

# MAINE STATE LEGISLATURE

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FIFTH REVISION.

THE  
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

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BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :  
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## CHAPTER 96.

### FORCIBLE ENTRY AND DETAINER. TENANCIES.

SEC. 1. Process of forcible entry and detainer may be maintained against a disseizor who has not acquired any claim by possession and improvement; against a tenant holding under a written lease or contract, or person holding under such tenant, at the expiration or forfeiture of the term, without notice, if commenced within seven days from the expiration or forfeiture of the term; and against a tenant at will, whose tenancy has been terminated as provided in the following section. (a)

Forcible entry and detainer, against whom it may be commenced.  
R. S., c. 94, § 1.

SEC. 2. Tenancies at will may be determined by either party, by thirty days' notice in writing for that purpose, given to the other party, and not otherwise save by mutual consent, excepting cases where the tenant, if liable to pay rent, shall not be in arrears at the expiration of the notice, in which case the thirty days' notice aforesaid shall be made to expire upon a rent day. Either party may waive in writing said thirty days' notice, or any part thereof. When the tenancy is terminated, the tenant is liable to the process of forcible entry and detainer without further notice and without proof of any relation of landlord and tenant, unless he has paid, after service of the notice, rent that accrued after the termination of the tenancy. These provisions apply to tenancies of buildings erected on land of another party. (b)

Tenancy at will, how it may be determined.  
R. S., c. 94, § 2.  
1895, c. 74.  
See c. 22, § 3;  
c. 94, § 34;  
c. 125, § 12.

—applies to buildings on land of another party.

SEC. 3. Trial justices and judges of municipal and police courts have jurisdiction of cases of forcible entry and detainer respecting estates within their counties. Such judges have exclusive jurisdiction of such cases within their cities or towns, unless interested. (c)

What magistrates have jurisdiction.  
R. S., c. 94, § 3.

SEC. 4. The process of forcible entry and detainer shall be commenced by inserting the substance of the complaint, as a declaration, in a writ of attachment, to be indorsed and served like other writs; and when the plaintiff lives out of the state, and a recognizance is required of him, any person may recognize in his behalf and shall be personally liable.

How to be commenced; recognizance, when plaintiff lives out of state.  
R. S., c. 94, § 4.  
71 Me., 209.

SEC. 5. When the defendant is defaulted, or fails to show sufficient cause, judgment shall be rendered against him for possession of the premises, and a writ of possession be issued to remove him, which may be served by a constable.

When writ of possession shall issue.  
R. S., c. 94, § 5.  
—service.

SEC. 6. When the defendant pleads not guilty and files a brief statement of title in himself or in another person under whom he claims the premises, he shall, except as hereinafter provided, recognize in a reasonable sum to the claimant, with sufficient sureties, conditioned to pay all intervening damages and costs and a reasonable rent for the premises; and the claimant shall in like manner recognize to the defendant, conditioned to enter the suit at the next term of the supreme judicial or superior court, and to pay all costs adjudged against him. If either party neglects so to recognize, judgment shall be rendered against him as on nonsuit or default.

Proceedings, when defendant files a brief statement of title.  
R. S., c. 94, § 6.  
36 Me., 431.  
49 Me., 41.  
53 Me., 159.  
65 Me., 229.  
68 Me., 120.  
84 Me., 191.

(a) 169 U. S., 308; 18 Me., 268; 25 Me., 285; 30 Me., 180; 35 Me., 217; 46 Me., 278, 550; 57 Me., 390; 65 Me., 226; 67 Me., 266; 69 Me., 482; 70 Me., 209; 72 Me., 28, 45; 84 Me., 532; 96 Me., 119; 97 Me., 308, 317, 318.

(b) 13 Me., 215; 21 Me., 116; 24 Me., 247; 35 Me., 506; 36 Me., 135; 46 Me., 552; 50 Me., 325; 62 Me., 117, 551; 67 Me., 266; 71 Me., 550; 72 Me., 28, 135; 74 Me., 560; 82 Me., 424; 84 Me., 532; 90 Me., 539; 93 Me., 188.

(c) 38 Me., 484; 51 Me., 479; 53 Me., 159.

## CHAP. 96.

Claimant may allege that brief statement is intended for delay; proceedings. R. S., c. 94, § 7.

Either party may appeal; proceedings. R. S., c. 94, § 8. 36 Me., 432. 68 Me., 120. 97 Me., 313.

When judgment is rendered for claimant, he shall in all cases have immediate possession, on filing recognizance. R. S., c. 94, § 9. 97 Me., 313.

Sums due for rent and damages, how recovered. R. S., c. 94, § 10.

SEC. 7. But the claimant may make a written allegation, that the brief statement of the defendant is frivolous and intended for delay, and the magistrate shall then examine the case so far as to ascertain the truth of such allegation, and if satisfied of the truth thereof, he shall proceed to try the cause upon the plea of not guilty, and if it is determined in favor of the claimant, he may issue a writ of possession for removal of the defendant; but this shall not prevent an appeal as provided in the following section.

SEC. 8. Either party may appeal from a judgment to the supreme judicial or superior court next to be held in the county. When the claimant appeals, he shall recognize in manner aforesaid to the defendant, except as hereinafter provided, conditioned to enter the suit and to pay all costs adjudged against him. When the defendant appeals, he shall recognize in like manner to the claimant, conditioned to enter the suit and to pay all intervening costs and such reasonable rent of the premises, as the magistrate shall adjudge, if the judgment is not reversed.

SEC. 9. When judgment is rendered for the claimant, a writ of possession shall issue in all cases, if the claimant recognizes to the defendant in the manner before provided, conditioned to pay all such damages and costs as may be awarded against him if final judgment is rendered for the defendant; and if on trial the jury find for the defendant, they shall also find the damages sustained by him; in case of nonsuit his damages shall be assessed by the court; and in either case the claimant may give evidence of any claim for rent of the premises, to be set off against damages claimed by the defendant. If the defendant prevails, the court may or not, as justice requires, issue a writ to restore to him possession of the premises.

SEC. 10. Sums due for rent on leases under seal or otherwise, and claims for damages to premises rented, may be recovered in an action of assumpsit, on account annexed to the writ, specifying the items and amount claimed. (a)

(a) 76 Me., 497; 84 Me., 538; 93 Me., 187; 96 Me., 103, 373.

Note. Tenancies may be terminated on account of maintenance of nuisance as defined in c. 22, § 1, c. 22, § 3; upon conviction of keeping house of ill fame, c. 125, § 12. Tenancies of mills may be terminated on account of unlawful obstruction of streams, c. 94, § 34.