

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 867

H.P. 607

House of Representatives, February 27, 1991

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

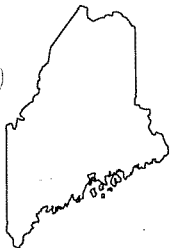
Presented by Representative NADEAU of Saco.

Cosponsored by Representative LAWRENCE of Kittery, Representative MITCHELL of Vassalboro and Senator CLEVELAND of Androscoggin.

STATE OF MAINE

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

**An Act to Require Interest on Tenant Security Deposits and to Provide
Funds for Affordable Housing.**



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

2 Sec. 1. 14 MRSA §6038, as amended by PL 1981, c. 428, §12, is
4 repealed.

6 Sec. 2. 14 MRSA §6038-A is enacted to read:

8 §6038-A. Treatment of security deposits

10 1. Deposit in qualified account. Within 15 days after
12 receiving a security deposit from a tenant, a landlord shall
14 deposit the security deposit in a qualified security deposit
account. For purposes of this section, a qualified security
deposit account is an interest-bearing account:

16 A. Established in a financial institution authorized to do
18 business in the State and insured by the Federal Deposit
20 Insurance Corporation, the Federal Savings and Loan
Administration;

22 B. The funds in which are beyond the claims of creditors of
24 the landlord, including a foreclosing mortgagee or trustee
in bankruptcy;

26 C. That provides for transfer of the security deposit to a
28 subsequent owner of the dwelling unit;

30 D. That permits withdrawal upon request, without delay;

32 E. That provides that the net interest earned on the funds
34 deposited in the account, which is the interest earned on
36 the account minus administrative costs for the account, is
remitted to the Housing Opportunities for Maine Fund,
created in Title 30-A, section 4853 not less frequently than
quarterly; and

38 F. That provides that no security deposit may be used to
40 pay administrative costs or service charges for the account.

42 2. Separate account not required. A landlord may use a
44 single account to hold security deposits for all tenants of the
landlord.

46 3. Liability of depository institution. No liability
48 arising out of any act or omission of the landlord with respect
to the account may be imputed to the depository institution.

50 4. Disclosure to tenant. Upon request of a tenant, the
landlord shall disclose the name of the institution and the
account number where the security deposit is being held.

2 **5. Tax status of interest.** The interest earned on the
4 qualified security deposit account does not inure to the landlord
6 or any of the tenants whose security deposits gave rise to the
 interest. For purposes of state law, the interest is not taxable
 to any person.

8 **Sec. 3. 30-A MRSA §4722, sub-§1, ¶T,** as amended by PL 1989, c.
10 581, §7, is further amended to read:

12 T. Approve or disapprove, in accordance with rules adopted
14 under the Maine Administrative Procedure Act, Title 5,
16 chapter 375, a project which is multi-family or
 single-family residential property, when authorized or
 required by Title 10, chapter 110, subchapter IV; and

18 **Sec. 4. 30-A MRSA §4722, sub-§1, ¶U,** as enacted by PL 1989, c.
 581, §8, is amended to read:

20 U. Consult with the Maine Affordable Housing Alliance,
22 established in Title 5, chapter 383, subchapter VII, and the
24 Interagency Task Force on Homelessness and Housing
26 Opportunities, as defined in chapter 202, section 5002,
 subsection 9, with respect to the implementation of housing
 programs to make the best use of resources and make the
 greatest impact on the affordable housing crisis; and

28 **Sec. 5. 30-A MRSA §4722, sub-§1, ¶V** is enacted to read:

30 V. Assist landlords in complying with the requirements of
32 Title 14, section 6038-A, as provided in section 4859.

34 **Sec. 6. 30-A MRSA §4854, sub-§3-A** is enacted to read:

36 **3-A. Interest from qualified security deposit accounts.**
38 Interest from qualified security deposit accounts paid to the
 fund by financial institutions pursuant to Title 14, section
 6038-A;

40 **Sec. 7. 30-A MRSA §4859** is enacted to read:

42 **§4859. Interest on tenant security deposits**

44 **1. Assistance.** The Maine State Housing Authority shall
46 assist landlords to comply with the requirements of Title 14,
48 section 6038-A by encouraging financial institutions to offer
 qualified security deposit accounts and by taking any other
 action necessary to facilitate compliance with those requirements.

50 **2. Reports to Legislature.** The Maine State Housing
52 Authority shall annually report to the Legislature the amount of
 funds received by the Housing Opportunities for Maine Fund

2 pursuant to Title 14, section 6038-A. The report must include
4 any recommendations of the Maine State Housing Authority for
6 changes to improve the requirements of that section.

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STATEMENT OF FACT

The bill requires landlords to put tenants' security deposits into interest-bearing accounts and requires the financial institutions holding the accounts to pay over the interest to the Housing Opportunities for Maine Fund. The Housing Opportunities for Maine Fund is managed by the Maine State Housing Authority and used to promote affordable housing.

Under current law, landlords are required to keep security deposits in bank accounts, but they are not required to put them into interest-bearing accounts. This bill permits interest to be earned on those security deposits, but would not require landlords to keep account of the interest. Instead, the interest would be paid to the Housing Opportunities for Maine Fund. This system is similar to the so-called "IOLTA" program, under which interest on lawyers' trust accounts is used to provide legal services for the indigent and to the program under which realtors dedicate the interest on earnest money for affordable housing.