

125th MAINE LEGISLATURE

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Legislative Document

No. 1199

H.P. 890

House of Representatives, March 21, 2011

An Act To Expedite the Eviction Process in Certain Types of Cases

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

HEATHER J.R. PRIEST Clerk

Presented by Representative CELLI of Brewer.

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

- Sec. 1. 14 MRSA §6002, sub-§1, as repealed and replaced by PL 2009, c. 171, §2, is amended to read:
 - **1.** Causes for 7-day notice of termination of tenancy. Notwithstanding any other provisions of this chapter, the tenancy may be terminated upon 7 days' written notice in the event that the landlord can show, by affirmative proof, that:
 - A. The tenant, the tenant's family or an invitee of the tenant has caused substantial damage to the demised premises that the tenant has not repaired or caused to be repaired before the giving of the notice provided in this subsection;
 - B. The tenant, the tenant's family or an invitee of the tenant caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy; or
 - C. The tenant is 7 days or more in arrears in the payment of rent.
 - If Except as provided in subsection 4, if a tenant who is 7 days or more in arrears in the payment of rent pays the full amount of rent due before the expiration of the 7-day notice in writing, that notice is void. Thereafter, in all residential tenancies at will, if the tenant pays all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually expended by the landlord before the issuance of the writ of possession as provided by section 6005, then the tenancy must be reinstated and no writ of possession may issue.
 - In the event that the landlord or the landlord's agent has made at least 3 good faith efforts to personally serve the tenant in-hand, that service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's last and usual place of abode.
 - Payment or written assurance of payment through the general assistance program, as authorized by the State or a municipality pursuant to Title 22, chapter 1161, has the same effect as payment in cash.
 - **Sec. 2. 14 MRSA §6002, sub-§2, ¶A,** as enacted by PL 2009, c. 171, §3, is amended to read:
 - A. If Except when subsection 4 applies, if a ground claimed is rent arrearage of 7 days or more, the notice must also include a statement:
 - (1) Indicating the amount of the rent that is 7 days or more in arrears as of the date of the notice; and
 - (2) Setting forth the following notice: "If you pay the amount of rent due as of the date of this notice before this notice expires, then this notice as it applies to rent arrearage is void. After this notice expires, if you pay all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually paid by the landlord before the writ of possession issues at the completion of the eviction process, then your tenancy will be reinstated."

1 **Sec. 3. 14 MRSA §6002, sub-§4** is enacted to read: 2 **4.** No opportunity to cure. If a tenant has paid rent for 2 or fewer months and is 7 days or more in arrears in the payment of rent, the landlord is not required to accept 3 payment of the full amount of rent due before the expiration of the 7-day notice under 4 subsection 1. If the landlord does not accept payment under this subsection, the 7-day 5 6 notice is valid and the landlord may proceed with the eviction action. 7 Sec. 4. 14 MRSA §6003-A is enacted to read: 8 §6003-A. Expedited process 9 1. Establishment. The court shall establish an expedited process to hear and determine forcible entry and detainer actions in which the tenant has paid rent for 2 or 10 fewer months and is at least 7 days in arrears. 11 12 2. Hearing. Notwithstanding section 6003, the court shall schedule and hold the hearing as soon as practicable, but no later than 5 days after the return day. 13 14 3. Writ of possession. When the tenant is defaulted or fails to show sufficient cause, 15 judgment must be rendered against the tenant by the court for possession of the premises. Notwithstanding section 6005, at the time of issuing the judgment the court shall issue the 16 writ of possession to remove the defendant. The writ may be served by a sheriff or a 17 18 constable. If at least 3 good faith efforts on 3 different days have been made to serve the defendant, service may be accomplished by both mailing the notice by first-class mail to 19 20 the defendant's last known address and leaving the writ of possession at the defendant's last and usual place of abode. A writ of possession may be issued under this section in a 21 case in which the ground for termination of the tenancy at will was rent arrearage even if 22 23 the defendant paid the amount necessary to reinstate the tenancy. 24 An additional writ of possession may be issued by the clerk at the request of the landlord after issuance of the first writ. 25 26 When a writ of possession has been served on the tenant by a constable or sheriff and the 27 tenant fails to remove the tenant or the tenant's possessions within 48 hours of service by 28 the constable or sheriff, the tenant is deemed a trespasser without right and the tenant's 29 goods and property are considered by law to be abandoned and subject to section 6013. 30 **SUMMARY** 31 Current law allows a tenant who is at least 7 days in arrears in the payment of rent to

Current law allows a tenant who is at least 7 days in arrears in the payment of rent to pay the full amount of rent due by the expiration of the notice of the termination of tenancy, in which case the notice is void.

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This bill amends the forcible entry and detainer process to give the landlord the choice as to whether to allow an opportunity to cure an arrearage of 7 or more days in the payment of rent if the tenant has paid rent for 2 or fewer months.

The court is directed to establish an expedited process to handle the determination of the cases in which the tenant has paid rent for 2 or fewer months and is at least 7 days in arrears. The hearing on the complaint must be held no later than 5 days after the return day. If the landlord is successful in the action, either because the tenant fails to appear and is defaulted or because the court determines that the tenant failed to show sufficient cause, the court shall issue a judgment for the landlord and shall issue the writ of possession at the time the judgment is issued. Current law delays the writ of possession for 7 days after the judgment.