

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
107TH LEGISLATURE

COMMITTEE AMENDMENT "A " to S.P. 272, L.D. 878, Bill,  
"AN ACT Defining the Warranty of Habitability and Providing  
Remedies Therefor."

Amend said Bill by striking out everything after the enacting  
clause and inserting in place thereof the following:

'Sec. 1. 14 MRSA §6010, as last amended by PL 1973, c. 633,  
§21, is further amended by adding after the first paragraph a  
new paragraph to read:

If the court finds that, after actual notice of conditions  
rendering the rented premises unfit for human habitation given  
to the landlord or person who customarily collects rent, the  
landlord has failed to take prompt, effective steps to repair  
or remedy said conditions and the court finds that the conditions  
were not caused by the tenant or other person acting under his  
control, the court shall deduct from the amount of rent due and  
owing the difference between the rental price and the fair value  
of the use and occupancy of the premises from the time when the  
conditions first existed to the time when the conditions are  
repaired. In determining the fair value, there shall be a  
rebuttable presumption that the rental price is the fair value of  
the rented premises free from conditions rendering it unfit for  
human habitation. Conditions in the premises which violate any  
state or local code or municipal ordinance intended to protect  
the safety or well-being of the occupants or of the public shall  
be evidence that the rented premises were unfit for human  
habitation.

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Sec. 2. 14 MRSA §6021, as enacted by PL 1971, c. 270, is repealed and the following enacted in place thereof:

§6021. Implied warranty and covenant of habitability

As used in this section , the term "dwelling unit" shall include mobile homes, apartments, buildings or other structures and the common areas thereof which are rented for human habitation.

In any written or oral lease or agreement for rental of a dwelling unit, the landlord shall be deemed to covenant and warrant that such dwelling unit is fit for human habitation.

If a condition exists in a dwelling unit and this condition renders the dwelling unit unfit for human habitation, then any affected tenant may file a petition against the landlord of said dwelling unit in the Superior Court. Proof of any condition in the dwelling unit which violates any state or local code or municipal ordinance intended to protect the safety or well-being of the occupants or of the public shall be evidence that the unit was not fit for human habitation. Such petition shall set forth the violation of the code or codes, if any, and shall state that such condition may endanger or materially impair the health or well-being of the occupants or of the public and that said condition was not substantially caused by the tenant or any other person acting under his control.

If the court finds that the allegations contained in the petition are true and if in addition the court finds that the landlord has failed to take prompt, effective steps to repair

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or remedy said condition after receiving actual notice of the existence thereof, the landlord shall be deemed to have breached the warranty of fitness for human habitation established by this section as of the date when the endangering condition first existed. If the court finds a breach of this warranty by the landlord, the court may take the following action in addition to allowing the tenant any relief or remedies which may otherwise exist:

1. Issue injunction. Issue appropriate injunctions, ordering the landlord to repair all conditions which may endanger or materially impair the health or well-being of the tenant or of the public;

2. Determine fair value. Determine the fair value for the use and occupancy of the dwelling unit by the tenant from the date when the endangering condition first existed until such time as the condition is repaired and further declare what, if any, moneys the tenant owes the landlord or what, if any, rebate the landlord owes the tenant for rent paid in excess of the value of use and occupancy. In making this determination, there shall be a rebuttable presumption that the rental amount equals the fair value of the premises without any endangering condition;

3. Authorize premises vacated. Authorize the tenant to temporarily vacate the dwelling unit if the unit must be vacant during necessary repairs. No use and occupation charge shall be incurred by a tenant until such time as the tenant resumes occupation of the unit and the landlord may be ordered to pay any necessary moving expenses incurred by a tenant for temporary relocation;

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4. Appoint receiver. Appoint a receiver to collect use and occupancy moneys or rentals that may come due the landlord for the rental of the affected unit and other dwelling units owned by the landlord and to apply said moneys to make all necessary repairs;

5. Other court orders. Enter such other orders as the court may deem necessary to accomplish the purposes of this section.

Upon the filing of a petition under this section, the court shall enter such temporary restraining orders as may be necessary to protect the health or well-being of tenants or of the public.

The notice requirement of this section may be satisfied by notice to the person who customarily collects rent. The provisions of <-----> section 6001 on retaliation will apply to the filing of a complaint under this section. Any agreement by a tenant to waive any of the rights or benefits provided by this section shall be voidable.'

#### Statement of Fact

The purposes of this amendment are to remove from the bill being amended the provisions of sections which amend the statute pertaining to the legal remedy of forcible entry and detainer and the provisions of section 4 which provided for the adoption of a state sanitary code by the Department of Health and Welfare. This amendment also contains new provisions which are designed to provide tenants with the legal means to assure that rental dwellings are repaired should such dwellings fail to meet certain established standards of health and safety.

Reported by the Majority of the Committee on Judiciary.  
Reproduced and distributed pursuant to Senate Rule 11-A.  
June 3, 1975. (Filing No. S-260).