



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 221

H.P. 153

House of Representatives, February 3, 2015

**An Act To Amend the Laws Regarding Service Animal Housing
Accommodations**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PICCHIOTTI of Fairfield.
Cosponsored by Representatives: GUERIN of Glenburn, O'CONNOR of Berwick, Senator:
WHITTEMORE of Somerset.

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

2 **Sec. 1. 5 MRSA §4553, sub-§9-E, ¶A,** as enacted by PL 2011, c. 369, §2, is
3 amended to read:

4 A. For the purposes of subchapter 4:

5 (1) An animal that has been determined necessary to mitigate the effects of a
6 physical or mental disability by a physician, psychologist, physician's assistant,
7 nurse practitioner or ~~licensed~~ social worker who is licensed by the state of
8 residence of the person requesting an accommodation; or

9 (2) An animal individually trained to do work or perform tasks for the benefit of
10 an individual with a physical or mental disability, including, but not limited to,
11 guiding individuals with impaired vision, alerting individuals who are deaf or
12 hard of hearing to intruders or sounds, providing reasonable protection or rescue
13 work, pulling a wheelchair or retrieving dropped items; and

14 **Sec. 2. 5 MRSA §4581, sub-§4, ¶B,** as enacted by PL 2011, c. 613, §10 and
15 affected by §29, is amended to read:

16 B. Except as provided in section 4581-A, subsection 1, paragraph C and section
17 4581-A, subsections 2 and 3, this chapter does not apply to:

18 (1) The rental of a one-family unit of a ~~2-family~~ dwelling for 4 families or fewer,
19 one unit of which is occupied by the owner; or

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

22 **Sec. 3. 5 MRSA §4582-A, sub-§§2 and 3,** as amended by PL 2011, c. 613, §13
23 and affected by §29, are further amended to read:

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

29 **3. Service animals.** For any owner, lessor, sublessor, managing agent or other
30 person having the right to sell, rent, lease or manage a housing accommodation or any of
31 their agents to refuse to permit the use of a service animal or otherwise discriminate
32 against an individual with a physical or mental disability who uses a service animal at the
33 housing accommodation unless it is shown by defense that the service animal poses a
34 direct threat to the health or safety of others or the use of the service animal would result
35 in substantial physical damage to the property of others or would substantially interfere
36 with the reasonable enjoyment of the housing accommodation by others. ~~The use of a~~
37 ~~service animal may not be conditioned on the payment of a fee or security deposit,~~
38 ~~although the individual with a physical or mental disability is liable for any damage done~~
39 ~~to the premises or facilities by such a service animal.~~ Upon request by an owner, lessor,
40 sublessor, managing agent or other person having the right to sell, rent, lease or manage a

1 housing accommodation or any agents of these, an individual who is requesting an
2 accommodation for a service animal must provide a letter written by a physician,
3 psychologist, physician's assistant, nurse practitioner or social worker who is licensed by
4 the state of residence of the individual requesting an accommodation that must contain
5 the following:

6 A. The name and signature of the person writing the letter;

7 B. The professional license number of the person writing the letter;

8 C. A description of the service animal;

9 D. A description of any training the service animal has had to perform tasks for the
10 benefit of the individual who is requesting the accommodation;

11 E. The name of the individual who is requesting the accommodation and a
12 description of how that service animal mitigates the effects of the individual's
13 disability; and

14 F. A statement that the opinions expressed in the letter are based on the generally
15 accepted standards of the person's profession.

16 An owner, lessor, sublessor, managing agent or other person having the right to sell, rent,
17 lease or manage a housing accommodation or any agent of these is not required to
18 accommodate an individual who requests an accommodation for a service animal when
19 that individual does not provide a letter pursuant to this subsection within a reasonable
20 period of time; or

21 **Sec. 4. 5 MRSA §4582-A, sub-§4** is enacted to read:

22 **4. Security deposits and rent.** For any owner, lessor, sublessor, managing agent or
23 other person having the right to sell, rent, lease or manage a housing accommodation or
24 any agent of these to charge a higher rent or security deposit on or to require renter's
25 insurance of an individual with a service animal unless the policy regarding the higher
26 rent or security deposit or renter's insurance applies equally to all animals or all animals
27 of the same species as the service animal. Rent or security deposits charged pursuant to
28 this subsection must comply with Title 14, chapter 709.

29 **Sec. 5. 14 MRSA §6001, sub-§6** is enacted to read:

30 **6. Presumption that an accommodation is not required.** A presumption that a
31 landlord does not have to make an accommodation for a tenant with a service animal
32 pursuant to Title 5, section 4582-A is created when:

33 A. The service animal is found to be not in compliance with a state law or municipal
34 ordinance and the tenant fails to bring the service animal into compliance with the
35 law or ordinance within a reasonable period of time;

36 B. The service animal has been the subject of a citation by a law enforcement officer;

37 C. The service animal has caused or would cause:

38 (1) The insurance policy for the premises to be canceled;

- 1 (2) Coverage for the service animal to be excluded under the insurance policy for
2 the premises;
- 3 (3) The insurance policy for the premises not to be renewed; or
- 4 (4) The premises to be uninsurable by an insurer licensed to engage in the
5 business of insurance in the State;
- 6 D. The service animal has bitten or attacked a person or animal;
- 7 E. The tenant withheld information or provided false information regarding the
8 tenant's service animal on the tenant's application or lease;
- 9 F. The tenant fails to remove and dispose of animal waste; or
- 10 G. The service animal poses a threat to other people or animals and the tenant takes
11 no effective action to control the service animal's behavior so that the threat is
12 mitigated or eliminated.

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SUMMARY

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This bill amends the laws regarding housing accommodations for individuals using service animals. It exempts a landlord from having to comply with provisions concerning service animals when the landlord has requested from an individual seeking an accommodation a letter written by a licensed health care professional or social worker that sets out details about the service animal and why the individual seeking the accommodation needs the service animal if the landlord has not received that letter within a reasonable period of time. It creates a presumption within the laws regarding forcible entry and detainer that a landlord does not have to make an accommodation for a service animal when the service animal's owner fails to comply with a set of requirements, including insurance coverage, sanitation and public safety. It allows a landlord to charge higher rent and higher security deposits and to require renter's insurance for an individual with a service animal. It also changes the law concerning rentals of one-family units in 2-family dwellings exempted from the requirements of the Maine Human Rights Act by extending the exemption to rentals of one-family units in dwellings for 4 families or fewer.