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No. 1530

S.P. 487

In Senate, May 3, 2011

An Act To Amend the Housing Provisions of the Maine Human Rights Act

Submitted by the Maine Human Rights Commission pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator HASTINGS of Oxford.

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

2 **Sec. 1. 5 MRSA §4553, sub-§1-D** is enacted to read:

3 **1-D. Aggrieved person.** "Aggrieved person" includes any person who claims to
4 have been injured by or subject to unlawful discrimination.

5 **Sec. 2. 5 MRSA §4553, sub-§1-E** is enacted to read:

6 **1-E. Complainant.** "Complainant" means a person who files a complaint under
7 section 4611 or a civil action under section 4621.

8 **Sec. 3. 5 MRSA §4553, sub-§1-F** is enacted to read:

9 **1-F. Conciliation.** "Conciliation" means the attempted resolution of issues raised by
10 a complaint filed under section 4611 or by an investigation of such a complaint through
11 informal negotiations involving the complainant, the respondent and the commission.

12 **Sec. 4. 5 MRSA §4553, sub-§1-G** is enacted to read:

13 **1-G. Conciliation agreement.** "Conciliation agreement" means a written agreement
14 setting forth the resolution of the issues in conciliation.

15 **Sec. 5. 5 MRSA §4553, sub-§5-B** is enacted to read:

16 **5-B. Family.** "Family" includes, but is not limited to, a single individual.

17 **Sec. 6. 5 MRSA §4553, sub-§6**, as corrected by RR 1999, c. 2, §2, is amended to
18 read:

19 **6. Housing accommodation.** "Housing accommodation" includes any building or
20 structure or portion thereof, or any parcel of land, developed or undeveloped, ~~which that~~
21 is occupied, or is intended to be occupied or to be developed for occupancy, for
22 residential purposes, ~~excepting:~~

23 ~~A. The rental of a one family unit of a 2 family dwelling, one unit of which is~~
24 ~~occupied by the owner;~~

25 ~~B. The rental of not more than 4 rooms of a one family dwelling which is occupied~~
26 ~~by the owner; or~~

27 ~~C. The rental of any dwelling owned, controlled or operated for other than a~~
28 ~~commercial purpose, by a religious corporation to its membership unless such~~
29 ~~membership is restricted on account of race, color or national origin.~~

30 **Sec. 7. 5 MRSA §4553, sub-§7**, as amended by PL 1975, c. 182, §1, is further
31 amended to read:

32 **7. Person.** "Person" includes one or more individuals, partnerships, associations,
33 organizations, corporations, municipal corporations, legal representatives, trustees,
34 trustees in bankruptcy, receivers and other legal representatives, labor organizations,

1 mutual companies, joint-stock companies and unincorporated organizations and includes
2 the State and all agencies thereof.

3 **Sec. 8. 5 MRSA §4553, sub-§9-E** is enacted to read:

4 **9-E. Rent.** "Rent" includes to lease, to sublease, to let or otherwise to grant for a
5 consideration the right to occupy premises not owned by the occupant.

6 **Sec. 9. 5 MRSA §4553, sub-§9-F** is enacted to read:

7 **9-F. Respondent.** "Respondent" means a person accused of unlawful discrimination
8 in a complaint filed under section 4611 or a civil action filed under section 4621.

9 **Sec. 10. 5 MRSA §4553, sub-§10, ¶G,** as enacted by PL 2005, c. 10, §6, is
10 amended to read:

11 G. Discrimination in employment, housing, public accommodation, credit and
12 educational opportunity on the basis of sexual orientation, except that a religious
13 corporation, association or organization that does not receive public funds is exempt
14 from this provision with respect to:

15 (1) Employment, as is more fully set forth in section 4553, subsection 4 and
16 section 4573-A;

17 (2) Housing, ~~as is more fully set forth in section 4553, subsection 6, paragraph~~
18 ~~€;~~ and

19 (3) Educational opportunity, as is more fully set forth in section 4602, subsection
20 4.

21 Any for-profit organization owned, controlled or operated by a religious association
22 or corporation and subject to the provisions of the Internal Revenue Code, 26 United
23 States Code, Section 511(a) is not covered by the exemptions set forth in this
24 paragraph.

25 **Sec. 11. 5 MRSA §4581,** as amended by PL 2007, c. 243, §1, is further amended
26 to read:

27 **§4581. Right to freedom from discrimination in housing; exceptions**

28 The opportunity for an individual to secure ~~decent~~ housing in accordance with the
29 individual's ability to pay, and without discrimination because of race, color, sex, sexual
30 orientation, physical or mental disability, religion, ancestry, national origin or familial
31 status is hereby recognized as and declared to be a civil right.

32 **1. Number of occupants.** Nothing in this subchapter limits the applicability of any
33 reasonable local, state or federal restrictions regarding the maximum number of
34 occupants permitted to occupy a dwelling. Nor does any provision in this subchapter
35 regarding familial status apply with respect to housing for older persons.

36 **2. Definition.** As used in this section, "housing for older persons" means housing:

1 A. Provided under any state or federal program that the United States Secretary of
2 Housing and Urban Development determines is specifically designed and operated to
3 assist elderly persons as defined in the state or federal program;

4 B. Intended for, and solely occupied by, persons 62 years of age or older; or

5 C. Intended and operated for occupancy by at least one person 55 years of age or
6 older per unit. In determining whether housing qualifies as housing for older persons
7 under this paragraph, the housing must meet at least the following factors:

8 (2) That at least 80% of the dwellings are occupied by at least one person 55
9 years of age or older per unit; and

10 (3) The publication of, and adherence to, policies and procedures that
11 demonstrate an intent by the owner or manager to provide housing for persons 55
12 years of age or older.

13 **3. Requirements.** Housing ~~shall~~ does not fail to meet the requirements for "housing
14 for older persons" by reason of:

15 A. Persons residing in the housing as of the date of enactment of this subsection who
16 do not meet the requirements of subsection 2, paragraph B or C, ~~provided that~~ if new
17 occupants of the housing ~~shall~~ meet the age requirements of subsection 2, paragraphs
18 B and C; or

19 B. Unoccupied units, ~~provided that~~ if the units are reserved for occupancy by persons
20 who meet the age requirements of subsection 2, paragraphs B and C.

21 **4. Housing accommodation exceptions.** The following exceptions apply in this
22 chapter:

23 A. This chapter does not prohibit the rental of any dwelling owned, controlled or
24 operated for other than a commercial purpose by a religious corporation to its
25 membership unless such membership is restricted on account of race, color or
26 national origin; and

27 B. Except as provided in section 4581-A, subsection 1, paragraph C and section
28 4581-A, subsections 2 and 3, this chapter does not apply to:

29 (1) The rental of a one-family unit of a 2-family dwelling, one unit of which is
30 occupied by the owner; or

31 (2) The rental of not more than 4 rooms of a one-family dwelling that is
32 occupied by the owner.

33 **Sec. 12. 5 MRSA §4581-A** is enacted to read:

34 **§4581-A. Unlawful housing discrimination**

35 It is unlawful housing discrimination, in violation of this Act:

36 **1. Sale or rental of housing and other prohibited practices.** For any owner,
37 lessee, sublessee, managing agent or other person having the right to sell or rent or
38 manage a housing accommodation, or any agent of these, to:

1 A. Make or cause to be made any written or oral inquiry concerning the race or
2 color, sex, sexual orientation, physical or mental disability, religion, ancestry,
3 national origin or familial status of any prospective purchaser, occupant or tenant of
4 the housing accommodation;

5 B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold
6 from any person the housing accommodation because of race or color, sex, sexual
7 orientation, physical or mental disability, religion, ancestry, national origin or
8 familial status;

9 C. Make, print or publish or cause to be made, printed or published any notice,
10 statement or advertisement relating to the sale, rental or lease of the housing
11 accommodation that indicates any preference, limitation or discrimination based upon
12 race or color, sex, sexual orientation, physical or mental disability, religion, ancestry,
13 national origin or familial status or an intention to make any such preference,
14 limitation or discrimination;

15 D. Discriminate against any person because of race or color, sex, sexual orientation,
16 physical or mental disability, religion, ancestry, national origin or familial status in
17 the price, terms, conditions or privileges of the sale, rental or lease of any housing
18 accommodations or in the furnishing of facilities or services in connection with any
19 housing accommodations; or

20 E. Evict or attempt to evict any tenant of any housing accommodation because of the
21 race or color, sex, sexual orientation, physical or mental disability, religion, ancestry,
22 national origin or familial status of the tenant;

23 **2. Selling, brokering or appraising of housing.** For any real estate broker or real
24 estate salesperson, or any agent of these, to:

25 A. Fail or refuse to show any person a housing accommodation listed for sale, lease
26 or rent because of race or color, sex, sexual orientation, physical or mental disability,
27 religion, ancestry, national origin or familial status;

28 B. Misrepresent, for the purpose of discriminating because of race or color, sex,
29 sexual orientation, physical or mental disability, religion, ancestry, national origin or
30 familial status, the availability or asking price of a housing accommodation listed for
31 sale, lease or rent or for such reason to fail to communicate to the person having the
32 right to sell, rent or lease the housing accommodation any offer for the same made by
33 any applicant;

34 C. In any other manner to discriminate against any applicant for a housing
35 accommodation because of race or color, sex, sexual orientation, physical or mental
36 disability, religion, ancestry, national origin or familial status;

37 D. Make or cause to be made any written or oral inquiry or record concerning the
38 race or color, sex, sexual orientation, physical or mental disability, religion, ancestry,
39 national origin or familial status of any applicant for or intended occupant of a
40 housing accommodation; or

41 E. Accept for listing any housing accommodation when the person having the right
42 to sell, rent or lease the housing accommodation has directly or indirectly indicated
43 an intention of discriminating among prospective tenants or purchasers on the ground

1 of race or color, sex, sexual orientation, physical or mental disability, religion,
2 ancestry, national origin or familial status, or when the broker or salesperson knows
3 or has reason to know that the person having the right to sell, rent or lease the
4 housing accommodation has made a practice of discrimination since July 1, 1972;

5 **3. Making of loans; other financial assistance.** For any person to whom
6 application is made for a loan or other form of financial assistance for the acquisition,
7 construction, rehabilitation, repair or maintenance of any housing accommodation,
8 whether secured or unsecured, or agent of the person, to:

9 A. Make or cause to be made any oral or written inquiry concerning the race or
10 color, sex, sexual orientation, physical or mental disability, religion, ancestry,
11 national origin or familial status of any applicant for financial assistance or of
12 existing or prospective occupants or tenants of housing accommodations; or

13 B. Discriminate in the granting of financial assistance, or in the terms, conditions or
14 privileges relating to obtaining or the use of any financial assistance, against any
15 applicant because of race or color, sex, sexual orientation, physical or mental
16 disability, religion, ancestry, national origin or familial status;

17 **4. Receipt of public assistance.** For any person furnishing rental premises or public
18 accommodations to refuse to rent or impose different terms of tenancy to any individual
19 who is a recipient of federal, state or local public assistance, including medical assistance
20 and housing subsidies, primarily because of the individual's status as recipient;

21 **5. Accessible public housing built before October 1, 1988.** For any form of public
22 housing or any housing that is financed in whole or in part with public funds offering
23 housing accommodations, containing 20 or more units, that was constructed on or after
24 January 1, 1984, but before October 1, 1988, or was constructed before October 1, 1988
25 and is begun to be remodeled or enlarged at an estimated total cost of more than \$100,000
26 after January 1, 1984, but before March 15, 2012, to not have at least one unit for each
27 multiple of 20 of those units designed so as to be accessible to and usable by persons with
28 physical disability. Plans to reconstruct, remodel or enlarge such an existing building
29 when the estimated total cost exceeds \$100,000 are subject to this subsection when the
30 proposed reconstruction, remodeling or enlargement substantially affects that portion of
31 the building normally accessible to the public. For purposes of this subsection, a newly
32 constructed housing unit is determined accessible to and usable by persons with physical
33 disability if it meets the requirements of Section 4.34, dwelling units, of the 1980
34 standards set forth by the American National Standards Institute in the publication,
35 "Specifications for Making Buildings and Facilities Accessible to and Usable by
36 Physically Handicapped People," ANSI A 117.1-1980. A remodeled, renovated or
37 enlarged housing unit is determined accessible to and usable by persons with physical
38 disability if it meets the requirements of the following 4 parts of ANSI A 117.1-1980:
39 Section 4.3, accessible routes; Section 4.13, doors; Section 4.34.5, adaptable bathrooms;
40 and Section 4.29.3, tactile warnings on doors to hazardous areas. Departures from
41 particular technical and scoping requirements of ANSI A 117.1-1980 by the use of other
42 methods are permitted if substantially equivalent or greater access to and usability of the
43 housing unit is provided; or

1 **6. Accessible public housing built between October 1, 1988 and March 15, 2012.**

2 For any form of public housing or any housing that is financed in whole or in part with
3 public funds offering housing accommodations containing 20 or more units for which
4 construction is begun after October 1, 1988, but before March 15, 2012, to not have at
5 least 10% of the ground level units and a minimum of 10% of the upper story units
6 connected by an elevator be accessible to and usable by persons with physical disability.
7 For purposes of this section, a newly constructed housing unit is determined accessible to
8 and usable by persons with physical disability if it meets the requirements of the 1986
9 standards set forth by the American National Standards Institute in the publication,
10 "Buildings and Facilities - Providing Accessibility and Usability for Physically
11 Handicapped People," ANSI A 117.1-1986. A remodeled, renovated or enlarged housing
12 unit where the remodeling, renovating or enlarging is begun after October 1, 1988, but
13 before March 15, 2012, is determined accessible to and usable by persons with physical
14 disability if it meets the requirements of the following 4 parts of ANSI A 117.1-1986:
15 Section 4.3, accessible routes; Section 4.13, doors; Section 4.32.4, adaptable bathrooms;
16 and Section 4.27.3, tactile warnings on doors to hazardous areas. Departures from
17 particular technical and scoping requirements of ANSI A 117.1-1986 by the use of other
18 methods are permitted if substantially equivalent or greater access to and usability of the
19 housing unit is provided.

20 **Sec. 13. 5 MRSA §4582**, as amended by PL 2005, c. 10, §14, is repealed.

21 **Sec. 14. 5 MRSA §4582-A**, as amended by PL 2007, c. 664, §§2 to 4, is further
22 amended to read:

23 **§4582-A. Unlawful housing discrimination on the basis of disability**

24 It is unlawful housing discrimination, in violation of this Act:

25 **1. Modifications.** For any owner, ~~lessee~~ lessor, ~~sublessee~~ sublessor, managing agent
26 or other person having the right to sell, rent, lease or manage a housing accommodation
27 or any of their agents to refuse to permit, at the expense of a person with physical or
28 mental disability, reasonable modifications of existing premises occupied or to be
29 occupied by that person if the modifications may be necessary to give that person full
30 enjoyment of the premises, except that, with a rental, the landlord, when it is reasonable
31 to do so, may condition permission for a modification on the renter's agreeing to restore
32 the interior of the premises to the condition that existed before the modification,
33 reasonable wear and tear excepted;

34 **2. Accommodations.** For any owner, ~~lessee~~ lessor, ~~sublessee~~ sublessor, managing
35 agent or other person having the right to sell, rent, lease or manage a housing
36 accommodation or any of their agents to refuse to make reasonable accommodations in
37 rules, policies, practices or services when those accommodations are necessary to give a
38 person with physical or mental disability equal opportunity to use and enjoy the housing;
39 or

40 **3. Service animals.** For any owner, ~~lessee~~ lessor, ~~sublessee~~ sublessor, managing
41 agent or other person having the right to sell, rent, lease or manage a housing
42 accommodation or any of their agents to refuse to permit the use of a service animal or

1 otherwise discriminate against an individual with a physical or mental disability who uses
2 a service animal at the housing accommodation unless it is shown by defense that the
3 service animal poses a direct threat to the health or safety of others or the use of the
4 service animal would result in substantial physical damage to the property of others or
5 would substantially interfere with the reasonable enjoyment of the housing
6 accommodation by others. The use of a service animal may not be conditioned on the
7 payment of a fee or security deposit, although the individual with a physical or mental
8 disability is liable for any damage done to the premises or facilities by such a service
9 animal.

10 **Sec. 15. 5 MRSA §4582-B**, as enacted by PL 1989, c. 779, is amended to read:

11 **§4582-B. Standards for multifamily housing constructed from March 14, 1991 to**
12 **March 14, 2012**

13 **1. Definition.** As used in this section, unless the context otherwise indicates, the
14 following terms have the following meanings.

15 A. "Builder" means the applicant for a building permit in a municipality that requires
16 these permits or the owner of the property in a municipality that does not require
17 building permits.

18 B. "Design professional" means an architect or professional engineer registered to
19 practice under Title 32.

20 C. "Standards of construction" means the 1986 standards set forth by the American
21 National Standards Institute in the publication "Specifications for Making Buildings
22 and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A
23 117.1-1986.

24 D. "Multifamily housing accommodation" means "covered multifamily dwelling" as
25 defined in 42 United States Code, Section 3604.

26 **2. Applicability.** This section applies to multifamily housing accommodations
27 ~~constructed for first occupancy after March 13, 1991~~ constructed from March 14, 1991 to
28 March 14, 2012.

29 **3. Standards.** Facilities subject to this section must meet the following standards.

30 A. Doors designed to allow passage into and within all premises within those
31 accommodations must be sufficiently wide to allow passage by a person in a
32 wheelchair.

33 B. A route accessible to a person in a wheelchair into and through the dwelling unit
34 must exist.

35 C. Light switches, electrical outlets, thermostats and other environmental controls
36 must be in locations accessible to a person in a wheelchair.

37 D. Bathroom walls must have reinforcements to accommodate the installation of
38 grab bars.

1 E. Kitchens and bathrooms must be accessible to and usable by a person in a
2 wheelchair.

3 **4. Compliance with standards.** Compliance with the standards of construction
4 satisfies the requirements of this section.

5 **5. Certification; inspection.** The builder of a facility to which this section applies
6 shall obtain a certification from a design professional that the plans of the facility meet
7 the standards of construction required by this section. Prior to commencing construction
8 of the facility, the builder shall submit the certification to:

9 A. The municipal authority that reviews plans in the municipality where the facility
10 is to be constructed; or

11 B. If the municipality where the facility is to be constructed has no authority who
12 reviews plans, the municipal officers of the municipality.

13 If municipal officials of the municipality where the facility is to be constructed inspect
14 buildings for compliance with construction standards, that inspection must include an
15 inspection for compliance with the standards required by this section. The municipal
16 officials shall require the facility inspected to meet the construction standards of this
17 section before the municipal officials permit the facility to be occupied.

18 **Sec. 16. 5 MRSA §4582-C** is enacted to read:

19 **§4582-C. Standards for multifamily and public housing constructed on or after**
20 **March 15, 2012**

21 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
22 following terms have the following meanings.

23 A. "Alteration" means a change to a facility that affects or could affect the usability
24 of the facility or any part of the facility, including, but not limited to, reconstruction,
25 remodeling, rehabilitation, historic restoration, changes or rearrangement in structural
26 parts or elements and changes or rearrangement in the plan configuration of walls and
27 full-height partitions. "Alteration" does not include normal maintenance, reroofing,
28 painting or wallpapering, asbestos removal or changes to mechanical and electrical
29 systems unless they affect the usability of the facility.

30 B. "Builder" means the applicant for a building permit in a municipality that requires
31 these permits or the owner of the property in a municipality that does not require
32 building permits.

33 C. "Covered multifamily dwellings" means:

34 (1) Buildings consisting of 4 or more units if such buildings have one or more
35 elevators; and

36 (2) Ground floor units in other buildings consisting of 4 or more units that have
37 no elevators.

38 D. "Design professional" means an architect or professional engineer registered to
39 practice under Title 32.

1 E. "New construction" includes, but is not limited to, the design and construction of
2 facilities for first occupancy or an alteration if the cost of the alteration is 75% or
3 more of the replacement cost of the completed facility.

4 F. "Public housing" means any housing that is financed in whole or in part with
5 public funds offering housing accommodations containing 20 or more units.

6 G. "Standards of construction" means the most recent American National Standards
7 Institute standards for accessible and usable facilities, published as ANSI A 117.1.
8 Departures from particular technical and scoping requirements of ANSI A 117.1 by
9 the use of other methods are permitted where substantially equivalent or greater
10 access to and usability of the facility is provided.

11 **2. Facilities affected.** This section applies to new construction of covered
12 multifamily dwellings and new construction and alterations of public housing if the date
13 when the last application for a building permit or permit extension is certified to be
14 complete by a state, county or local government or, in those jurisdictions where the
15 government does not certify completion of applications, if the date when the last
16 application for a building permit or permit extension received by the state, county or local
17 government is on or after March 15, 2012 or, if no permit is required, if the start of
18 physical construction or alterations occurs on or after March 15, 2012.

19 **3. Unlawful discrimination.** For purposes of this Act, unlawful discrimination, in
20 addition to any applicable accessible building requirements in subchapter 5, includes, but
21 is not limited to:

22 A. The failure to design and construct covered multifamily dwellings subject to this
23 section in such a manner that:

24 (1) The public use and common use portions of the dwellings are readily
25 accessible to and usable by people with physical or mental disabilities;

26 (2) All the doors designed to allow passage into and within all premises within
27 the dwellings are sufficiently wide to allow passage by persons in wheelchairs;
28 and

29 (3) All premises within the dwellings contain the following features of adaptive
30 design:

31 (a) An accessible route into and through the dwelling;

32 (b) Light switches, electrical outlets, thermostats and other environmental
33 controls in accessible locations;

34 (c) Reinforcements in bathroom walls to allow later installation of grab bars;
35 and

36 (d) Usable kitchens and bathrooms such that an individual in a wheelchair
37 can maneuver about the space;

38 B. For new construction of public housing subject to this section, to have less than
39 10% of the ground level units and less than 10% of the upper story units connected
40 by an elevator be accessible to and usable by persons with physical disabilities, and

1 less than 2% of the units, no fewer than one unit, with accessible communication
2 features; and

3 C. For alterations to public housing units subject to this section, to fail to have the
4 altered units meet the parts of the standards of construction concerning accessible
5 routes, accessible doors and adaptable bathrooms until at least 10% of the total
6 ground level units and a minimum of 10% of the total upper story units connected by
7 an elevator meet the parts of the standards of construction concerning accessible
8 routes, accessible doors and adaptable bathrooms.

9 **4. Compliance with standards.** Compliance with the appropriate standards of
10 construction satisfies the requirements of this section.

11 **5. Certification; inspection.** The builder of a facility to which this section applies
12 shall obtain a certification from a design professional that the plans of the facility meet
13 the standards of construction required by this section. Prior to commencing construction
14 of the facility, the builder shall submit the certification to:

15 A. The municipal authority that reviews plans in the municipality where the facility
16 is to be constructed; or

17 B. If the municipality where the facility is to be constructed has no authority that
18 reviews plans, the municipal officers of the municipality.

19 If municipal officials of the municipality where the facility is to be constructed inspect
20 buildings for compliance with construction standards, that inspection must include an
21 inspection for compliance with the standards required by this section. The municipal
22 officials shall require a facility that is inspected to meet the standards of this section
23 before the municipal officials permit the facility to be occupied.

24 **Sec. 17. 5 MRSA §4594, sub-§2,** as amended by PL 1991, c. 99, §24, is further
25 amended to read:

26 **2. Application.** Facilities subject to this section must meet the requirements of the
27 1981 standards of construction adopted pursuant to Title 25, former chapter 331, to
28 implement the following 4 parts of the American National Standards Institute's
29 "Specification for Making Buildings and Facilities Accessible to and Usable by
30 Physically Handicapped People," (ANSI A 117.1-1980):

31 A. 4.3 Accessible Route;

32 B. 4.13 Doors;

33 C. 4.17 Toilet Stalls;

34 D. 4.29.3 Tactile Warnings on doors to Hazardous Areas; and

35 E. Parking spaces for use by persons with physical disability in adequate number,
36 pursuant to section 4593, subsection 1, paragraph E.

37 **Sec. 18. 5 MRSA §4594-A, sub-§2, ¶A,** as amended by PL 1991, c. 99, §25, is
38 further amended to read:

1 A. Facilities subject to this section constructed on or after January 1, 1984, must
2 meet the requirements of the 1981 standards of construction adopted pursuant to Title
3 25, former chapter 331.

4 **Sec. 19. 5 MRSA §4594-A, sub-§2, ¶B**, as amended by PL 1991, c. 99, §25, is
5 further amended to read:

6 B. Plans to reconstruct, remodel or enlarge an existing place of public
7 accommodation, when the estimated total cost exceeds \$150,000, are subject to this
8 section when the proposed reconstruction, remodeling or enlargement will
9 substantially affect that portion of the building normally accessible to the public.

10 Facilities subject to this section ~~which that~~ are remodeled, enlarged or renovated on
11 or after January 1, 1984, must meet the requirements of the following 4 parts of the
12 1981 standards of construction adopted pursuant to Title 25, former chapter 331:

- 13 (1) 4.3 accessible route;
- 14 (2) 4.13 doors;
- 15 (3) 4.17 toilet stalls;
- 16 (4) 4.29.3 tactile warnings on doors to hazardous areas; and
- 17 (5) Parking spaces for use by persons with physical disability in adequate
18 number, pursuant to section 4593, subsection 1, paragraph E.

19 **Sec. 20. 5 MRSA §4611**, as amended by PL 2009, c. 235, §1, is further amended
20 to read:

21 **§4611. Complaint**

22 Any aggrieved person ~~who believes that the person has been subject to unlawful~~
23 discrimination, or any employee of the commission, may file a complaint under oath with
24 the commission stating the facts concerning the alleged discrimination, except that a
25 complaint must be filed with the commission not more than 300 days after the alleged act
26 of unlawful discrimination. In addition, any person may file a complaint pursuant to
27 section 4632.

28 **Sec. 21. 5 MRSA §4612, sub-§4, ¶A**, as amended by PL 2005, c. 10, §22, is
29 further amended to read:

30 A. If the commission finds reasonable grounds to believe that unlawful
31 discrimination has occurred, and further believes that irreparable injury or great
32 inconvenience will be caused the victim of such discrimination or to members of a
33 racial, color, sex, sexual orientation, physical or mental disability, religious or
34 nationality group or age group if relief is not immediately granted, or if conciliation
35 efforts under subsection 3 have not succeeded, the commission may file in the
36 Superior Court a civil action seeking such relief as is appropriate, including
37 temporary restraining orders. In a complaint investigated pursuant to a memorandum
38 of understanding between the commission and the United States Department of
39 Housing and Urban Development that results in a reasonable grounds determination,

1 the commission shall file a civil action for the use of complainant if conciliation
2 efforts under subsection 3 are unsuccessful.

3 **Sec. 22. 5 MRSA §4612, sub-§5**, as enacted by PL 1983, c. 281, §2, is amended
4 to read:

5 **5. Confidentiality of 3rd-party records.** The Legislature finds that persons who
6 are not parties to a complaint under this chapter as a complainant or a ~~person accused of~~
7 ~~discrimination~~ respondent have a right to privacy. Any records of the commission ~~which~~
8 ~~that~~ are open to the public under Title 1, chapter 13, ~~shall~~ must be kept in such a manner
9 as to ensure that data identifying these 3rd parties is not reflected in the record. Only data
10 reflecting the identity of these persons may be kept confidential.

11 **Sec. 23. 5 MRSA §4613, sub-§2, ¶B**, as repealed and replaced by PL 2007, c.
12 695, Pt. A, §7, is amended to read:

13 B. If the court finds that unlawful discrimination occurred, its judgment must specify
14 an appropriate remedy or remedies for that discrimination. The remedies may
15 include, but are not limited to:

16 (1) An order to cease and desist from the unlawful practices specified in the
17 order;

18 (2) An order to employ or reinstate a victim of unlawful employment
19 discrimination, with or without back pay;

20 (3) An order to accept or reinstate such a person in a union;

21 (4) An order to rent or sell a specified housing accommodation, or one
22 substantially identical to that accommodation if controlled by the respondent, to a
23 victim of unlawful housing discrimination;

24 (5) An order requiring the disclosure of the locations and descriptions of all
25 housing accommodations that the violator has the right to sell, rent, lease or
26 manage and forbidding the sale, rental or lease of those housing accommodations
27 until the violator has given security to ensure compliance with any order entered
28 against the violator and with all provisions of this Act. An order may continue
29 the court's jurisdiction until the violator has demonstrated compliance and may
30 defer decision on some or all relief until after a probationary period and a further
31 hearing on the violator's conduct during that period;

32 (6) An order to pay the victim, in cases of unlawful price discrimination, 3 times
33 the amount of any excessive price demanded and paid by reason of that unlawful
34 discrimination;

35 (7) An order to pay to the victim of unlawful discrimination, other than
36 employment discrimination in the case of a respondent who has more than 14
37 employees, or, if the commission brings action on behalf of the victim, an order
38 to pay to the victim, the commission or both, civil penal damages not in excess of
39 \$20,000 in the case of the first order under this Act against the respondent, not in
40 excess of \$50,000 in the case of a 2nd order against the respondent arising under
41 the same subchapter of this Act and not in excess of \$100,000 in the case of a 3rd

1 or subsequent order against the respondent arising under the same subchapter of
2 this Act, except that the total amount of civil penal damages awarded in any
3 action filed under this Act may not exceed the limits contained in this
4 subparagraph;

5 (8) In cases of intentional employment discrimination with respondents who
6 have more than 14 employees, compensatory and punitive damages as provided
7 in this subparagraph.

8 (a) In an action brought by a complaining party under section 4612 and this
9 section against a respondent who engaged in unlawful intentional
10 discrimination prohibited under sections 4571 to 4575, if the complaining
11 party can not recover under 42 United States Code, Section 1981 (1994), the
12 complaining party may recover compensatory and punitive damages as
13 allowed in this subparagraph in addition to any relief authorized elsewhere in
14 this subsection from the respondent.

15 (b) When a discriminatory practice involves the provision of a reasonable
16 accommodation, damages may not be awarded under this subparagraph when
17 the covered entity demonstrates good faith efforts, in consultation with the
18 person with the disability who has informed the covered entity that
19 accommodation is needed, to identify and make a reasonable accommodation
20 that would provide that individual with an equally effective opportunity and
21 would not cause an undue hardship on the operation of the business.

22 (c) A complaining party may recover punitive damages under this
23 subparagraph against a respondent if the complaining party demonstrates that
24 the respondent engaged in a discriminatory practice or discriminatory
25 practices with malice or with reckless indifference to the rights of an
26 aggrieved individual protected by this Act.

27 (d) Compensatory damages awarded under this subparagraph do not include
28 back pay, interest on back pay or any other type of relief authorized
29 elsewhere under this subsection.

30 (e) The sum of compensatory damages awarded under this subparagraph for
31 future pecuniary losses, emotional pain, suffering, inconvenience, mental
32 anguish, loss of enjoyment of life, other nonpecuniary losses and the amount
33 of punitive damages awarded under this section may not exceed for each
34 complaining party:

35 (i) In the case of a respondent who has more than 14 and fewer than 101
36 employees in each of 20 or more calendar weeks in the current or
37 preceding calendar year, \$50,000;

38 (ii) In the case of a respondent who has more than 100 and fewer than
39 201 employees in each of 20 or more calendar weeks in the current or
40 preceding calendar year, \$100,000;

41 (iii) In the case of a respondent who has more than 200 and fewer than
42 501 employees in each of 20 or more calendar weeks in the current or
43 preceding calendar year, \$300,000; and

1 (iv) In the case of a respondent who has more than 500 employees in
2 each of 20 or more calendar weeks in the current or preceding calendar
3 year, \$500,000.

4 (f) Nothing in this subparagraph may be construed to limit the scope of, or
5 the relief available under, 42 United States Code, Section 1981 (1994).

6 (g) If a complaining party seeks compensatory or punitive damages under
7 this subparagraph, any party may demand a trial by jury, and the court may
8 not inform the jury of the limitations described in division (e).

9 (h) This subparagraph does not apply to recoveries for a practice that is
10 unlawful only because of its disparate impact.

11 (i) Punitive damages may not be included in a judgment or award against a
12 governmental entity, as defined in Title 14, section 8102, subsection 2, or
13 against an employee of a governmental entity based on a claim that arises out
14 of an act or omission occurring within the course or scope of that employee's
15 employment; and

16 (9) In addition to other remedies in subparagraphs (1) to (8), an order to pay
17 actual and punitive damages in the case of discriminatory housing practices. This
18 subparagraph is not intended to limit actual damages available to a plaintiff
19 alleging other discrimination if the remedy of actual damages is otherwise
20 available under this Act;

21 **Sec. 24. 5 MRSA §4621**, as amended by PL 1979, c. 541, Pt. A, §41, is further
22 amended to read:

23 **§4621. Civil action**

24 Within the time limited, a an aggrieved person ~~who has been subject to unlawful~~
25 ~~discrimination~~ may file a civil action in the Superior Court against the person or persons
26 who committed the unlawful discrimination.

27 **Sec. 25. 5 MRSA §4622, sub-§1**, as amended by PL 2009, c. 235, §4, is further
28 amended to read:

29 **1. Limitation.** Attorney's fees under section 4614 and civil penal damages or
30 compensatory and punitive damages under section 4613 may not be awarded to a plaintiff
31 in a civil action under this Act unless the plaintiff alleges and establishes that, prior to the
32 filing of the civil action, the plaintiff first filed a complaint with the commission and the
33 commission either:

- 34 A. Dismissed the case under section 4612, subsection 2;
- 35 B. Failed, within 90 days after finding reasonable grounds to believe that unlawful
36 discrimination occurred, to enter into a conciliation agreement to which the plaintiff
37 was a party;
- 38 C. Issued a right-to-sue letter under section 4612, subsection 6; or
- 39 D. Dismissed the case in error.

1 This subsection does not apply to or limit any remedies for civil actions filed under
2 subchapter ~~4~~ 5 if one or more additional causes of action are alleged in the same civil
3 action that do not require exhaustion of administrative remedies or subchapter 4 if the
4 allegations are covered by the federal Fair Housing Act, 42 United States Code, Chapter
5 45.

6 **Sec. 26. 21-A MRSA §630, sub-§1, ¶A**, as enacted by PL 1985, c. 161, §6, is
7 amended to read:

8 A. "Accessible voting place" means a voting place in a building in which the part of
9 the building set aside for voting meets the requirements for accessible routes ~~of the~~
10 ~~1981 standards of construction~~ described in Title ~~25~~ 5, chapter ~~331~~ 337, subchapter 5.

11 **Sec. 27. 23 MRSA §954**, as amended by PL 1979, c. 248, §1, is further amended
12 to read:

13 **§954. Picnic areas**

14 The department is authorized to construct along state and state aid highways roadside
15 picnic areas, roadside springs, scenic turnouts or other landscaping where in the opinion
16 of the department it may seem advisable and place distinguishing signs upon the same.
17 The department is authorized to use for the maintenance of the same such funds as are
18 now available for maintenance of state and state aid highways. In any roadside area
19 along any state or state aid highway where modern flush toilet facilities are provided for
20 public use, there ~~shall~~ must be provided toilet rooms ~~which that~~ are accessible to and
21 usable by the physically disabled, as ~~defined set out in Title 25 5, sections 2701 and 2702~~
22 ~~respectively~~ chapter 337, subchapter 5. The department shall erect and maintain signs
23 along the approach to any roadside area where toilet facilities accessible to the disabled
24 are available ~~which that~~ are designed to inform disabled persons that the facilities are
25 available.

26 **Sec. 28. 25 MRSA c. 331**, as amended, is repealed.

27 **Sec. 29. 30-A MRSA §4451, sub-§2-A, ¶E**, as amended by PL 2009, c. 261, Pt.
28 A, §14, is further amended to read:

29 E. Building standards under chapter 141; chapter 185, subchapter 1; Title 5, sections
30 4582-B, 4582-C and 4594-F, beginning June 1, 2010, Title 10, chapter 1103; and
31 Title 25, ~~chapters~~ chapter 313 and 331.

32 **Sec. 30. 30-A MRSA §4452, sub-§5, ¶F**, as enacted by PL 1989, c. 104, Pt. A,
33 §45 and Pt. C, §10, is amended to read:

34 F. Laws pertaining to the construction of public buildings for the physically disabled
35 pursuant to Title ~~25~~ 5, ~~chapter 331~~ sections 4582-B, 4582-C and 4594-F;

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SUMMARY

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This bill amends the Maine Human Rights Act in order to maintain its substantial

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equivalency with the federal Fair Housing Act and to update the accessible building

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requirements in public housing.