

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**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 Company**  
**Augusta, Maine**  
**1999**

4. As used in this section, "legal identification" includes a social security card, social security number, birth certificate, driver's license, government-issued identification card, oral statement of full name and date of birth or any other means of identifying a person that is generally accepted as accurate and reliable.

5. Misuse of identification is a Class D crime.

See title page for effective date.

**CHAPTER 191**

**S.P. 562 - L.D. 1629**

**An Act to Ensure That Sales Free and Clear of Liens Through Bankruptcy Do Not Result in the Acquisition of a Predecessor Employer's Experience for the Purpose of Contribution Rate Determination**

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

**Sec. 1. 26 MRSA §1221, sub-§5, ¶A,** as amended by PL 1979, c. 651, §45, is further amended to read:

A. The executors, administrators, successors or assigns of any employer who acquire the business of ~~such~~ that employer in toto ~~shall~~ acquire the experience of ~~such~~ that employer with payrolls, contributions and benefits. Effective as of the date on which ~~such~~ the business was acquired, the commissioner shall for purposes of rate determination transfer to the successor employer the payroll record and experience rating records of the predecessor employer. This transfer does not occur for a business purchased free and clear of liens through bankruptcy if the contribution rate for that business is greater than the state average contribution rate. In that case, the employer must be assigned the state average contribution rate.

See title page for effective date.

**CHAPTER 192**

**S.P. 266 - L.D. 759**

**An Act to Expedite Disputes among Commercial Landlords and Tenants**

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

**Sec. 1. 14 MRSA c. 709** is amended by repealing the chapter headnote and enacting the following in its place:

**CHAPTER 709**

**ENTRY AND DETAINER**

**SUBCHAPTER I**

**RESIDENTIAL LANDLORDS AND TENANTS**

**Sec. 2. 14 MRSA c. 709, sub-c. II** is enacted to read:

**SUBCHAPTER II**

**COMMERCIAL LANDLORDS AND TENANTS**

**§6017. Commercial leases**

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

A. A "commercial tenancy" or "commercial lease" means a nonresidential tenancy of premises by a for-profit business entity. Nonprofit entities, charitable institutions and religious organizations who are tenants may not be construed to have commercial tenancies.

**2. Commercial lease relationship.** Notwithstanding the provisions of subchapter I, commercial landlords and tenants are governed by the following provisions, and if any of the following provisions conflict with provisions in any other statutes governing the relationships between landlords and tenants, this section controls all commercial lease relationships, whether written or oral.

A. After termination of a commercial lease, and after a complaint for forcible entry and detainer is filed, the defendants shall, no later than the return date and as a condition of maintaining a defense, appear on the return day to pay the agreed-upon rent, including all arrears. If rent or arrears are disputed, the disputed rent, including all claimed arrears, must be paid to the court at the time of the hearing. In addition to deciding the right of possession, the District Court shall also decide the amount of rent owed, if disputed. In establishing the amount of rent owed, the District Court may consider offsetting claims to the extent appropriate. If undisputed, the rent and arrears must be paid to the court prior to the hearing. Upon final decision by the District Court, that court shall order such sums as it determines proper to be turned over by the clerk to either or both of the parties. Any order of the District Court for payment of rent, whether to the

landlord or to the court, continues in effect through any appeal of the District Court's decision. The landlord may apply for turnover of rent money held by the court prior to final judgment by the District Court or prior to final decision on appeal by the Superior Court, upon a showing of hardship and reasonable likelihood of success on the merits. Failure of the tenant to pay rent to the court when due causes the writ of possession to issue immediately.

**3. Right of possession on bond for damages.**

When judgment is rendered for the plaintiff, a writ of possession may issue immediately in the District Court or from the Superior Court during appeal, if the plaintiff provides the defendant with a surety bond conditioned to pay all such damages and costs as may be suffered by the defendant if final judgment is rendered for the defendant. In setting the amount of the required surety bond, the court may consider any offsetting claims between the parties.

**4. Arbitration.** A commercial landlord and tenant may agree in their lease or in a separate agreement to arbitration of disputes as to termination, the right of possession arising under the lease between landlord and tenant and amounts owed for rent before an arbitrator or arbitrators chosen in advance pursuant to the lease or other written agreement. The decision of the arbitrator is final. If the arbitrator rules in favor of the landlord, the landlord may, by presentation of an attested copy of the arbitrator's decision, and after docketing of the arbitrator's decision by the Superior Court, immediately obtain a writ of possession from the clerk of the Superior Court. The arbitrator's decision may be stayed or appealed from only upon such grounds as generally lie for stay or appeal of an arbitration decision pursuant to the Uniform Arbitration Act, Title 14, section 5949.

**5. Jury trial.** A commercial landlord and tenant may agree in the commercial lease or in a separate agreement to waive jury trial of disputes arising under the lease.

**6. Jurisdiction.** The District Court has jurisdiction to hear, decide and award rent and arrears allegedly owing, regardless of the amount.

See title page for effective date.

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**CHAPTER 193**

**S.P. 243 - L.D. 665**

**An Act to Protect the Environment  
by Phasing Out the Use of Old  
Transformers that are Potential  
Sources of PCB Pollution**

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

**Sec. 1. 38 MRSA §419-B** is enacted to read:

**§419-B. Goals for dates of removal of transformers containing polychlorinated biphenyls**

The State's goals for the dates of removal of transformers owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million are as follows. For the purposes of this section, removal of a transformer that contains polychlorinated biphenyls may be accomplished through the retrofilling of the transformer with oil that contains polychlorinated biphenyls in concentrations below 50 parts per million.

**1. Transformers near surface waters.** The goal for the date of removal of pole-mounted or pad-mounted transformers owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million and that are located within 100 feet of any surface water or an elementary school or secondary school as defined in Title 20-A, section 1 is October 1, 2005.

For the purposes of this subsection, "surface water" means a wetland mapped by the United States Fish and Wildlife Service under the National Wetlands Inventory project; a great pond as defined in section 480-B; or a river, stream or brook as defined in section 480-B.

**2. Remaining transformers.** Subject to a utility's existing commercial storage facility license for polychlorinated biphenyls issued by the department, the goal for the date of removal of all pole-mounted or pad-mounted transformers, other than those described in subsection 1, owned by public utilities that contain polychlorinated biphenyls in concentrations at or above 50 parts per million is October 1, 2011.

**3. Uninterruptible service.** The dates in this section may be extended to allow for adequate planning for the removal of transformers that provide electrical service to institutions for which service may not be interrupted without extensive planning, including, but not limited to, hospitals and schools.

**4. Exception.** This section does not apply to transformers located in substations.

**5. Voluntary goals.** A public utility is not required to meet the goals in this section.

**Sec. 2. Progress report.** A public utility that owns a transformer that contains polychlorinated biphenyls in concentrations at or above 50 parts per million shall submit a report by January 15, 2001 to