

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 784

H.P. 535

House of Representatives, February 26, 2009

An Act To Improve the Process for Recovering Personal Property

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DILL of Cape Elizabeth.

Cosponsored by Representatives: CLEARY of Houlton, HILL of York, PRIEST of Brunswick.

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

2 Sec. 1. 14 MRSA §6012, as amended by PL 2001, c. 133, §§1 and 2, is repealed.

3 Sec. 2. 14 MRSA §6051-A is enacted to read:

4 **§6051-A. Suits to recover personal property**

5 **1. Suit to resolve dispute.** If 2 or more persons claim rights in, title to or possession
6 of personal property, any claimant may bring a civil suit in District Court to resolve a
7 dispute among the claimants. The plaintiff has the option of bringing the action by way
8 of summary proceeding or plenary proceeding.

9 **2. Summary proceeding.** If the suit is brought as a summary proceeding, the
10 summons must state the day when the action is returnable, which may not be less than 7
11 days from the date of service of the summons, and must notify the defendant that, in case
12 of the defendant's failure to appear and state a defense on the return day, judgment by
13 default will be rendered against the defendant. The defendant may appear and defend
14 without filing a responsive pleading. The suit may not be joined with any other action or
15 claim, nor may a defendant in such a suit file any counterclaim. There may be no
16 removal to the Superior Court. At the hearing, the plaintiff shall produce the best
17 available evidence under which the plaintiff claims an interest in the personal property.
18 The defendant shall then show why possession of the property should not be delivered
19 immediately to the plaintiff.

20 **3. Discovery.** No later than 24 hours before the hearing in a summary proceeding, a
21 defendant may file a motion for leave to conduct discovery. The motion must state with
22 reasonable specificity the information to be sought and the reasons therefor. At the
23 hearing, prior to taking any evidence, the court shall hear argument on the motion and
24 determine whether to permit discovery, whether to allow both sides to conduct discovery,
25 whether to condition discovery on the furnishing of adequate security, the scope of
26 discovery and the timetable for discovery and subsequent trial. If the court requires
27 security, the defendant has 7 days to comply with the order and so advise the court. If the
28 court does not receive certification concerning security within 7 days, the court shall
29 schedule trial for the next time and day on which the court hears such suits.

30 **4. Venue.** Suit may be brought either in the division where any plaintiff or
31 defendant resides or where all of the personal property is located. Subsequent relocation
32 of the personal property is not a basis for a change of venue.

33 **5. Court authority.** The court has equitable power to make all appropriate orders,
34 including but not limited to turnover orders, in relationship to the personal property and
35 the parties to the action and to compel obedience to its judgment and orders. The remedy
36 provided in this section is a remedy in equity and is in addition to and not in lieu of other
37 remedies.

38 **6. Appeal.** Appeals are governed by Title 4, section 57 and the Maine Rules of
39 Appellate Procedure. Any request to the District Court for a stay pending appeal is
40 governed by the Maine Rules of Civil Procedure, Rule 62(d).

