

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1576

H.P. 1101

House of Representatives, March 20, 2007

### An Act To Establish the Leaseholders' Bill of Rights

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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 SHERMAN of Aroostook and  
Representatives: ANNIS of Dover-Foxcroft, JACKSON of Allagash, JOY of Crystal,  
PATRICK of Rumford, THERIAULT of Madawaska, Senators: BRYANT of Oxford, MILLS  
of Somerset, RAYE of Washington.

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

2 **Sec. 1. 14 MRSA §6047**, as repealed and replaced by PL 2003, c. 510, Pt.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

4 **§6047. Application**

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

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

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

15 **2. Application.** This chapter applies to agreements entered into or renewed on or  
16 after ~~July 25, 2002~~ January 1, 2008.

17 **3. Not applicable to certain properties.** This chapter does not apply to a trailer  
18 park, condominium, townhouse, time share or apartment building.

19 **Sec. 2. 14 MRSA §6048-A** is enacted to read:

20 **§6048-A. Assignment of lease**

21 A lessee has the right to assign or transfer the lease.

22 **Sec. 3. 14 MRSA §6049, sub-§2**, as repealed and replaced by PL 2003, c. 510,  
23 Pt. A, §12, is amended to read:

24 **2. Required notice of termination.** Unless the lease is terminated for cause, a  
25 lessor must give notice to a lessee of the intent to terminate the lease at least one year  
26 prior to the effective date of the termination. Notice must be provided by certified mail,  
27 return receipt requested, restricted delivery. All terms of the lease remain in effect  
28 following the notice, except that:

29 A. Termination provisions of the lease to the extent inconsistent with this section  
30 are void, beginning on the date the notice is provided;

31 B. The lessee may terminate the lease earlier than the effective date provided in the  
32 notice; and

33 C. If the lessee violates the lease during the period between the giving of the notice  
34 and the termination date provided in the notice, this section no longer applies and the  
35 lessee has only the rights provided in the lease.

36 For purposes of this subsection, "cause" means violation by a lessee of a term of a lease.

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

2 **§6049-A. Annual lease fee**

3 The lessor may not charge an annual lease fee of more than 2.5% of the fair market  
4 value of the real estate occupied by the lessee. The fair market value is the value of the  
5 real estate, not including the buildings, fixtures and improvements, as determined by the  
6 municipality or the Department of Administrative and Financial Services, Bureau of  
7 Revenue Services.

8 **Sec. 5. 14 MRSA §6049-B** is enacted to read:

9 **§6049-B. Buildings, fixtures and improvements**

10 **1. Mortgage or otherwise encumber prohibited.** A lessor may not mortgage or  
11 otherwise encumber any buildings, fixtures or improvements owned by a lessee.

12 **2. Reimbursement required.** If a lessor terminates a lease without cause, the lessor  
13 shall reimburse the lessee for the fair market value of all buildings, fixtures and  
14 improvements on the real estate.

15 **3. Fair market value of buildings, fixtures and improvements.** For purposes of  
16 this section, "fair market value" means the assessment according to an appraisal  
17 conducted by an appraiser licensed pursuant to Title 32, chapter 124, selected and  
18 compensated by the lessee. If there is a dispute between the lessor and the lessee  
19 concerning the appraisal, the appraisal must be submitted to binding arbitration assigned  
20 by a national arbitration association. The fee for the arbitration must be shared equally  
21 between the lessor, the lessee and any other parties in interest.

22 **4. Violation.** Title 36, chapter 105, subchapter 2-A does not apply to land owned by  
23 a lessor who violates this section.

24 **Sec. 6. 14 MRSA §6050**, as enacted by PL 2003, c. 510, Pt. A, §12, is amended  
25 by inserting at the end a new paragraph to read:

26 If title to the land on which a lease exists is transferred to a different owner after  
27 January 1, 2008, the lessee at the time of the transfer has the right of first refusal with  
28 regard to subsequent leases of the land.

29 **Sec. 7. Effective date.** This Act takes effect January 1, 2008.

30 **SUMMARY**

31 This bill amends the laws governing the relationships between lessees and lessors. It  
32 expands the application of the Maine Revised Statutes, Title 14, chapter 710-D to all  
33 leases other than those covering trailer parks, apartment buildings, condominiums, time  
34 shares or townhouses.

35 This bill provides that a lessee can assign or transfer the lease.

1        This bill proves that the annual lease fee may not exceed 2.5% of the fair market  
2 value of the real property leased, not including the value of the buildings, fixtures and  
3 improvements.

4        This bill prohibits a lessor from mortgaging or otherwise encumbering the buildings,  
5 fixtures and improvements owned by the lessee.

6        If a lessor terminates a lease without cause, the lessor shall reimburse the lessee for  
7 the fair market value of all buildings, fixtures and improvements on the real estate. The  
8 fair market value is established by a licensed appraiser. If the lessor disputes the  
9 appraisal, the appraisal must be submitted to binding arbitration. Violation of these  
10 provisions makes the lessor ineligible for tree growth tax benefits.

11       If title to the land on which a lease exists is transferred to a different owner after the  
12 effective date of this bill, the lessee at the time of the transfer has the right of first refusal  
13 with regard to subsequent leases of the land.

14       This bill takes effect January 1, 2008.