

MAINE STATE LEGISLATURE

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Date: 5/29/07

L.D. 659
(Filing No. H-343)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 508, L.D. 659, Bill, "An Act To Establish a Mediation Process for Landlord-tenant Disputes"

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

Sec. 1. 10 MRSA §9097-B, as enacted by PL 1995, c. 60, §1, is amended to read:

§9097-B. Entry and detainer

Process of forcible entry and detainer pursuant to Title 14, chapter 709 must be used in mobile home evictions. This process includes mediation under Title 14, chapter 709, subchapter 1.

Sec. 2. 14 MRSA §6004-A is enacted to read:

§6004-A. Mediation

The court may, in any residential tenancy under this subchapter, at any time refer the parties to mediation on any issue.

1. Mediated agreement. An agreement reached by the parties through mediation must be reduced to writing, signed by the parties and presented to the court for approval as a court order.

2. No agreement; good faith effort required. When agreement through mediation is not reached on an issue, the court shall determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, may dismiss the action or a part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances.

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3. Mediation not ordered; consent. The court may not order mediation in cases in which no mediator is available or mediation would delay any hearing in the matter, unless the parties consent to a delay in the proceedings to allow mediation to take place.

4. Mediators provided. The Court Alternative Dispute Resolution Service, established in Title 4, section 18-B, shall provide mediators for mediations under this section.

5. Rules; fees. The Supreme Judicial Court may adopt rules of procedure for actions under this chapter.

Sec. 3. Fees. The Supreme Judicial Court may assess a fee pursuant to the Maine Revised Statutes, Title 4, section 18-B as a part of the filing fee for actions under Title 14, chapter 709 to pay for mediation under this Act.

Sec. 4. Report. The Court Alternative Dispute Resolution Service, established in the Maine Revised Statutes, Title 4, section 18-B, shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 15, 2009 about the efficiency and use of the residential tenancy mediation program established by this Act.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative 0063

Initiative: Allocates funds to cover the cost of providing mediation in landlord-tenant disputes.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$11,250	\$22,500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$11,250	\$22,500

Sec. 6. Effective date. This Act takes effect January 1, 2008.'

SUMMARY

This amendment replaces the bill, which required mediation in all forcible entry and detainer actions. This amendment allows the court to order mediation prior to a trial in a landlord-tenant forcible entry and detainer court trial. The amendment retains the provision of the bill that requires the Court Alternative Dispute Resolution Service to provide the mediators for the mediations. The amendment allows, which the bill required, the Supreme Judicial Court to adopt rules of procedure for landlord-tenant mediation. The Supreme Judicial Court may increase filing fees to pay for mediation. That portion of the fee will be deposited in the Court Alternative Dispute Resolution Service Fund and will be used to pay for the mediators. This amendment clarifies that the provisions of the bill apply to forcible entry and detainer when used in mobile home evictions.

2008

COMMITTEE AMENDMENT "A" to H.P. 508, L.D. 659

1 This amendment requires the Court Alternative Dispute Resolution Service to report
2 to the joint standing committee of the Legislature having jurisdiction over judiciary
3 matters by January 15, 2009 about the efficiency and use of the mediation program.

4 This amendment adds an appropriations and allocations section to the bill.

5 This amendment establishes an effective date of January 1, 2008.

6 **FISCAL NOTE REQUIRED**
7 **(See attached)**

**123rd MAINE LEGISLATURE****LD 659****LR 884(02)****An Act To Establish a Mediation Process for Landlord-tenant Disputes****Fiscal Note for Bill as Amended by Committee Amendment "A"****Committee: Judiciary****Fiscal Note Required: Yes**

Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Appropriations/Allocations				
Other Special Revenue Funds	\$11,250	\$22,500	\$22,500	\$22,500
Revenue				
Other Special Revenue Funds	\$11,250	\$22,500	\$22,500	\$22,500

Fiscal Detail and Notes

Requiring mediation prior to trial in landlord-tenant forcible entry and detainer (FED) cases will require Other Special Revenue Funds allocations to the Judicial Department of \$11,250 in fiscal year 2007-08 and \$22,500 annually thereafter to cover the costs of providing mediation. Since this legislation authorizes the Judicial Department to adopt procedural rules and a schedule of fees, the projected costs of \$11,250 in fiscal year 2007-08 and \$22,500 annually thereafter should be covered by a dedicated fee of approximately \$5 added to the filing fee and paid by those filing the case.