

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 759

S.P. 266

In Senate, January 28, 1999

An Act to Expedite Disputes among Commercial Landlords and Tenants.

Reference to the Committee on Legal and Veterans 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 DAGGETT of Kennebec.
Cosponsored by Representatives: FISHER of Brewer, MADORE of Augusta, MURPHY of Berwick, TUTTLE of Sanford.

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

4 **Sec. 1. 14 MRSA c. 709, is amended by amending the chapter**
headnote to read:

6 **CHAPTER 709**

8 **ENTRY AND DETAINER**

10 **SUBCHAPTER I**

12 **RESIDENTIAL LANDLORDS AND TENANTS**

14 **Sec. 2. 14 MRSA c. 709, sub-c. II is enacted to read:**

16 **SUBCHAPTER II**

18 **COMMERCIAL LANDLORDS AND TENANTS**

20 **§6017. Commercial leases**

22 **1. Definitions. As used in this subchapter, unless the**
24 **context otherwise indicates, the following terms have the**
following meanings.

26 **A. A "commercial tenancy" or "commercial lease" means a**
28 **nonresidential tenancy of premises by a for-profit business**
30 **entity. Nonprofit entities, charitable institutions and**
religious organizations may not be construed to have
commercial tenancies.

32 **2. Commercial lease relationship. Notwithstanding the**
34 **provisions of subchapter I, commercial landlords and tenants are**
36 **governed by the following provisions, and if any of the following**
38 **provisions conflict with provisions in any other statutes**
governing the relationships between landlords and tenants, this
section controls all commercial lease relationships, whether
written or oral.

40 **A. After termination of a commercial lease, and after a**
42 **complaint for forcible entry and detainer is filed, the**
44 **defendants shall, no later than the return date and as a**
46 **condition of maintaining a defense, appear on the return day**
48 **to pay the agreed-upon rent, including all arrears. If rent**
or arrears are disputed, the disputed rent, including all
claimed arrears, must be paid to the court at the time of
the hearing. In addition to deciding the right of
possession, the District Court shall also decide the amount
of rent owed, if disputed. In establishing the amount of
rent owed, the District Court may consider offsetting claims
to the extent appropriate. If undisputed, the rent and
52 **arrears must be paid to the court prior to the hearing.**

2 Upon final decision by the District Court, that court shall
3 order such sums as it determines proper to be turned over by
4 the clerk to either or both of the parties. Any order of
5 the District Court for payment of rent, whether to the
6 landlord or to the court, continues in effect through any
7 appeal of the District Court's decision. The landlord may
8 apply for turnover of rent money held by the court prior to
9 final judgment by the District Court or prior to final
10 decision on appeal by the Superior Court, upon a showing of
11 hardship and reasonable likelihood of success on the
12 merits. Failure of the tenant to pay rent to the court when
13 due causes the writ of possession to issue immediately.

14 3. Right of possession on bond for damages. When judgment
15 is rendered for the plaintiff, a writ of possession may issue
16 immediately in the District Court or from the Superior Court
17 during appeal, if the plaintiff provides the defendant with a
18 surety bond conditioned to pay all such damages and costs as may
19 be suffered by the defendant if final judgment is rendered for
20 the defendant. In setting the amount of the required surety
21 bond, the court may consider any offsetting claims between the
22 parties.

24 4. Arbitration. A commercial landlord agreement and tenant
25 may agree in their lease or in a separate agreement to
26 arbitration of disputes as to termination, the right of
27 possession arising under the lease between landlord and tenant
28 and amounts owed for rent before an arbitrator or arbitrators
29 chosen in advance pursuant to the lease or other written
30 agreement. The decision of the arbitrator is final. If the
31 arbitrator rules in favor of the landlord, the landlord may, by
32 presentation of an attested copy of the arbitrator's decision,
33 and after docketing of the arbitrator's decision by the Superior
34 Court, immediately obtain a writ of possession from the clerk of
35 the Superior Court. The arbitrator's decision may be stayed or
36 appealed from only upon such grounds as generally lie for stay or
37 appeal of an arbitration decision pursuant to the Uniform
38 Arbitration Act, Title 14, section 5949.

40 5. Jury trial. A commercial landlord and tenant may agree
41 in the commercial lease or in a separate agreement to waive jury
42 trial of disputes arising under the lease.

44 6. Jurisdiction. The District Court has jurisdiction to
45 hear, decide and award rent and arrears allegedly owing,
46 regardless of the amount.

SUMMARY

50 The purpose of this bill is to expedite disputes among
52 commercial landlords and tenants. The bill allows the landlord

and tenant the opportunity of choosing arbitration as a way of
2 resolving a dispute. The bill also establishes a bonding
mechanism for commercial landlord and tenant relationships. The
4 bill also authorizes a negotiated waiver of jury trial.