

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 313

S. P. 142

In Senate, January 21, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Permit Violations of the Warranty of Habitability to be Asserted in
Landlord-Tenant Disputes.**

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

14 MRSA § 6002, sub-§ 3 is enacted to read:

3. **Breach of warranty of habitability as an affirmative defense. In an action brought by a landlord to terminate a rental agreement on the ground that the tenant is in arrears in the payment of his rent, the tenant may raise as a defense any alleged violation of the implied warranty and covenant of habitability as provided in section 6021. Upon finding that the dwelling unit is not fit for human habitation, the court shall permit the tenant either to terminate the rental agreement without prejudice or to reaffirm the rental agreement, with the court assessing against the tenant an amount equal to the reduced fair rental value of the property for the period during which rent is owed. The reduced amount of rent thus owed shall be paid on a pro rata basis, unless the parties agree otherwise, and payments shall become due at the same intervals as rent for the current rental period. The landlord may not charge the tenant for the full rental value of the property until such time as it is fit for human habitation.**

STATEMENT OF FACT

Under current law, the implied warranty of habitability acts as an assurance to

tenants that the apartment or other residence they rent is "fit for human habitation." To be covered by this law, the dwelling unit must be dangerous to the health or safety of the tenants. Less serious problems are not covered.

This bill would permit tenants to defend against unfair evictions from substandard housing by enabling them to raise the issue of whether the dwelling was a danger to health or safety. Current law requires the tenant to file a separate legal action, wasting both time and money. While no one wants to live in substandard housing, under today's tight housing market, practical and affordable alternatives are often not available, and therefore this bill seeks to solve the legal issues as equitably and expeditiously as possible.

The bill would not change current substantive law.