

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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

J.S. McCarthy Company
Augusta, Maine
1995

2. Appeal by defendant; record; stay. When the defendant appeals, the District Court shall promptly transmit the record to the Superior Court without waiting for the preparation of a transcript of recorded testimony. The Superior Court may stay the issuance of a writ of possession pending disposition of the appeal.

A. The Superior Court shall condition the granting and continuation of the stay on the defendant's payment of the current rent for the premises to the plaintiff or, if there is a dispute about the rent, into an escrow account to be administered by the clerk of the Superior Court. Upon application of either party, the Superior Court may authorize payments from the escrow account for appropriate expenses related to the premises. The appeal decision or an agreement of the parties must provide for the disposition of the escrowed rent.

B. The Superior Court may condition the granting and continuation of the stay, in appropriate cases, on the defendant's agreement to refrain from causing any nuisance or damage.

3. Vacation of stay; security; remedial order. Upon finding a violation of the conditions for granting the stay, the Superior Court shall vacate the stay and may issue a writ of possession. The Superior Court may require the plaintiff to provide security as may be necessary to protect the defendant's interest while the appeal is pending. If the defendant prevails, the Superior Court may issue a remedial order as necessary to make the defendant whole, including damages.

4. Claim of title. In disputes involving a claim of title, the District Court may provide for discovery on an expedited schedule.

5. Security. For the purposes of this section, "security" may include a bond, an escrow account, a lien, a mortgage, an order to make payments under a lease or contract as they become due or any other financial protection as is reasonably necessary to protect the interests of a party. The District Court and the Superior Court may make any necessary orders with respect to the provision of security, revise the orders when required by the interests of justice, sanction a party for failure to comply with a security requirement and waive or modify the requirement of security for good cause shown and recited in an order.

Sec. 3. 14 MRSA §6009, as repealed and replaced by PL 1979, c. 172, §2, is repealed.

Sec. 4. 14 MRSA §6012, as amended by PL 1979, c. 231, is repealed and the following enacted in its place:

§6012. Personal property

1. Action to resolve dispute. If 2 or more persons claim rights in, title to or possession of personal property, any claimant may bring an action in District Court to resolve a dispute among the claimants.

2. Evidence; discovery. When the plaintiff claimant serves a copy of the complaint on the defendant claimants, the plaintiff shall include with the complaint a copy of any security instrument, bill of sale or other evidence of title. In the court hearing, the plaintiff shall produce the best available evidence under which the plaintiff claims an interest in the personal property. The defendant then shall show why possession of the property should not be delivered immediately to the plaintiff. The District Court may provide for discovery on an expedited schedule.

3. Court authority. The court has equitable power to make all appropriate orders, including but not limited to turnover orders, in relation to the personal property and the parties to the action, to compel obedience to its judgment and orders.

4. Appeal. Any party may appeal within 30 days of the judgment. Any issue triable by right by a jury may be appealed to a trial de novo in the Superior Court. Security may be required in accordance with the provisions of section 6008, subsection 5.

5. Rules. The Maine Rules of Civil Procedure governing forcible entry and detainer apply in actions under this section as applicable.

6. Equity. The remedy provided in this section is a remedy in equity and is in addition to and not in lieu of other remedies. There is no right of removal.

See title page for effective date.

CHAPTER 449

H.P. 803 - L.D. 1120

An Act to Restore State Funding for State Expenses at County Jails

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

Sec. 1. 34-A MRSA §1210, sub-§2, as amended by PL 1995, c. 368, Pt. K, §3, is further amended to read:

2. Reimbursement. Except as provided in subsection 6-A, the department shall, under this section, reimburse each county quarterly for each

actual day served at that county correctional facility by:

A. Persons convicted of a Class A, Class B or Class C crime sentenced after March 31, 1987, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1, or section 1252, subsection 1; and

B. Persons convicted of a Class A, Class B or Class C crime sentenced after December 31, 1988, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1 or section 1252, subsection 1.

Reimbursement for periods after June 30, 1987 may not be authorized until the reimbursable costs for the operations of the jail are agreed upon by the commissioner and the county commissioners for that county. Reimbursable costs for the operations of the jail must, to the extent practicable, be mutually agreed upon prior to the actual expenditures of funds for those costs. Prior approval of all capital expenditures is required for reimbursement of that expense item. If the commissioner and the county commissioners are unable to agree upon reimbursable costs, they shall jointly select an arbitrator to determine those costs. The arbitrator's decision is final and both the commissioner and the county commissioners are bound by that decision.

The obligation of the Department of Corrections to reimburse counties pursuant to this section may not exceed the actual amount appropriated during fiscal years 1993-94, 1994-95, 1995-96 and 1996-97.

Sec. 2. Effective date. This Act takes effect July 1, 1997.

Effective July 1, 1997.

CHAPTER 450

H.P. 1065 - L.D. 1500

An Act to Reduce Theft in the Forest Products Industry

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

Sec. 1. 14 MRSA §7551-A, as enacted by PL 1983, c. 362, §1, is repealed.

Sec. 2. 14 MRSA §7552, as amended by PL 1989, c. 555, §13, is repealed and the following enacted in its place:

§7552. Injury to lands or property

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agricultural product" means crops produced and livestock raised as a result of cultivating the soil and harvesting. Agricultural products include, but are not limited to, vegetables, fruit, forages, grain, nuts, berries, flowers, ornamental plants, nursery crops, milk, dairy products, eggs, domestic livestock and other products in varying degrees of preparation. Agricultural products also include the soil amendments and by-products that are used in cultivation.

B. "Christmas tree" and "evergreen boughs" have the same meanings as provided in Title 12, section 8841.

C. "Forest products" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, evergreen boughs or cones or other seed products.

D. When there is damage to public property, the term "owner" may include a suitable official authorized to act on behalf of the public entity.

For damage to a monument or mark under subsection 2, paragraph C, "owner" may include the entity for whose benefit the monument or mark is maintained.

E. "Professional services" may include:

- (1) The damage estimate of a licensed professional forester;
- (2) A boundary survey;
- (3) A title opinion; and
- (4) Attorney's fees for preparing the claim and bringing a court action.

2. Prohibitions. Without permission of the owner a person may not:

A. Cut down, destroy, damage or carry away any forest product, ornamental or fruit tree, agricultural product, stones, gravel, ore, goods or property of any kind from land not that person's own;

B. Damage or throw down any fence, bar or gate, or leave a gate open, or break glass or do other damage to any structure on property not that person's own; or