

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2005

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Legislative Document

No. 1646

H.P. 1162

House of Representatives, May 5, 2005

### An Act Regarding Buildings on Leased Lots

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CLARK of Millinocket.  
Cosponsored by Senator DAVIS of Piscataquis and  
Representatives: CARR of Lincoln, PARADIS of Frenchville, PINEAU of Jay, Speaker  
RICHARDSON of Brunswick, SHERMAN of Hodgdon, WHEELER of Kittery, Senators:  
President EDMONDS of Cumberland, STRIMLING of Cumberland.

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

2  
4       **Sec. 1. 14 MRSA §6047, sub-§1**, as repealed and replaced by PL 2003, c. 510, Pt. A, §12, is amended to read:

6       **1. Parties to agreement; purposes of agreement.** This chapter applies to agreements between:

8           A. A person, referred to in this chapter as the "lessor,"  
10 who owns land in ~~territory under jurisdiction of the Maine~~  
~~Land-Use-Regulation-Commission~~ this State; and

12           B. A person, referred to in this chapter as the "lessee,"  
14 who intends to construct or to occupy a building or  
16 buildings owned by that person on leased land in ~~territory~~  
~~under jurisdiction of the Maine Land-Use-Regulation~~  
18 ~~Commission~~ this State for recreational or residential  
20 purposes on a seasonal or year-round basis or to operate a  
business consisting of a commercial sporting camp,  
campground or retail store.

22 This chapter does not apply to a trailer park, condominium,  
timeshare or apartment house.

24       **Sec. 2. 14 MRSA §6048**, as repealed and replaced by PL 2003,  
26 c. 510, Pt. A, §12, is amended to read:

28       **§6048. Written lease and description required**

30       An agreement described in section 6047 must be made in the  
32 form of a written lease ~~and must include at least a general~~  
~~description of the boundaries of the land to be leased.~~

34       Before June 1, 2007, a lessor shall prepare a full boundary  
36 survey by a professional land surveyor of all leaseholds in its  
possession and record a plastic mylar map of this boundary survey  
38 in the registry of deeds for the county in which the real estate  
is located.

40       If a lessor offers to sell the real estate to a lessee for  
42 its fair market value, as defined by section 6050, prior to June  
1, 2007, then this conveyance is subject to the same exemptions  
44 and conditions described in sections 6050-A, 6050-B, 6050-C and  
6050-D.

46       The cost of a survey for real estate sold pursuant to this  
48 section prior to June 1, 2007 must be borne by the lessee, who  
shall choose the surveyor.

2 A lessor who fails to prepare and record a full boundary  
3 survey, as required by this section, does not qualify for the  
4 Maine Tree Growth Tax Law for the municipality in which the  
5 leasehold is located.

6 The cost of a survey for real estate sold pursuant to this  
7 section after June 1, 2007 must be borne by the lessor, who shall  
8 choose the surveyor. The fee for such a survey may not be  
9 subtracted from the future sale price of said real estate.

10 **Sec. 3. 14 MRSA §6049**, as repealed and replaced by PL 2003,  
11 c. 510, Pt. A, §12, is repealed.

12 **Sec. 4. 14 MRSA §6049-A** is enacted to read:

13 **§6049-A. Termination**

14 A lessee may terminate a lease earlier than the effective  
15 date provided in the lease.

16 A lessor may not terminate a lease without just cause and  
17 the burden of proof is on the lessor to show just cause.

18 Termination provisions of a lease to the extent inconsistent  
19 with this section are void, beginning on the date the notice of  
20 termination is provided.

21 A lessor shall reimburse a lessee for the fair market value  
22 of all improvements on leased real estate, if the lessee's lease  
23 is terminated by the lessor.

24 **Sec. 5. 14 MRSA §6050**, as enacted by PL 2003, c. 510, Pt. A,  
25 §12, is repealed and the following enacted in its place:

26 **§6050. Right of first refusal**

27 After October 1, 2005, a lessee of premises on which a  
28 structure owned by the lessee exists has the right of first  
29 refusal for the fair market value of the leasehold with regard to  
30 the leased premises if the lessor intends to sell any real estate  
31 in this State. The lessor shall give the lessee at least one  
32 year to accept the offer to purchase the leased premises by  
33 certified mail, return receipt requested, restricted delivery.

34 As used in this section, "fair market value" means the  
35 assessment according to the Department of Administrative and  
36 Financial Services, Bureau of Revenue Services in the unorganized  
37 territory or the assessment by a municipality in an organized  
38 municipality.

2 If a lessee does not elect to purchase the leased premises,  
3 the lease must continue with the same terms, other than annual  
4 rental fees, for no less than 50 years with the annual rental fee  
5 being not more than 5% of the fair market value of the leased  
6 premises, excluding improvements. The lessor may not impose any  
7 additional fees and the lessor may not amend any lease in effect  
8 prior to January 1, 2005 without the consent of the lessee.

9  
10 A lessor who violates this section does not qualify for the  
11 Maine Tree Growth Tax Law for the municipality in which the  
12 leasehold is located.

13  
14 All conveyances of real estate by the lessor must be made  
15 subject to all leases in effect at the time of conveyance.

16 All lessors and their successors in interest shall honor all  
17 leases in effect at the time of any conveyance.

18  
19 **Sec. 6. 14 MRSA §§6050-A to 6050-F are enacted to read:**

20  
21 **§6050-A. Capital gains taxation**

22  
23 For real estate sold pursuant to this chapter prior to  
24 December 31, 2007, the grantor does not incur capital gains tax  
25 under the laws of this State if the real estate is sold for its  
26 fair market value as defined in section 6050.

27  
28 **§6050-B. Subdivision**

29  
30 The sale of real estate pursuant to this chapter is exempt  
31 from the subdivision laws in Title 30-A, sections 4401 to 4406.

32  
33 **§6050-C. Maine Land Use Regulation Commission**

34  
35 The sale of real estate pursuant to this chapter is exempt  
36 from the laws relating to the Maine Land Use Regulation  
37 Commission, Title 12, chapter 206-A, subchapter 2 and the rules  
38 of the Maine Land Use Regulation Commission as they relate to the  
39 conveyance of real estate in the unorganized territory, except  
40 for subsurface waste disposal issues. These laws and rules apply  
41 to this real estate following its conveyance.

42  
43 **§6050-D. Easements**

44  
45 All real estate conveyed pursuant to this chapter has a  
46 perpetual easement by necessity from a State-maintained highway,  
47 no less than 16.5 feet in width or its current width, whichever  
48 is greater.

49  
50 **§6050-E. Binding arbitration**



2           4. It exempts certain transactions from capital gains  
taxation and certain land use laws.