

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1963 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 4

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**Discard Previous Supplement**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1963

Chapter 125.

Replevin of Beasts and Goods.

Replevin of Beasts.

Sec. 1. Owners of beasts distrained may replevy.—Any person, whose beasts are distrained to obtain satisfaction for damages alleged to be done by them, may maintain a writ of replevin therefor against the distrainer before any district court in the county, in the form prescribed by law or, if the value of the beasts distrained is more than \$20, in the superior court. (R. S. c. 112, § 1. 1963, c. 402, § 199.)

Effect of amendment.—The 1963 amendment substituted “district court” for “trial justice or judge of any municipal court.”

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the

act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 2. Writ, service and return.—The writ shall be sued out, served and returned and the cause heard and determined like other civil actions before the district court, except as otherwise prescribed. (R. S. c. 112, § 2. 1963, c. 402, § 200.)

Effect of amendment.—The 1963 amendment substituted “the district court” for “a trial justice or municipal court.”

Application of amending act.—See note to § 1.

Sec. 4. Judgment, if beasts are lawfully distrained.—If it appears that the beasts were lawfully taken or distrained, the defendant shall have judgment for the sum found due from the plaintiff for the damages for which the beasts were distrained, with legal fees, costs and expenses occasioned by the distress and costs of the replevin action; or, instead thereof, the court may enter judgment for a return of the beasts to the defendant, to be held by him for the original purpose, irrepleviable by the plaintiff, and for the defendant’s damages and costs in the replevin action. (R. S. c. 112, § 4. 1961, c. 317, § 445. 1963, c. 402, § 201.)

Effect of amendments. — The 1961 amendment substituted “action” for “suit” near the middle and at the end of this section.

The 1963 amendment deleted “justice or” preceding “court.”

Application of 1963 amending act.—See note to § 1.

Sec. 7. Repealed by Public Laws 1963, c. 402, § 202.

Editor’s note.—The repealed section had been amended by P. L. 1959, c. 317, § 276.

Application of repealing act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court

when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Replevin of Goods.

Sec. 8. Goods, unlawfully detained, replevied.—When goods, unlawfully taken or detained from the owner or person entitled to the possession thereof, or attached on mesne process, or taken on execution, are claimed by any person other than the defendant in the action in which they are so attached or taken, such owner or person may cause them to be replevied. (R. S. c. 112, § 8. 1961, c. 317, § 446.)

Effect of amendment.—The 1961 amendment substituted “action” for “suit” in this section.

**Sec. 9. Jurisdiction.**—Actions of replevin of goods shall be brought in the division where they are detained. The action may be brought before the district court, if the value of the goods does not exceed the amount to which the civil jurisdiction of such court is limited. Otherwise the action shall be brought before the superior court. (R. S. c. 112, § 9. 1963, c. 402, § 203.)

**Effect of amendment.**—The 1963 amendment substituted “division” for “county” in the first sentence, divided the former second sentence into two sentences, substituted “the district court” for “any municipal court or trial justice in said

county” in the present second sentence and deleted “or justice” preceding “is limited” at the end of such sentence.

**Application of amending act.**—See note to § 1.

**Sec. 13. Disposal of money recovered by officer for goods attached or taken on execution.**—All sums recovered by an officer in an action of replevin on account of goods attached or taken in execution by him or recovered in a civil action upon the replevin bond shall be applied:

**I. Fees, charges, expenses.** To pay the lawful fees and charges of the officer, and the reasonable expenses of the replevin action, and of the action on the bond, so far as they are not reimbursed by the costs recovered.

**II. Payment to creditor.** To pay the creditor, in whose action the goods were attached or taken on execution, the sum, if any, recovered by him in that action or what remains unpaid, with interest at the rate of 12% a year for the time that the money was withheld from the creditor or the service of his execution was delayed by reason of the replevin.

**III. Application of balance or if creditor does not recover judgment.** If the attaching creditor in such case does not recover judgment in his action, or if any balance remains of the money so recovered by the officer after paying the creditor his due, such balance or the whole amount, as the case may be, shall be applied as the surplus of the proceeds of sale should have been applied if such goods had been sold on execution. (R. S. c. 112, § 13. 1961, c. 317, § 447.)

**Effect of amendment.**—The 1961 amendment substituted “civil action” for “suit” in the opening paragraph of this section, substituted “action” for “suit” in subsec-

tions I, II, and III and substituted “in whose action” for “at whose suit” in subsection II.

**Sec. 16. Continuance of attachment, if goods replevied.**—If the goods replevied had been attached, they shall, in case of judgment for a return, be held by the attachment until 60 days after adjournment in the action in which they were attached has become final as provided in chapter 112, section 72. If such final judgment is rendered before the return of the goods or if the goods when replevied had been seized on execution, they shall be held by the same attachment or seizure for 60 days after the return and may be taken and disposed of as if they had not been replevied. (R. S. c. 112, § 16. 1959, c. 317, § 277.)

**Effect of amendment.**—The 1959 amendment divided the section into two sentences, substituted “60” for “30” in both sentences, substituted “action” for “suit” in the first sentence and added “has be-

come final as provided in chapter 112, section 72” at the end of that sentence.

**Effective date of 1959 amendment.**—See note to § 7.

**Sec. 19. Limitation of surety’s liability on replevin bond.**—No action shall be maintained against any surety on a replevin bond unless it is commenced within one year after final judgment in replevin or, if the complaint in replevin is not filed with the court by the plaintiff, within one year after the replevin of the goods. (R. S. c. 112, § 19. 1959, c. 317, § 278.)

**Effect of amendment.**—The 1959 amendment rewrote this section.

**Effective date and applicability of Public Laws 1959, c. 317.**—See note to § 7.