

MAINE STATE LEGISLATURE

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CHAPTER 109.

FORCIBLE ENTRY AND DETAINER. TENANCIES.

Sec. 1. Forcible entry and detainer, against whom maintained. R. S. c. 108, § 1. 1933, c. 177. 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; against a tenant where the occupancy of the premises is incidental to the employment of a tenant; at the expiration or forfeiture of the term, without notice, if commenced within 7 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.

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; *107 Me. 386; 108 Me. 260, 529; 113 Me. 213; 129 Me. 123; 131 Me. 425.

Sec. 2. Tenancy at will, how determined; applies to buildings on land of another party. R. S. c. 108, § 2. Tenancies at will may be determined by either party, by 30 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 30 days' notice aforesaid shall be made to expire upon a rent day. Either party may waive in writing said 30 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.

See § 11; c. 128, § 3, re lease void if common nuisance; 13 Me. 215; 21 Me. 116; 24 Me. 247; 35 Me. 505; *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; 108 Me. 260, 529; 111 Me. 217; 114 Me. 112; 127 Me. 515; 130 Me. 89.

Sec. 3. Jurisdiction. R. S. c. 108, § 3. 1933, c. 118, § 1. 1935, c. 61. Trial justices and judges of municipal courts have jurisdiction of cases of forcible entry and detainer respecting estates within their counties. Such justices and judges have exclusive jurisdiction of such cases within their cities or towns, unless interested; provided, however, that judges of municipal courts shall also have jurisdiction of such cases in all towns in which they are authorized to hold court, notwithstanding the fact that their residence may be in some other town.

38 Me. 484; 51 Me. 479; 53 Me. 159; 108 Me. 527.

Sec. 4. How to be commenced; recognizance when plaintiff lives out of state. R. S. c. 108, § 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.

71 Me. 209; 108 Me. 530.

Sec. 5. When writ of possession to issue; service. R. S. c. 108, § 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.

Sec. 6. Proceedings, when defendant files a brief statement of title. R. S. c. 108, § 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 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.

36 Me. 431; *49 Me. 41; *53 Me. 159; *65 Me. 229; 68 Me. 120; 84 Me. 191; 113 Me. 522; 115 Me. 441; 129 Me. 123; 134 Me. 223.

Sec. 7. Claimant may allege that brief statement is intended for delay. R. S. c. 108, § 7. 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. Appeal; proceedings. R. S. c. 108, § 8. Either party may appeal from a judgment to the 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.

36 Me. 432; 68 Me. 120; 97 Me. 313.

Sec. 9. When judgment is rendered for claimant, he shall have possession, on filing recognizance. R. S. c. 108, § 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.

97 Me. 313; 100 Me. 143.

Sec. 10. Sums due for rent and damages, how recovered. R. S. c. 108, § 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, but no action or suit at law in assumpsit, debt, covenant broken, or otherwise, shall be maintained for any sum or sums claimed to be due for rental or for any claim for damages for the breach of any of the conditions claimed to be broken on the part of the lessee, his legal representatives, assigns, or tenant, contained in a lease or written agreement to hire or occupy any building, buildings, or part of a building, during a period when such building, buildings, or part of a building, which the lessee,

his assigns, legal representatives, or tenant may occupy or have a right to occupy, shall have been destroyed or damaged by fire or other unavoidable casualty, so that the same shall be thereby rendered unfit for use or habitation; and no agreement contained in a lease of any building, buildings, or part of a building or in any written instrument, shall be valid and binding upon the lessee, his legal representatives or assigns, to pay the rental stipulated in said lease or agreement, during a period when the building, buildings, or part of a building described therein shall have been destroyed or damaged by fire or other unavoidable casualty, so that the same shall be rendered unfit for use and habitation.

See c. 128, § 3, re termination of tenancies on account of maintenance of nuisance; c. 166, § 34, re termination of tenancies of mills on account of unlawful obstruction of streams; c. 157, § 13, re levy of execution; 76 Me. 497; *84 Me. 538; 93 Me. 187; 96 Me. *103, 373; *112 Me. 479.

Sec. 11. Lease of tenant of house of ill fame void, at option of the landlord. R. S. c. 135, § 26. When the tenant of a dwelling-house is convicted of keeping it as a house of ill fame, the lease or contract by which he occupies it may, at the option of the landlord, be deemed void, and the landlord shall have the same remedy to recover possession as against a tenant holding over after his term expires.

See c. 128, § 3, re lease void if common nuisance; c. 88, §§ 118-121, re licensee of employment agency not to send persons to places of bad repute, etc.

CHAPTER 110.

PETITIONS AND ACTIONS OF REVIEW.

Sections 1- 5 Petitions for Review.
Section 6 Second Review.
Sections 7-15 Actions of Review.

Petitions for Review

Sec. 1. Review within 3 years after judgment; special cases. R. S. c. 103, § 1. Any justice of the superior court may grant 1 review in civil actions, including petitions for partition, and for certiorari, and proceedings for the location of lands reserved for public uses, when judgment has been rendered in any judicial tribunal in said county, if petition therefor is presented within 3 years after the rendition of judgment, and in the special cases following:

1 Me. 324; 3 Me. 93; 4 Me. 61, 537; 6 Me. 412, 479; 8 Me. 212; 19 Me. 108, 260; 24 Me. 170; 27 Me. 537; 33 Me. 233, 586; 39 Me. 170; 67 Me. 408; 72 Me. 366; 102 Me. 421; 122 Me. 264; 128 Me. 328, 368, 437; 132 Me. 336; 133 Me. 77; 138 Me. 127.

I. When a petition for a review of an action defaulted without appearance is presented within 3 years after an officer having the execution issued on the judgment therein demands its payment of the defendant or his legal representative.
33 Me. 586; 42 Me. 571; 73 Me. 30; 84 Me. 303; 128 Me. 328; 133 Me. 77.

II. When the petitioner shows that a witness testified falsely to material facts against him in the trial of the action, whereby he was surprised, and was then unable to prove the falsity, but has since discovered evidence, which with that before known is, in the opinion of the court, sufficient proof that the testimony was false; or if the witness has been convicted of perjury therefor.

1 Me. 324; 3 Me. 93; 56 Me. 550; 78 Me. 214; 128 Me. 328; 137 Me. 331; 139 Me. 301.