

# MAINE STATE LEGISLATURE

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L.D. 205

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LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 158, L.D. 205, Bill, "An Act to Repeal the Provision of Law Voiding a Lease for Premises Defined as a Common Nuisance"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend Provisions of Law Voiding a Lease for Premises Defined as a Common Nuisance'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 14 MRSA §6014, sub-§1, as enacted by PL 1981, c. 428, §8, is amended to read:

1. Illegal evictions. Evictions-which Except as permitted by Title 15, chapter 517 or Title 17, chapter 91, evictions that are effected without resort to the provisions of this chapter are illegal and against public policy. Illegal evictions include, but are not limited to, the following.

A. No landlord may willfully cause, directly or indirectly, the interruption or termination of any utility service being supplied to the tenant including, but not limited to, water, heat, light, electricity, gas, telephone, sewerage, elevator or refrigeration, whether or not the utility service is under the control of the landlord, except for such temporary interruption as may be necessary while actual repairs are in process or during temporary emergencies.

COMMITTEE AMENDMENT

**ADS**

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2 B. No landlord may willfully seize, hold or otherwise  
directly or indirectly deny a tenant access to and  
4 possession of the tenant's rented or leased premises, other  
than through proper judicial process.

6 C. No landlord may willfully seize, hold or otherwise  
directly or indirectly deny a tenant access to and  
8 possession of the tenant's property, other than by proper  
judicial process.

10 **Sec. 2. 17 MRSA §2741, first ¶**, as amended by PL 1993, c. 98,  
12 §1, is further amended to read:

14 All places used as houses of ill fame or for the illegal  
16 sale or keeping of intoxicating liquors or scheduled drugs, or  
resorted to for lewdness or gambling; all houses, shops or places  
18 where intoxicating liquors are sold for tippling purposes; and  
all places of resort where intoxicating liquors are kept, sold,  
20 given away, drunk or dispensed in any manner not provided for by  
law are common nuisances. The Superior Court has jurisdiction,  
22 upon information filed by the Attorney General or the district  
attorney or upon complaint filed by not less than 7 legal voters  
24 of that county setting forth any of the facts contained in this  
section, to restrain, enjoin or abate the same, and an injunction  
26 for such purpose those purposes may be issued by the court. ~~Sueh  
an injunction forever runs against the building or other place or  
structure while titled in the name of the same owner under which  
the nuisance was initially enjoined. The injunction ceases to  
run against the building or other place or structure upon  
transfer of ownership to a bona fide purchaser. Following the  
issuance of such an injunction, if the Attorney General or  
32 district attorney has reasonable grounds to question whether a  
transfer of ownership is to a bona fide purchaser, the Attorney  
34 General or district attorney, within one year from the date of  
transfer of ownership, shall move the court to reinstate the  
36 injunction against the title of the new owner. The injunction or  
order to restrain, enjoin or abate the common nuisance forever  
38 runs against the building or other place or structure, except  
that, upon motion of an owner filed not sooner than 6 months from  
40 the date of the injunction or order, the Superior Court may  
remove or modify the injunction or order upon a showing by the  
42 owner, by a preponderance of evidence, that the nuisance has  
abated. No dismissal of such information or complaint may  
44 prevent action upon any information or complaint subsequently  
filed covering the same subject matter.~~

46 **Sec. 3. 17 MRSA §2742**, as amended by PL 1991, c. 797, §4, is  
48 further amended to read:

50 **§2742. Penalties**

**COMMITTEE AMENDMENT**

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Whoever ~~keeps or maintains such nuisance~~ keeps, allows or maintains any building, place or structure declared by the Superior Court to be a common nuisance upon the filing of information pursuant to section 2741 commits a Class E crime. Default in payment of a fine imposed under this section is a separate Class E crime.

**Sec. 4. 17 MRSA §2743** is amended to read:

**§2743. Lease void; remedy of owner**

If any tenant or occupant, under any lawful title, of any building or tenement not owned by him ~~the tenant or occupant~~ uses it ~~the building or tenement~~ or any part thereof of the building or tenement for any purpose named in section 2741, he ~~the tenant or occupant~~ forfeits ~~his right thereto~~ all rights to the building or tenement, and the owner thereof ~~may make immediate entry, without process of law, or may avail himself of the remedy provided in Title 14, chapter 709~~ of the building or tenement upon the commencement of an action under Title 14, chapter 709 may seek any remedy provided by chapter 709 or upon a declaration of a common nuisance by the Superior Court upon the filing of information by the Attorney General, the district attorney or a prosecuting attorney assigned pursuant to Title 25, section 2955 may make immediate entry and take possession without further process of law or as otherwise ordered by the Superior Court.

**Sec. 5. 17 MRSA §2744**, as amended by PL 1991, c. 797, §4, is repealed.'

Further amend the bill by inserting at the end before the statement of fact the following:

**· FISCAL NOTE**

This bill may increase the number of civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

**STATEMENT OF FACT**

This amendment repeals the provisions of the Maine Revised Statutes, Title 17, section 2744 and shifts the burden to a landowner to demonstrate that a nuisance has abated before any

**Revised**

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2 injunction or order may be modified or lifted in keeping with the  
common law procedure for determining the duration of when a  
4 nuisance injunction runs with the land.

6 This amendment also prohibits a landlord from voiding the  
lease of a tenant on the grounds that the tenant has caused a  
common nuisance, except upon a declaration of a common nuisance  
8 by the Superior Court upon the filing of information in the  
Superior Court pursuant to Title 17, section 2741 or upon a  
10 similar finding by the District Court as part of a forcible entry  
and detainer action commenced under Title 14, chapter 709.

**COMMITTEE AMENDMENT**