

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

New Draft of: H. P. 881, L. D. 1202

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1809

H. P. 1386

House of Representatives, June 4, 1971

Reported by a Majority of the Committee on Judiciary and printed under
Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to the Housing Needs of People Who Pay Rent.

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

R. S., T. 14, c. 710, additional. Title 14 of the Revised Statutes is amended by adding a new chapter 710, to read as follows:

CHAPTER 710

HOUSING OR SANITATION VIOLATIONS

§ 6021. Definitions

The term "municipal housing or sanitation code" as used in this chapter shall mean any building, housing, sanitation, electrical or plumbing code, or regulation heretofore or hereafter established. Where the municipality relies upon Title 32, sections 3351 and 3353 for enumeration of its plumbing code, the plumbing code there referred to and established shall apply.

The term "full-time" as used in this chapter shall mean 30 or more hours per week.

The term "unfit for human habitation" as used in this chapter shall mean that a dwelling or premise is in substantial violation of municipal housing or sanitation code or codes though not necessarily an imminent hazard requiring condemnation pursuant to applicable statute or local ordinance.

§ 6022. Determination of condition

A municipal housing or sanitation code agency or person charged with the responsibility of enforcing a municipal housing or sanitation code, having

received a written complaint from a tenant of a possible housing or sanitation code violation affecting the complaining tenant, shall within 10 days thereafter inspect the premises complained of to determine whether or not a code violation exists.

The enforcing agency or person shall within 5 days of such inspection inform the landlord and owner and the complaining tenant of the determination made by the agency or person. Notice of said determination shall be given in accordance with the applicable code and shall include any alleged violation and the determination of the enforcement agency or person as to whether or not the premise or dwelling is unfit for human habitation within the meaning of this chapter.

§ 6023. Operation of rent escrow

After receiving such notification of the determination, the tenant may, if he continues to occupy the premises or dwelling, invoke the rent escrow provisions of this chapter which shall result in the suspension of the duty of the complaining tenant to pay to the landlord, and the right of the landlord or owner to collect, the rents, except as provided in sections 6024 and 6025, until such premises or dwelling are certified by said enforcement agency or person as free of the condition causing the determination or until the tenancy is terminated by any reason other than nonpayment of rent. The tenant shall invoke the escrow provisions of this chapter by notifying in writing the landlord or owner of his intention to do so and notifying in writing the municipal treasurer of such intention. The complaining tenant shall then pay the rent when due to the municipal treasurer to be placed in escrow in a bank account to be set up and held by the local municipal treasurer and to be distributed in accordance with section 6026.

If the complaining tenant elects not to pay the rent when due into such escrow account, the rent must be paid when due to the landlord or owner.

§ 6024. Effect of tenant's nonpayment of rent

This chapter shall not apply to any complaining tenant who is in arrears in the payment of rent at the time the tenant complains to the local housing or sanitation code enforcement agency or person.

If the tenant becomes in arrears at any time after the complaint is made to the municipal housing or sanitation code enforcement agency or person, any proceedings pending under this chapter shall terminate and any money in an escrow account shall be paid to the landlord.

§ 6025. Appeal

Whoever feels himself aggrieved by the determination of the municipal housing or sanitation code enforcement agency or person may, within 7 days after service of the notice provided in section 6022, file a complaint in the division of the District Court in which the premise or dwelling is situated and the Maine Rules of Civil Procedure of the District Court shall then apply.

If the court finds that the premise or dwelling is fit for human habitation, or finds that the tenant, members of his family, his guests or his invitees

proximately caused the condition which made the premise or dwelling unfit for human habitation, the escrow account is dissolved and the moneys in escrow are to be paid to the landlord. If the court finds otherwise, an escrow account for the tenant or tenants involved shall be established, or if established shall be continued.

§ 6026. Distribution of escrow account

If, at the end of 120 days from the date of the notice of the determination as provided in section 6022 or a final ruling of a court, whichever is later, a premise or dwelling has not been repaired and certified in proper condition by the proper agency or person, 50% of the moneys deposited in the escrow account shall be payable to the landlord or owner and the remaining 50% shall be payable to the tenant.

If the condition is removed on or before the expiration of the 120-day period, the moneys held in the escrow account shall all be payable to the landlord or owner.

If at the expiration of the 120-day period the condition which caused the determination still exists, the escrow provisions of this chapter shall remain in effect and at the expiration of every 120-day period thereafter a distribution of the moneys held in escrow shall be made as provided in this section or until the condition has been corrected and so certified by the appropriate enforcement agency or person. Notice of certification of the correction of the condition causing the determination shall be in the same manner as provided in section 6022. The landlord or owner is responsible for requesting the municipal enforcement agency or person to inspect the premises in question to certify the correction of the condition which caused the determination.

§ 6027. Retaliatory evictions

No tenant may be evicted in retaliation for complaining or proceeding under this chapter unless he has so complained or proceeded more than twice without cause.

§ 6028. Exception

This chapter shall apply only to municipalities having municipal housing or sanitation code agencies or persons charged with full time enforcement of such codes and only to nonseasonal dwellings or premises.

Nothing in this chapter shall prevent the local enforcement agency or person from condemning the dwelling or premises under applicable statute or local ordinance.

STATEMENT OF FACT

The purpose of this bill is to encourage landlords to upgrade substandard housing by causing rents payable to the landlord to be held in escrow for a time. The purpose of the new draft is to prevent tenants from taking ad-

vantage of their own wrong by denying them the remedy of escrow if they, their family, guests or invitees proximately caused the conditions which rendered the dwelling unfit. Furthermore, the purpose of the new draft is to do away with the penalty provision where a tenant is deprived of utilities by the landlord and also to do away with the prohibition upon re-rental until certification by the enforcement agency or person that the dwelling is fit to live in.