76 (Bankr. D. Me. May 18, 1993).

78 Rents, issues or profits include not only rent payable under  
80 a traditional lease or tenancy, but also revenues and proceeds

2 such as hotel and motel receipts and similar payments in exchange  
for shelter by transient licensees and permittees.

4 This bill applies to all rents, issues or profits described  
6 in or otherwise subject to an assignment that arise on or after  
the date of enactment of the amendment, even if the assignment is  
8 executed prior to the date of enactment.

10 \_\_\_\_\_  
12  
14 This document has not yet been reviewed to determine the  
need for cross-reference, stylistic and other technical  
amendments to conform existing law to current drafting standards.