

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2007**

of this section. Except as provided in this section, a surety may not, directly or indirectly, make any other payment to a landlord. A surety bond may be used to pay claims by a landlord for:

- A. Unpaid rent;
- B. Damage due to breach of the rental agreement;
- C. Damage by the tenant or members of the tenant's household or their invitees or guests in excess of normal wear and tear to the leased premises, common areas, major appliances or furnishings owned by the landlord;
- D. Nonpayment of utility charges that the tenant was required to pay directly to the landlord; and
- E. The cost of storing and disposing of unclaimed property.

**7. Written list of damages.** At least 10 days before a landlord makes a claim against a surety bond subject to this section, the landlord shall send to the tenant by first-class mail directed to the last known address of the tenant a written notice indicating the landlord's intent to make such claim and the tenant's right to dispute the claim and containing a list of the damages to be claimed and a statement of the costs actually incurred by the landlord related to the premises and as otherwise permitted by this section. This notice must further indicate the name and address of the surety and process for disputing a claim. In the case of a written rental agreement, the landlord shall mail such a written notice within the time specified in the agreement, not to exceed 30 days. In the case of a tenancy at will, the landlord shall mail the written notice 21 days after the termination of the tenancy or the surrender and acceptance of the premises, whichever occurs later. If a landlord fails to provide a written notice within the time required by this subsection, the landlord forfeits any right to make a claim against a surety bond or the tenant related to the premises.

**8. Payment of damages by tenant.** A tenant may pay any damages directly to the landlord or require the landlord to use the tenant's security deposit, if any, before the landlord makes a claim against the surety bond. If a tenant pays any damages directly to the landlord or requires the landlord to use the tenant's security deposit under this subsection and the payment or the security deposit fully satisfies the claim, the landlord forfeits the right to make a claim under the surety bond for any damages covered by the tenant's payment or the amount deducted from the tenant's security deposit in accordance with this subsection.

**9. Dispute of claim.** The tenant may dispute the landlord's claim to the surety by sending a written response by first-class mail to the surety within 10 days after receiving the notice described in subsection 7 of the landlord's claim on the surety. If the tenant disputes the claim, the surety may not report the claim to

a credit reporting agency prior to obtaining a judgment for the claim against the tenant.

**10. Action by surety against tenant.** In any proceeding brought by the surety against the tenant on a surety bond under this section, the tenant retains all rights and defenses otherwise available in a proceeding between a tenant and a landlord. Damages may be awarded to the surety only to the extent that the tenant would have been liable to the landlord under this section. If a surety, in an action against the tenant, asserts a claim under the surety bond without having a reasonable basis to assert the claim, the court may grant the tenant damages of up to 3 times the amount claimed plus reasonable attorney's fees and court costs.

**11. Loss of claim by surety.** If a surety fails to comply with the requirements of this section, the surety forfeits the right to make any claim against the tenant under the surety bond.

**12. Transfer of premises.** If a landlord's interest in the rented premises is sold or transferred, the new landlord shall accept the tenant's surety bond and may not require an additional security deposit or surety bond from the tenant during the rental term that the premises is sold or transferred. At any renewal of the rental agreement, the new landlord may not require a surety bond or a security deposit from the tenant that, in addition to any existing surety bond or security deposit, is in an aggregate amount in excess of 2 months' rent for the tenant's dwelling unit. If the aggregate amount described above is in excess of 2 months' rent, the tenant may bring an action for wrongful assessment of surety bond under subsection 3.

**13. Licensed surety.** A surety bond issued under this section may only be issued by an admitted carrier licensed by the Department of Professional and Financial Regulation, Bureau of Insurance.

See title page for effective date.

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## CHAPTER 371

### S.P. 596 - L.D. 1689

#### An Act To Amend the Child and Family Services and Child Protection Act

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

**Sec. 1. 22 MRSA §4002, sub-§9-B,** as enacted by PL 1997, c. 715, Pt. B, §3, is amended to read:

**9-B. Relative.** "Relative providing care" means the biological or adoptive parent of the child's biological or adoptive parent, or the biological or adoptive

sister, brother, aunt, uncle or cousin of the child ~~with whom the child lives and who has taken responsibility for the child.~~

**Sec. 2. 22 MRSA §4005-E**, as amended by PL 2005, c. 366, §6, is further amended to read:

**§4005-E. Relatives; visitation and access; placement**

**1. Grandparent visitation and access.** A grandparent who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request the court to grant reasonable rights of visitation or access. When a child is placed in a prospective adoptive home and the prospective adoptive parents have signed an adoptive placement agreement, a grandparent's right to contact or have access to the child that was granted pursuant to this chapter is suspended. If the adoption is not final within 18 months of adoptive placement, then the grandparent whose rights of contact or access were suspended pursuant to this subsection may resume, as a matter of right and without further court order, contact with the child in accordance with the order granting that contact or access, unless the court determines after a hearing that the contact is not in the child's best interests. A grandparent's rights of visitation or access terminate when the adoption is finalized pursuant to Title 18-A, section 9-308. Nothing in this section prohibits prospective adoptive parents from independently facilitating or permitting contact between a child and a grandparent, especially when a court has previously ordered rights of contact.

**2. Placement.** A grandparent relative who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request the court to order that the child be placed with the grandparent relative. A grandparent relative who has not been designated as a participant under section 4005-D may make the request for placement in writing. In making a decision on the request, the court shall ~~give the grandparents~~ make placement with a relative a priority for consideration for placement if that placement is in the best interests of the child and consistent with section 4003.

**3. Conviction or adjudication for certain sex offenses; presumption.** There is a rebuttable presumption that the grandparent relative would create a situation of jeopardy for the child if any contact were to be permitted and that contact is not in the best interest of the child if the court finds that the grandparent relative:

- A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the grandparent relative was at

least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the ~~grandparent~~ relative and the minor victim at the time of the offense; or

- B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The grandparent relative seeking visitation with or access to the child may produce evidence to rebut the presumption.

**Sec. 3. 22 MRSA §4008, sub-§2, ¶E-1**, as enacted by PL 2005, c. 300, §6, is repealed.

**Sec. 4. 22 MRSA §4008, sub-§3, ¶I**, as enacted by PL 2003, c. 673, Pt. Z, §4, is amended to read:

- I. Any government entity that needs such information in order to carry out its responsibilities under law to protect children from abuse and neglect. For purposes of this paragraph, "government entity" means a federal entity, a state entity of any state, a local government entity of any state or locality or an agent of a federal, state or local government entity; ~~and~~

**Sec. 5. 22 MRSA §4008, sub-§3, ¶J**, as enacted by PL 2003, c. 673, Pt. Z, §4, is amended to read:

- J. To a juvenile court when the child who is the subject of the records has been brought before the court pursuant to Title 15, Part 6-; and

**Sec. 6. 22 MRSA §4008, sub-§3, ¶K** is enacted to read:

- K. A relative or other person whom the department is investigating for possible custody or placement of the child.

See title page for effective date.

**CHAPTER 372**

**H.P. 406 - L.D. 528**

**An Act To Make BETR Better**

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

**Sec. 1. 36 MRSA §6651, sub-§1**, as amended by PL 2005, c. 623, §2, is further amended to read:

- 1. Eligible property.** "Eligible property" means qualified business property first placed in service in the State, or constituting construction in progress