

# MAINE STATE LEGISLATURE

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LEGAL AND VETERANS AFFAIRS

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Reported by: *Senator Carey*

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STATE OF MAINE  
SENATE  
118TH LEGISLATURE  
FIRST SPECIAL SESSION

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COMMITTEE AMENDMENT "A" to S.P. 557, L.D. 1683, Bill, "An Act to Clarify Issuance of the Writ of Possession"

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Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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**Sec. 1. 14 MRSA §6005, first ¶**, as amended by PL 1995, c. 208, §2, is further amended to read:

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When the defendant is defaulted or fails to show sufficient cause, judgment must be rendered against the defendant by the District Court for possession of the premises ~~and a writ of possession be issued to remove the defendant, which may be served by a constable.~~ Seven calendar days after the judgment is entered, the court shall issue the writ of possession to remove the defendant. The writ may be served by a sheriff or a constable. A writ of possession may not issue in any case in which the ground for termination of the tenancy was rent arrearage and the defendant paid the amount necessary to reinstate the tenancy as provided by section 6002.

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**Sec. 2. 14 MRSA §6008, sub-§§1 and 2**, as enacted by PL 1995, c. 448, §2, are amended to read:

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**1. Right to appeal.** Either party may appeal on questions of law from a judgment to the Superior Court as in other civil actions. Either party may appeal on any issue triable by right by a jury to a trial de novo in the Superior Court as provided in

2 this section. The time for filing an appeal of the judgment of  
3 the District Court expires upon the issuance of the writ of  
4 possession pursuant to section 6005 or 30 days from the time the  
5 judgment is entered, whichever occurs first.

6 **2. Appeal by defendant; record; stay.** When the defendant  
7 appeals, the defendant shall pay to the plaintiff or, if there is  
8 a dispute about the rent, to the District Court, any unpaid  
9 portion of the current month's rent or the rent arrearage,  
10 whichever is less. The District Court shall promptly transmit  
11 the record and any such payments to the Superior Court without  
12 waiting for the preparation of a transcript of recorded  
13 testimony. The Superior Court may stay the issuance of a writ of  
14 possession pending disposition of the appeal.

16 A. The Superior Court shall condition the granting and  
17 continuation of the stay on the defendant's payment of the  
18 current rent for the premises as required by this subsection  
19 at the time of appeal and on payment of any rent that has  
20 accrued since the filing of the appeal to the plaintiff or,  
21 if there is a dispute about the rent, into an escrow account  
22 to be administered by the clerk of the Superior Court. Upon  
23 application of either party, the Superior Court may  
24 authorize payments from the escrow account for appropriate  
25 expenses related to the premises. The appeal decision or an  
26 agreement of the parties must provide for the disposition of  
27 the escrowed rent.

28 B. The Superior Court may condition the granting and  
29 continuation of the stay, in appropriate cases, on the  
30 defendant's agreement to refrain from causing any nuisance  
31 or damage.'

### SUMMARY

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36 The amendment replaces the bill. It provides for issuance  
37 of the writ of possession 7 calendar days after the judgment is  
38 entered. It clarifies that the time for filing an appeal of a  
39 District Court judgment in a forcible entry and detainer action  
40 expires upon issuance of the writ of possession or 30 days from  
41 the time the judgment is entered, whichever occurs first. It  
42 also requires a defendant to pay the lesser of the rent arrearage  
43 or the unpaid portion of the current month's rent to the  
44 plaintiff or to the District Court at the time of an appeal to  
45 Superior Court and to pay rent that accrues during the appeal as  
46 a condition of maintaining the stay of the writ of possession.  
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