

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 878

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S. P. 272

In Senate, March 5, 1975

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Conley of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT Defining the Warranty of Habitability and Providing Remedies  
Therefor.

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

Sec. 1. 14 MRSA § 6001, as last amended by PL 1971, c. 322, § 1, is further amended by adding at the end the following new paragraph:

It shall be a defense to an action of forceable entry and detainer if the tenant can prove that at the time the action was filed the dwelling unit was not fit for human habitation and that this condition was not caused by the tenant or other person acting under his control. Evidence of conditions in the unit which violate the State Sanitary Code or other state or local codes or municipal ordinances intended to protect the public shall be prima facie proof that the dwelling unit was not fit for human habitation.

Sec. 2. 14 MRSA § 6010, as last amended by PL 1973, c. 633, § 21, is further amended by adding at the end the following new paragraph:

If the court finds that, after actual notice of condition rendering a dwelling unit unfit for human habitation given to the landlord or person who customarily collects rent, the landlord has failed to take immediate, effective steps to repair 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 landlord or rent collector received notice of the conditions to the time that the conditions are repaired.

Sec. 3. 14 MRSA § 6021, last 3 ¶¶, as enacted by PL 1971, c. 270, are repealed and the following enacted in place thereof:

Any tenant who rents space in a building for residential purposes wherein a condition exists which is in violation of the standards of fitness for human habitation established under the State's Sanitary Code or in violation of any other state or local code or municipal ordinance intended to protect the public, which condition may endanger or materially impair the health or well-being of the tenant or of the public, may file a petition against the landlord of said building to enforce the provisions of the applicable code in the Superior Court. Such petition shall set forth the violation of the code or codes and shall state that such condition may endanger or materially impair the health or well-being of any tenant 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 immediate, effective steps to repair said conditions after receiving actual notice of the existence thereof from the tenant, the court may:

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 and the public;

2. Determine fair value. Determine the fair value for the use and occupancy of the premises by the tenant from the date the landlord received actual notice of the endangering conditions until such time as the conditions are 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;

3. Authorize premises vacated. Authorize the tenant to temporarily vacate the premises if the premises 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 premises and the landlord shall be ordered to pay any necessary moving expenses incurred by a tenant for temporary relocation;

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

5. Other court orders. Make 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 requirements of this section may be satisfied by notice to the person who customarily collects rent. Section 6001 on retaliation shall apply to the filing of a complaint under this section.

Sec. 4. 14 MRSA § 6021-A is enacted to read:

§ 6021-A. Department of Health and Welfare to adopt public health regulations

The Department of Health and Welfare shall adopt, and may from time to time amend, public health regulations to be known as the "State Sanitary Code," which may provide penalties for violations thereof not exceeding \$500 for any one offense. Said code shall define and designate those conditions which, when found to exist in a residential dwelling unit, shall be deemed to endanger or materially impair the health or safety of persons occupying said unit and to render said unit no longer fit for human habitation. Said code shall include but not be limited to minimum standards of human habitation covering the following areas: Provision for adequate heat, hot and cold running water, toilet and washing facilities, structural components, weather tightness, water tightness, fire exits and adequate protection from rodent or vermin infestations.

The Department of Health and Welfare shall adopt a State Sanitary Code within 90 days of the effective date of this Act.

#### STATEMENT OF FACT

The purpose of this bill will provide tenants with the legal means to assure that rental dwellings are repaired should said dwellings fail to meet certain standards of health and safety to be defined by a State Sanitary Code.