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**STATE OF MAINE
SENATE
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 487, L.D. 1530, Bill, “An Act To Amend the Housing Provisions of the Maine Human Rights Act”

Amend the bill by striking out all of section 1 (page 1, lines 2 to 4 in L.D.) and inserting the following:

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

1-D. Aggrieved person. "Aggrieved person" includes any person who claims to have been subject to unlawful discrimination. "Aggrieved person" also includes any person who claims to have been injured by unlawful housing discrimination.'

Amend the bill by striking out all of sections 8 and 9 (page 2, lines 3 to 8 in L.D.) and inserting the following:

Sec. 8. 5 MRSA §4553, sub-§§9-F and 9-G are enacted to read:

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

9-G. Respondent. "Respondent" means a person accused of unlawful discrimination in a complaint filed under section 4611 or a civil action filed under section 4621.'

Amend the bill in section 12 in §4581-A in subsection 3 in paragraph B in the last line (page 5, line 16 in L.D.) by striking out the following: "status;" and inserting the following: 'status; or'

Amend the bill in section 12 in §4581-A in subsection 4 in the last line (page 5, line 20 in L.D.) by striking out the following: "recipient;" and inserting the following: 'recipient.'

Amend the bill in section 12 in §4581-A by striking out all of subsections 5 and 6 (page 5, lines 21 to 43 and page 6, lines 1 to 19 in L.D.)

Amend the bill by striking out all of section 15 (page 7, lines 10 to 38 and page 8, lines 1 to 17 in L.D.)

COMMITTEE AMENDMENT

1 Amend the bill in section 16 in §4582-C in the 2nd line (page 8, line 20 in L.D.) by
2 striking out the following: "**March 15, 2012**" and inserting the following: '**September 1,**
3 **2012**'

4 Amend the bill in section 16 in §4582-C in subsection 1 in paragraph A by striking
5 out all of the last sentence (page 8, lines 27 to 29 in L.D.) and inserting the following:
6 "Alteration" does not include normal maintenance, decoration and upgrades, including,
7 but not limited to, reroofing, re-siding, painting or wallpapering, replacement of doors or
8 windows, asbestos removal and changes to mechanical and electrical systems unless they
9 affect the usability of the facility.'

10 Amend the bill in section 16 in §4582-C in subsection 1 in paragraph G in the 2nd
11 line (page 9, line 7 in L.D.) by striking out the following: "for accessible and usable
12 facilities"

13 Amend the bill in section 16 in §4582-C in subsection 2 in the next to the last line
14 (page 9, line 17 in L.D.) by striking out the following: "March 15, 2012" and inserting the
15 following: 'September 1, 2012'

16 Amend the bill in section 16 in §4582-C in subsection 2 in the last line (page 9, line
17 18 in L.D.) by striking out the following: "March 15, 2012" and inserting the following:
18 'September 1, 2012'

19 Amend the bill in section 16 in §4582-C in subsection 3 by striking out all of the first
20 paragraph (page 9, lines 19 to 21 in L.D.) and inserting the following:

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

24 Amend the bill in section 16 in §4582-C in subsection 5 by striking out all of the first
25 paragraph (page 10, lines 11 to 14 in L.D.) and inserting the following:

26 **5. Statement; inspection.** The builder of a facility to which this section applies
27 shall obtain a statement from a design professional that, based on professional judgment,
28 the plans of the facility at the time of the statement meet the standards of construction
29 required by this section. Prior to commencing construction of the facility, the builder
30 shall submit the statement to:

31 Amend the bill by striking out all of section 18 (page 10, lines 37 and 38 and page 11,
32 lines 1 to 3 in L.D.) and inserting the following:

33 **Sec. 18. 5 MRSA §4594-A, sub-§2, ¶A,** as amended by PL 2011, c. 322, §3, is
34 further amended to read:

35 A. Facilities subject to this section constructed on or after January 1, 1984 but before
36 January 1, 1988 must meet the requirements of the 1981 standards of construction
37 adopted pursuant to Title 25, former chapter 331.'

38 Amend the bill by striking out all of section 19 (page 11, lines 4 to 18 in L.D.) and
39 inserting the following:

40 **Sec. 19. 5 MRSA §4594-A, sub-§2, ¶B,** as amended by PL 2011, c. 322, §3, is
41 further amended to read:

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

5 Facilities subject to this section that are remodeled, enlarged or renovated on or after
6 January 1, 1984 but before January 1, 1988 must meet the requirements of the
7 following 4 parts of the 1981 standards of construction adopted pursuant to Title 25,
8 former chapter 331:

- 9 (1) 4.3 accessible route;
10 (2) 4.13 doors;
11 (3) 4.17 toilet stalls;
12 (4) 4.29.3 tactile warnings on doors to hazardous areas; and
13 (5) Parking spaces for use by persons with physical disability in adequate
14 number, pursuant to section 4593, subsection 1, paragraph E.'

15 Amend the bill in section 23 in paragraph B in subparagraph (9) in the last line (page
16 14, line 20 in L.D.) by inserting after the following: "Act" the following: 'Punitive
17 damages under this subparagraph may not be included in a judgment or award against a
18 governmental entity, as defined in Title 14, section 8102, subsection 2, or against an
19 employee of a governmental entity based on a claim that arises out of an act or omission
20 occurring within the course or scope of that employee's employment'

21 Amend the bill in section 29 in paragraph E in the 2nd line (page 15, line 30 in L.D.)
22 by striking out the following: "4594-F," and inserting the following: '4594-F:'

23 Amend the bill by adding after section 30 the following:

24 '**Sec. 31. Effective date.** This Act takes effect September 1, 2012.'

25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
26 section number to read consecutively.

27 SUMMARY

28 This amendment is the majority report of the Joint Standing Committee on Judiciary.

29 This amendment revises the definition of "aggrieved person" to apply to persons
30 aggrieved by unlawful housing discrimination differently than it applies to persons
31 aggrieved by other kinds of discrimination under the Maine Human Rights Act. The bill's
32 definition of "aggrieved person" includes any person who claims to have been subjected
33 to unlawful discrimination; this covers unlawful discrimination in employment, housing,
34 public accommodations, credit and education. The amendment alters the definition of
35 "aggrieved person" with regard to unlawful housing discrimination to be consistent with
36 federal law: "aggrieved person" includes any person who claims to have been injured by
37 unlawful housing discrimination, which covers persons who may not have been
38 personally subject to unlawful housing discrimination, but who have nonetheless been
39 injured by it.

1 This amendment adds an effective date of September 1, 2012. The bill was proposed
2 in anticipation of the new building accessibility standards to apply beginning March 15,
3 2012. By establishing September 1, 2012 as the effective date, this amendment
4 eliminates the need for language to provide for the transition from older building
5 accessibility standards. Thus, the Maine Revised Statutes, Title 5, section 4581-A,
6 subsections 5 and 6, as proposed in the bill, as well as the bill's amendments to Title 5,
7 section 4582-B, are eliminated. All remaining references to March 15, 2012 are changed
8 to September 1, 2012.

9 This amendment revises the definition of "alteration" to provide guidance as to what
10 forms of normal maintenance, decorating and upgrades do not fall under the updated
11 standards. As long as the altering activities do not affect the usability of the facility, the
12 cost of reroofing, re-siding, painting or wallpapering, replacement of doors or windows,
13 asbestos removal or changes to mechanical and electrical systems, as well as other normal
14 maintenance, is not counted toward the 75% threshold of the replacement cost of the
15 completed facility for purposes of the definition of "new construction" under Title 5,
16 section 4582-C, subsection 1, paragraph E, and the activities do not trigger the
17 accessibility requirements for alterations under Title 5, section 4582-C, subsection 3,
18 paragraph C.

19 This amendment revises the definition of "standards of construction" to ensure that
20 the appropriate standard is applied to multifamily dwellings and public housing. In
21 general, for multifamily dwellings, Title 5, section 4582-C, subsection 3, paragraph A is
22 intended to require the same level of accessibility as is required by the federal Fair
23 Housing Act, as amended. Under the current 2009 version of American National
24 Standards Institute's ANSI A 117.1, for example, the requirements in Title 5, section
25 4582-C, subsection 3, paragraph A, subparagraphs (2) and (3) of the bill for dwelling
26 units and sleeping units would be satisfied by complying with the criteria for
27 A 117.1-2009 section 1004, Type B Units. For public housing, the 10% requirements in
28 Title 5, section 4582-C, subsection 3, paragraphs B and C of the bill would be satisfied by
29 complying with the criteria for A 117.1-2009 sections 1002, Accessible Units, or 1003,
30 Type A Units.

31 This amendment provides that a design professional's statement that the plans of the
32 facility meet the required standards of construction is based on professional judgment and
33 that the statement is based on the plans as they exist at the time the statement is made.

34 This amendment amends the bill to consistently use the term "unlawful housing
35 discrimination."

36 This amendment changes the bill to make the language in Title 5, section 4594-A,
37 subsection 2, paragraphs A and B consistent with the changes made by Public Law 2011,
38 chapter 322, section 3.

39 This amendment provides that, although the bill authorizes punitive damages for
40 unlawful housing discrimination to be consistent with federal law, punitive damages are
41 not available against a governmental entity or against an employee of a governmental
42 entity based on a claim that arises out of an act or omission occurring within the course or
43 scope of the employee's employment.