

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 448

H. P. 409

House of Representatives, January 27, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Benoit of South Portland.

Cosponsor: Representative Davies of Orono.

STATE OF MAINE

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

AN ACT to Prohibit Unjust Retaliatory Evictions.

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

14 MRSA § 6001, as last amended by PL 1977, c. 701, § 2, is repealed and the following enacted in its place:

§ 6001. Availability of remedy

1. Persons against whom process may be maintained. Process of forcible entry and detainer may be maintained against a disseizor who has not acquired any claim by possession and improvement; against a tenant holding under a written lease or contract or person holding under such tenant; against a tenant where the occupancy of the premises is incidental to the employment of a tenant; at the expiration or forfeiture of the term, without notice, if commenced within 7 days from the expiration or forfeiture of the term; and against a tenant at will, whose tenancy has been terminated as provided in section 6002.

2. Persons who may not maintain process. The process of forcible entry and detainer shall not be maintained against a tenant by a 3rd party lessee, grantee, assignee or donee of the tenant's premises, if the primary purpose of any conveyance to such lessee, assignee, grantee or donee is to accomplish eviction of the tenant.

**3. Presumption of retaliation. In any action of forcible entry and detainer there shall be a presumption that the action was commenced in retaliation against the tenant if, within 6 months prior to the commencement of the action, the tenant has:**

- A. Asserted his rights pursuant to section 6021;**
- B. Asserted his rights pursuant to Title 5, section 207;**
- C. Complained as an individual, or a complaint has been made in his behalf, in good faith, of conditions in or affecting his dwelling unit which may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation;**
- D. Complained in writing or made a written request, in good faith, to the landlord or his agent to make repairs on the premises as required by any applicable building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, or as required by the rental agreement between the parties; or**
- E. Organized or become a member of a tenants' union or other similar organization concerned with landlord-tenant relationships.**

**No writ of possession may issue in the absence of rebuttal of the presumption of retaliation.**

#### STATEMENT OF FACT

This bill restructures the present statutory provisions controlling unjust retaliatory evictions of a tenant by a landlord. The key change in the law will be to extend the prohibition against evictions arising from a landlord's retaliatory motives to include situations where a tenant has made a good faith, written request for repairs specifically required by a local housing code or by the rental agreement. Protection against retaliatory eviction is also extended to situations where a tenant has asserted his rights under the statutory provisions governing the unfair trade practices law.

A landlord's right to evict a tenant for rent arrearage or any other substantive reason is in no way impaired by this bill. The fact that a tenant has complained about a problem in the dwelling unit does not protect him from anything other than an eviction without a good faith basis where the landlord lacks any legitimate reason to evict.

In order to protect oneself from eviction when housing standards' problems exist between landlord and tenant, current law encourages a tenant to file a complaint in court. The changes arising from this bill would offer alternatives to the filing of legal actions.