

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

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ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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tion must be a just, reasonable, appropriate and substantial reason for the action taken that relates to or affects the ability, performance of duties, authority or actions of the employee or the public's rights or interests.

A. An employee may be dismissed by a county officer or department head only for cause and only with the prior approval of the county commissioners or personnel board, except that county employees may be laid off or dismissed, with the approval of the county commissioners or personnel board, to meet the requirements of budget reductions or governmental reorganization.

B. In every case of suspension or other disciplinary action, at the request of the employee, the county commissioners or personnel board shall investigate the circumstances and fairness of the action and, if they find the charges unwarranted, shall order the reinstatement of the employee to his former position with no loss of pay, rights or benefits resulting from the suspension or disciplinary action.

Effective September 19, 1985.

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## CHAPTER 293

S.P. 308 - L.D. 797

### AN ACT to Clarify the Laws Relating to Landlords and Tenants.

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

Sec. 1. 4 MRSA §152, sub-§5, ¶¶E & F, as repealed and replaced by PL 1983, c. 796, §1, are amended to read:

E. Actions to foreclose mortgages under Title 14, chapter 713, subchapter VI; and

F. Actions for restitution under Title 5, section 213- ; and

Sec. 2. 4 MRSA §152, sub-§5, ¶G is enacted to read:

G. Actions for illegal evictions under Title 14,  
section 6014.

Sec. 3. 14 MRSA §6010-A is enacted to read:

§6010-A. Landlord's duty to mitigate

1. Scope of section. If a tenant unjustifiably moves from the premises prior to the effective date for termination of his tenancy and defaults in payment of rent, or if the tenant is removed for failure to pay rent or any other breach of a lease, the landlord may recover rent and damages except amounts which he could mitigate in accordance with this section, unless he has expressly agreed to accept a surrender of the premises and end the tenant's liability. Except as the context may indicate otherwise, this section applies to the liability of a tenant under a lease, a periodic tenant or an assignee of either.

2. Measure of recovery. In any claim against a tenant for rent and damages, or for either, the amount of recovery shall be reduced by the net rent obtainable by reasonable efforts to rerent the premises. "Reasonable efforts" means those steps which the landlord would have taken to rent the premises if they had been vacated in due course, provided that those steps are in accordance with local rental practice for similar properties. In the absence of proof that greater net rent is obtainable by reasonable efforts to rerent the premises, the tenant shall be credited with rent actually received under a rerental agreement minus expenses incurred as a reasonable incident of acts under subsection 4, including a fair proportion of any cost of remodeling or other capital improvements. In any case, the landlord may recover, in addition to rent and other elements of damage, all reasonable expenses of listing and advertising incurred in rerenting and attempting to rerent, except as taken into account in computing the net rent. If the landlord has used the premises as part of reasonable efforts to rerent, under subsection 4, paragraph C, the tenant shall be credited with the reasonable value of the use of the premises, which shall be presumed to be equal to the rent recoverable from the defendant unless the landlord proves otherwise. If the landlord has other similar premises for rent and receives an offer from a prospective tenant not obtained by the defendant, it shall be reasonable for the landlord to rent the other premises for his own account in preference to those vacated by the defaulting tenant.

3. Burden of proof. The landlord must allege and prove that he has made efforts to comply with this section. The tenant has the burden of proving that the efforts of the landlord were not reasonable, that the landlord's refusal of any offer to rent the premises or a part of the premises was not reasonable, that any terms and conditions upon which the landlord has in fact rerented were not reasonable and that any temporary use by the landlord was not part of reasonable efforts to mitigate in accordance with subsection 4, paragraph C. The tenant shall also have the burden of proving the amount that could have been obtained by reasonable efforts to mitigate by rerenting.

4. Acts privileged in mitigation of rent or damages. The following acts by the landlord shall not defeat his right to recover rent and damages and shall not constitute an acceptance of surrender of the premises:

A. Entry, with or without notice, for the purpose of inspecting, preserving, repairing, remodeling and showing the premises;

B. Rentering the premises or a part of the premises, with or without notice, with rent applied against the damages caused by the original tenant and in reduction of rent accruing under the original lease;

C. Use of the premises by the landlord until such time as rerenting at a reasonable rent is practical, not to exceed one year, if the landlord gives prompt written notice to the tenant that the landlord is using the premises pursuant to this section and that he will credit the tenant with the reasonable value of the use of the premises to the landlord for such a period; and

D. Any other act which is reasonably subject to interpretation as being in mitigation of rent or damages and which does not unequivocally demonstrate an intent to release the defaulting tenant.

Sec. 4. 14 MRSA §6015, as enacted by PL 1981, c. 428, §8, is amended to read:

§6015. Notice of rent increase

Rent charged for residential estates ~~at will~~ may be increased by the lessor only after providing at least 30 days' written notice to the tenant. A writ-

ten or oral waiver of this requirement is against public policy and is void. Any person in violation of this section is liable for the return of any sums unlawfully obtained from the lessee, with interest, and reasonable attorneys' fees and costs.

Sec. 5. 14 MRSA §6016, as enacted by PL 1981, c. 428, §8, is amended to read:

§6016. Rent increase limitation

Rent charged for residential estates ~~at will~~ may not be increased if the dwelling unit is in violation of the warranty of habitability. Any violation caused by the tenant, his family, guests or invitees shall not bar a rent increase. A written or oral waiver of this requirement is against public policy and is void. Any person in violation of this section shall be liable for the return of any sums unlawfully obtained from the lessee, with interest and reasonable attorneys' fees and costs.

Effective September 19, 1985.

## CHAPTER 294

H.P. 957 - L.D. 1377

AN ACT to Amend the Procedures of the State Board of Arbitration and Conciliation.

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

Sec. 1. 26 MRSA c. 9, sub-c. II, as amended, is repealed.

Sec. 2. 26 MRSA c. 9, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

STATE BOARD OF ARBITRATION AND CONCILIATION

§931. Appointment and qualification; salaries and expenses; rules; reports

The State Board of Arbitration and Conciliation, in this subchapter called the "board," shall consist of 3 members appointed by the Governor, from time to