

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2165

H.P. 1559

House of Representatives, January 9, 1990

Reported by Representative CARROLL for the Commission on Manufactured Housing pursuant to Private and Special Law 1987, chapter 139.

Reference to the Joint Standing Committee on Legal Affairs suggested and printing ordered under Joint Rule 18.

Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Regarding Mobile Home Park Tenants' Use of the Defense of Breach of the Warranty of Habitability.



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

2
4 Sec. I. 10 MRSA §9097, sub-§11 is enacted to read:

6 11. Breach of warranty of habitability as an affirmative
8 defense. In an action brought by a mobile home park owner to
10 terminate a rental agreement on the ground that the tenant is in
12 arrears in the payment of rent, the tenant may raise, as a
14 defense, any alleged violation of the implied warranty and
16 covenant of habitability, provided that the mobile home park
18 owner or the owner's agent has received actual or constructive
20 notice of the alleged violation, and has unreasonably failed
22 under the circumstances to take prompt, effective steps to repair
24 or remedy the condition and the condition was not caused by the
26 tenant or another person acting under the tenant's control. Upon
 finding that the leased premises 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 owed is to
 be paid on a pro rata basis, unless the parties agree otherwise,
 and payments are due at the same intervals as rent for the
 current rental period. The mobile home park owner may not charge
 the tenant for the full rental value of the property until the
 property is fit for human habitation.

28 STATEMENT OF FACT

30 This bill is a minority final recommendation of the
32 Commission on Manufactured Housing, established by Private and
 Special Law 1987, chapter 139.

34 The bill grants mobile home park tenants a right granted to
36 all other tenants in residential housing under current law.

38 The bill allows mobile home park tenants to raise the breach
40 of warranty of habitability as an affirmative defense in an
42 eviction action for nonpayment of rent provided that the park
44 owner or owner's agent had actual or constructive notice of the
46 conditions rendering the leased premises uninhabitable and failed
 to take reasonably prompt steps to correct the condition not
 caused by the tenant or a person under the tenant's control.
 This provision is substantively identical to the Maine Revised
 Statutes, Title 14, section 6002, subsection 3 which grants this
 right to tenants who live in other types of rental housing.