

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 313

H. P. 228

House of Representatives, February 9, 1977

Referred to the Committee on Judiciary. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Sponsored by Mr. Henderson of Bangor.
Cosponsor: Mrs. Kany of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Establish the Maine Uniform Residential Landlord and
Tenant Act.**

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

Sec. 1. 10 MRSA c. 953 is enacted to read:

CHAPTER 953

**MAINE UNIFORM RESIDENTIAL LANDLORD AND
TENANT ACT**

§ 9101. Short title

This chapter shall be known and cited as the "Maine Uniform Residential Landlord and Tenant Act."

§ 9102. Purposes; rules of construction

1. Construction. This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

2. Purposes and policies. Underlying purposes and policies of this chapter are:

A. To simplify, clarify, modernize and revise the law governing the rental of dwelling units and the rights and obligations of landlords and tenants;

B. To encourage landlords and tenants to maintain and improve the quality of housing; and

C. To make uniform the law with respect to the subject of this chapter.

§ 9103. Administration of remedies

1. Aggrieved party to recover appropriate damages. The remedies provided by this chapter shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

2. Rights or obligations enforceable. Any right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect.

§ 9104. Exclusions from application of chapter

This chapter shall not apply to, regulate or determine rights, obligations and remedies under a written or oral rental agreement, wherever made for a dwelling unit which is part of a structure leased within this State which contains no more than 3 dwelling units, one of which is owner occupied. Agreements governing residences located in public or private educational, fraternal, social, medical, geriatric, correctional or religious facilities shall not be governed by this chapter, nor shall agreements for transient occupancy in a hotel, motel or lodging house subject to licensing by the State or municipal officials be covered, except where rent for such occupancy is paid on a weekly or longer basis.

§ 9105. Jurisdiction; service of process

1. District Court jurisdiction. The District Court shall exercise jurisdiction with respect to any claim arising from a transaction subject to this chapter, except as described in subsection 3.

2. Landlord to appoint an agent. Any landlord, whether an individual, corporation or partnership who engages in conduct in this State governed by this chapter shall appoint an agent upon whom service of process may be made in this State. The agent shall be a resident of this State or a corporation or a partnership authorized to do business in this State. The appointment of an agent shall be in writing and filed with the Secretary of State and with the clerk of the municipality in which the dwelling is located. Personal service upon the agent and service upon the landlord by certified mail shall be effective service of process upon the landlord.

3. Jury trial. Either party to a proceeding instituted pursuant to this chapter may demand a trial by jury of the matters at issue, except where the sole relief sought is equitable in nature. In the event that a trial by jury is demanded by the plaintiff, the complaint shall be filed in the appropriate Superior Court. Where the defendant demands a trial by jury of an action brought in the District Court, an answer and demand for jury shall be filed within the time prescribed by the rules, the action shall forthwith be removed to the Superior Court and the District Court shall have no further jurisdiction over the action.

4. Rules of District Court govern proceedings under this chapter. Except as provided in subsection 3, the rules of the District Court shall be applicable to proceedings brought under this chapter.

§ 9106. General definitions

As used in this chapter, unless the context requires otherwise, the following words shall have the following meanings.

1. **Action.** "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding in which rights are determined, including an action for possession.

2. **Building and housing codes.** "Building and housing codes" include any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

3. **Dwelling unit.** "Dwelling unit" means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by 2 or more persons who maintain a common household.

4. **Good faith.** "Good faith" means honesty in fact in the conduct of the transaction concerned.

5. **Landlord.** "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which it is a part, or the landlord's agent as defined in section 9105, subsection 2.

6. **Organization.** "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate trust, partnership or association, 2 or more persons having a joint or common interest and any other legal or commercial entity.

7. **Owner.** "Owner" means one or more persons, jointly or severally, in whom is vested either all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

8. **Person.** "Person" includes an individual or organization.

9. **Premises.** "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or of which use is promised to the tenant.

10. **Rent.** "Rent" means all payments to be made to the landlord under the rental agreement.

11. **Rental agreement.** "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under section 9113 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

12. **Roomer.** "Roomer" means a person occupying a dwelling unit that does not include a toilet, either a bath tub or a shower, and a refrigerator, stove and kitchen sink, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure.

13. Single family residence. "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment nor any other essential facility or service with any other dwelling unit.

14. Tenant. "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

§ 9107. Terms and conditions of rental agreement

1. Permitted terms. A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including rent, term of the agreement and other provisions governing the rights and obligations of the parties.

2. Payment of fair rental value absent an agreement. In absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

3. Payment of rent. Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day to day.

4. Term of tenancy absent a definite agreement. Unless the rental agreement fixes a definite term, the tenancy is week to week in case of a roomer who pays a weekly rent, and in all other cases month to month.

§ 9108. Prohibited provisions in rental agreements

1. Provisions prohibited. A rental agreement may not provide that the:

A. Tenant or landlord agrees to waive or forego rights or remedies under this chapter;

B. Tenant or landlord authorizes any person to confess judgment on a claim arising out of the rental agreement;

C. Tenant agrees to pay the landlord's attorney's fee, or the landlord agrees to pay for the tenant's attorney's fee;

D. Tenant agrees to the exculpation or limitation of any liability of the landlord arising under law, or to indemnify the landlord for that liability or the costs connected therewith;

E. Landlord agrees to the exculpation or limitation of any liability of the tenant arising under law, or to indemnify the tenant for that liability or the costs connected therewith;

F. Tenant agrees to reimburse the landlord for damages to the premises due to reasonable wear and tear; and

G. Tenant is prohibited from having overnight guests.

2. Prohibited provisions unenforceable. A provision prohibited by subsection 1 included in a rental agreement is unenforceable. If a landlord or tenant deliberately uses a rental agreement containing provisions known by him to be prohibited, the tenant or landlord may recover, in addition to his actual damages, an amount up to one month's periodic rent and reasonable attorney's fees.

3. Mutuality of covenants. A rental agreement, conveyance, trust deed or security instrument may not permit the receipt of rent free of the obligation to comply with section 9110.

§ 9109. Security deposits

1. Limit on amount of security agreement. A landlord may not demand or receive security, however denominated, in an amount or value in excess of one month's periodic rent.

2. Interest. A landlord who holds a security deposit shall, beginning with the first day of the tenancy, pay interest at the rate of 6% per year, payable to the tenant at the end of each year of the tenancy.

3. Disposition of security deposit on termination of tenancy. The landlord shall, within 14 days after termination of the tenancy and delivery of possession by the tenant, return the security deposit and any interest due thereon, or any balance thereof, after deducting from that deposit the amount of damages caused by the tenant or any person on the damaged premises with his knowledge and consent, reasonable wear and tear excepted. Any deduction for damages pursuant to this section shall be itemized by the landlord with particularity indicating the nature of the repair necessary to correct any damage and the actual or estimated costs thereof.

4. Tenant's recovery in event of noncompliance. If the landlord fails to comply with subsection 2 or if he fails to return any prepaid rent required to be paid to the tenant under this chapter, the tenant may recover the property and money due him together with damages in an amount equal to twice the amount wrongfully withheld and reasonable attorney's fees.

5. Other damages not precluded. This section does not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter.

6. Section to bind holder of landlord's interest. The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.

§ 9110. Landlord to maintain premises

1. Requirements. A landlord shall, at the time of initial occupancy by any tenant and for the duration of such tenancy:

A. Comply with the requirements of applicable building, housing and other codes materially affecting health and safety;

B. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

C. Keep all common areas of the premises in a clean and safe condition;

D. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, ventilating, air conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by him;

E. Provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish and other waste incidental to the occupancy of the dwelling unit and arrange for their removal; and

F. Supply running water and reasonable amounts of heat and hot water at all times, except where the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

§ 9111. Limitation of liability

Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of contractual liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the conveyance. He remains liable to the tenant for all security recoverable by the tenant under section 9109 and all prepaid rent.

1. Sale of dwelling unit not to affect tenant's rights. Notwithstanding any other provision of law, no sale of a dwelling unit shall in any way affect the rights of the tenant to reside therein, if the primary purpose of the sale is to accomplish eviction of the tenant. Such sale shall not alter any tenant's rights or landlord's rights as specified in section 9110 or other applicable sections of this chapter.

§ 9112. Tenants to maintain dwelling unit

A tenant shall:

1. Compliance with building and housing codes. Comply with all obligations primarily imposed upon tenants by applicable provisions of buildings, housing and other codes materially affecting health and safety;

2. Occupied premises to be neat and clean. Keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

3. Waste disposal. Dispose of, from his dwelling unit, all ashes, garbage, rubbish and other waste in a clean and safe manner, including proper receptacles therefor;

4. Plumbing fixtures. Keep plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

5. Reasonable use of certain facilities and appliances. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air con-

ditioning and other facilities and appliances, including elevators, in the premises;

6. Deliberate damage prohibited. Not deliberately nor negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and

7. Conduct of tenants and guests. Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises.

§ 9113. Rules and regulations

1. Adoption and enforceability. A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

A. Its purpose is to promote the convenience, safety or welfare of the tenants in the premises, preserve the landlord's property from abusive use or make a fair distribution of services and facilities held out for the tenants generally;

B. It is reasonably related to the purpose for which it is adopted;

C. It applies to all tenants in the premises in a fair manner;

D. It is sufficiently explicit in its prohibition, direction or limitation to fairly inform the tenant of its intention to comply;

E. It is not for the purpose of evading the obligations of the landlord; and

F. The tenant has notice of it at the time he enters into the rental agreement.

2. Validity. No rule or regulation adopted after the tenant enters into the rental agreement shall be valid unless the tenant consents to it in writing. Such consent shall not be unreasonably withheld.

§ 9114. Access

1. Tenant to grant landlord consent to inspect premises in certain situations. A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises; make necessary or agreed upon repairs, decorations, alterations or improvements; supply necessary or agreed services; or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.

2. Tenant's permission not required in emergency. A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

3. Landlord not to abuse right of access. A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency, the landlord shall give the tenant at least 2 days' notice of his intent to enter and may enter only at reasonable times.

§ 9115. Tenant remedies

1. Material noncompliance by landlord. If there is a material noncompliance by the landlord with the rental agreement, or a noncompliance with the landlord's obligations under this chapter materially affecting health and safety, the tenant shall have the following remedies:

- A. Deliver a written notice to the landlord specifying the acts and omissions constituting the breach and terminating the rental agreement upon a date not less than 30 days after delivery of the notice;
- B. Recover actual and punitive damages and obtain injunctive relief for any noncompliance by the landlord; and
- C. The remedy provided in paragraph B is in addition to any right of the tenant arising under paragraph A.

2. Nondeliberate breach by landlord with certain cost of compliance. If the landlord has breached his obligations under the rental agreement of this chapter and the breach is not caused by the deliberate act or omission of the tenant and the reasonable cost of compliance is less than an amount equal to the periodic rent, the tenant shall have the following remedies:

- A. Notify the landlord that unless the breach is remedied within 21 days, the tenant may cause the work to be done in a workmanlike manner and submit an itemized statement to the landlord, deducting from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount of the periodic rent;
- B. May recover actual damages and obtain injunctive relief for any breach by the landlord of the rental agreement; and
- C. The remedy provided in paragraph B is in addition to any right of the tenant arising under paragraph A.

3. Landlord's failure to provide essential services. If the landlord fails to provide heat, running water, hot water, electric, gas or other essential services, except as the landlord's obligations to provide such services may be limited in section 9110, the tenant may give written notice to the landlord specifying the breach and may:

- A. Procure reasonable amounts of heat, hot water, electric, gas or other essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;
- B. Recover actual damages, including the diminution in the fair rental value of the dwelling unit; or
- C. Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

4. Tenant to give written notice; condition not to be caused by tenant, family or persons on premises by consent. Rights of the tenant under this section do not arise until he has given written notice to the landlord and unless the condition was not caused by the deliberate or negligent act or

omission of the tenant, a member of his family or other person on the premises with his consent.

§ 9116. Deposit of rent in court

Pending a dispute between the landlord and the tenant, on petition of the tenant, the court may order the tenant to pay into a special escrow fund all or part of the rent thereafter accruing.

§ 9117. Tenant remedies upon fire or casualty damages

1. Remedies. If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent the enjoyment of the dwelling unit is substantially impaired, the tenant, in addition to pursuing such other legal or equitable remedies as may be available may:

A. Immediately vacate the premises and notify the landlord in writing within 14 days thereafter of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

B. If continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty; in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

2. Return of security deposit and apportioned rent upon termination of rental agreement. If the rental agreement is terminated, the landlord shall return all security deposits recoverable under section 9109 and all prepaid rent. Accounting for rent owed or accruing in the event of termination of apportionment shall be made as of the date of the fire or casualty.

§ 9118. Additional remedies for landlord's unlawful acts

If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interruption or causing the interruption of heat, running water, hot water, electric, gas or other essential services, the tenant may recover possession or terminate the rental agreement and recover an amount not more than 3 months' periodic rent or treble the actual damages sustained by him, whichever is greater, plus reasonable attorney's fees. If the rental agreement is terminated, the landlord shall return all security deposits recoverable under section 9109 and all prepaid rent.

§ 9119. Noncompliance by tenant; landlord's remedies; termination of tenancy

1. Grounds for removal of lessee or tenant from premises by court. Any lessee or tenant or the assigns, undertenants or legal representative of such lessee or tenant may be removed by the District Court from any dwelling covered by this chapter only upon establishment of one of the following grounds as good cause.

A. The tenant is 30 days or more in arrears in payment of rent.

B. The tenant, his family or invitee has been so disorderly as to destroy the peace and quiet of the occupants or other tenants living in that house or neighborhood.

C. The tenant, his family or invitee has willfully or by reason of consistent negligence caused or allowed destruction, damage or injury to the premises, fixtures or appurtenances, or by negligence caused damage in excess of \$100.

D. The tenant has continued, after written notice to cease, substantially to violate or breach any of the landlord's rules and regulations governing these premises, provided such rules and regulations are adopted pursuant of section 9113.

E. The tenant has substantially violated or breached any of the covenants or agreements contained in the rental agreement where a right of reentry is reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement does not violate section 9107.

F. The landlord intends to retire the building from the rental housing market.

G. The landlord or owner proposes at the termination of a rental agreement, reasonable changes of substance in the terms and conditions of the rental agreement, including specifically any **change in the term thereof** which the tenant, after written notice, fails to accept in writing within 14 days of the giving of that notice.

H. The term of the rental agreement has terminated and no new agreement has been entered into by the landlord and the tenant.

2. Written demand and notice by landlord required before entry of judgment of possession. No judgment of possession shall be entered for any premises covered by this chapter unless the landlord has made written demand and given written notice for delivery of possession of the premises. The following notice shall be required:

A. For an action alleging nonpayment of rent under subsection 1, paragraph A, or a nuisance under subsection 1, paragraph B, or injury to the premises under subsection 1, paragraph C, or continued violation of rules and regulations under subsection 1, paragraph D, or substantial breach of covenant under subsection 1, paragraph E, 7 days' notice prior to the institution of the action; or

B. For an action alleging permanent retirement under subsection 1, paragraph F, 6 months' notice prior to the institution of the action provided that where there is a lease in effect for a period of one year or longer no action may be instituted until the lease expires.

The notice in each of the foregoing instances shall specify in detail the cause of the termination of the tenancy and shall be served either personally upon the tenant or lessee or such person in possession by giving him a copy

thereof, or by leaving a copy thereof at his usual place of abode with some member of his family above the age of 14 years or by certified mail.

3. Landlord's breach of warranty of habitability to bar judgment of possession. No judgment of possession shall be entered if the tenant proves 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 that conditions in the unit 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.

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

If the dwelling is not fit for human habitation, the tenant may, in addition to pursuing any remedies which may otherwise exist, rescind the rental contract and recover a just proportion of the rent. Consequential damages may not be awarded for the breach of the warranty of habitability. In order to rescind the rental contract, the tenant, members of his family, his guests or his invitees must not have proximately caused the condition which makes the premises unfit for human habitation.

Before the tenant may rescind the rental contract, he must have given the landlord written notice of the condition which makes the premises unfit for human habitation within 7 days of the discovery of the condition. At the time of notice, the rent must be currently paid. If the landlord does not repair the condition within 30 days after the receipt of notice from the tenant, the tenant may then rescind the contract at any time within the next 30 days.

The 7-day period within which the tenant must notify the landlord commences at the time the tenant, in the exercise of reasonable care, could have discovered the condition.

§ 9120. Retaliatory conduct prohibited

1. Retaliation prohibited in certain instance. Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

A. The tenant has complained to any public office charged with responsibility for enforcement of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, of a violation applicable to the premises materially affecting health and safety;

B. The tenant has complained to the landlord of a violation under section 9110; or

C. The tenant has organized or become a member of a tenant's union or similar organization.

2. **Tenant's remedy for landlord retaliation.** If the landlord acts in violation of subsection 1, the tenant is entitled to the remedies provided in section 9118 and may raise such conduct as a defense in any action against him for possession. In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

3. **Landlord authorized to bring action for possession in certain cases.** Notwithstanding subsections 1 and 2, a landlord may bring an action for possession if the violation of the applicable building or housing code was caused by the tenant, a member of his family or other person on the premises with his consent.

4. **Action for possession not to release landlord from certain liabilities.** The maintenance of an action under subsection 3 does not release the landlord from liability under section 9115.

§ 9121. Savings clause

Transactions entered into before the effective date of this chapter, and not extended or renewed on and after that date, and the rights, duties and interests flowing from them remain valid and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by this chapter as though the repeal or amendment had not occurred.

§ 9122. Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or application of this chapter which can be given effect without the invalid provisions of application, and to this end the provisions of this chapter are severable.

Sec. 2. 14 M.R.S.A. § 6001, 1st ¶, is amended by adding at the end a new sentence to read:

The process of forcible entry and detainer provided by this section and sections 6002 to 6010 shall not be applicable to any occupancy, by lease or otherwise, of a dwelling intended for human habitation.

STATEMENT OF FACT

This bill is modeled upon, and reproduces substantially, the provisions of the Uniform Residential Landlord and Tenant Act, approved and recommended for enactment in all the states by the National Conference of Commissioners on Uniform State Laws. This Act codifies existing statutory and case law concerning the relationship of landlords and tenants and sets forth the relative rights and duties of tenants and landlords.