

125th MAINE LEGISLATURE

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Legislative Document

No. 1006

H.P. 742

House of Representatives, March 10, 2011

An Act To Provide a Remedy to Property Owners When a Tenant Defaults on a Lease

(EMERGENCY)

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

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HEATHER J.R. PRIEST Clerk

Presented by Representative MOULTON of York. Cosponsored by Representatives: JOHNSON of Greenville, PICCHIOTTI of Fairfield.

- 1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and
- 3 **Whereas,** currently there are many residential leases in Maine that do not contain a 4 remedy for failure of the tenant to pay rent; and
- 5 **Whereas,** case law has held that the only remedy available to landlords in such 6 cases is forcible entry and detainer, an action that requires involvement by the courts; and
- 7 Whereas, current law allows tenancies at will to be terminated without resorting to
 8 court action by providing sufficient notice; and
- 9 Whereas, this legislation will reduce courts' dockets, which are currently 10 overburdened; and
- 11 **Whereas,** in the judgment of the Legislature, these facts create an emergency within 12 the meaning of the Constitution of Maine and require the following legislation as 13 immediately necessary for the preservation of the public peace, health and safety; now, 14 therefore,
- 15 Be it enacted by the People of the State of Maine as follows:
- 16 Sec. 1. 14 MRSA §6002-A is enacted to read:

17 §6002-A. Lease without termination language

18 If a landlord and tenant are parties to a rental agreement that does not contain 19 termination, default or forfeiture language, the landlord may terminate the tenancy in 20 accordance with section 6002, subsections 1 and 2. After a landlord has provided notice 21 and service as provided in section 6002, including language advising the tenant that the 22 tenant has the right to contest the termination in court, the landlord may commence a 23 forcible entry and detainer action as provided in section 6001.

- 24 **Sec. 2. Application.** That section of this Act that enacts the Maine Revised 25 Statutes, Title 14, section 6002-A applies to residential leases in effect on or after the 26 effective date of this Act that do not contain termination, default or forfeiture language.
- Emergency clause. In view of the emergency cited in the preamble, this
 legislation takes effect when approved.
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SUMMARY

In Rubin v. Josephson, 478 A.2d 665 (Me. 1984), the Supreme Judicial Court held that, when a residential lease does not contain termination language, the landlord may not use the tenancy at will provisions of state law to terminate the lease. In those cases, the only remedy available to a landlord when there is nonpayment of rent by the tenant is the use of a forcible entry and detainer action.

- In response to that case, this bill allows a landlord, after providing notice and service, and with cause, as provided in the tenancy at will statute, to terminate a lease that does not contain termination, default or forfeiture language. 1 2
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