

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1205

H.P. 839

House of Representatives, March 20, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative GWADOSKY of Fairfield.
Cosponsored by Representative POULIN of Oakland.

STATE OF MAINE

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

An Act Concerning Landlord-tenant Contracts of Adhesion.

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

4 Sec. 1. 10 MRSA §9097-A is enacted to read:

6 **§9097-A. Unfair rental contracts**

8 **1. Illegal waiver of rights.** It is an unfair and deceptive
10 trade practice in violation of Title 5, section 207 for a
12 landlord to require a tenant to enter into a rental agreement in
14 which the tenant agrees to a lease or rule provision that has the
effect of waiving a tenant right established in chapter 953 and
Title 14, chapters 709, 710 and 710-A. This subsection does not
apply when the law specifically allows the tenant to waive a
statutory right during negotiations with the landlord.

16 **2. Contracts of adhesion.** The following rental agreement
18 or rule provisions are declared to be contracts of adhesion and
in violation of Title 5, section 207:

20 **A. Any provision that absolves the landlord from liability**
22 **for the negligence of the landlord or the landlord's agent;**

24 **B. Any provision that requires the tenant to pay the**
26 **landlord's legal fees in enforcing the rental agreement**
28 **unless that provision also requires that:**

30 **(1) The tenant is responsible for legal fees only if**
32 **the court hands down an order in favor of the landlord;**
34 **and**

36 **(2) The landlord is required to pay the tenant's legal**
38 **fees if the court's order is in favor of the tenant;**

40 **C. Any provision that requires the tenant to give a lien**
42 **upon the tenant's property, including a tenant's mobile**
44 **home, for the amount of any rent or other sums due the**
46 **landlord; and**

48 **D. Any provision that requires the tenant to acknowledge**
50 **that the provisions of the rental agreement, including**
52 **tenant rules, are fair and reasonable.**

Sec. 2. 14 MRSA §6030 is enacted to read:

§6030. Unfair rental contracts

1. Illegal waiver of rights. It is an unfair and deceptive
trade practice in violation of Title 5, section 207 for a
landlord to require a tenant to enter into a rental agreement in
which the tenant agrees to a lease or rule provision that has the
effect of waiving a tenant right established in chapter 709, this
chapter and chapter 710-A. This subsection does not apply when

2 the law specifically allows the tenant to waive a statutory right
3 during negotiations with the landlord.

4 2. Contracts of adhesion. The following rental agreement
5 or rule provisions are specifically declared to be contracts of
6 adhesion and in violation of Title 5, section 207:

8 A. Any provision that absolves the landlord from liability
9 for the negligence of the landlord or the landlord's agent;

10 B. Any provision that requires the tenant to pay the
11 landlord's legal fees in enforcing the rental agreement
12 unless that provision also requires that:

13 (1) The tenant is responsible for legal fees only if
14 the court hands down an order in favor of the landlord;
15 and

16 (2) The landlord is required to pay the tenant's legal
17 fees if the court's order is in favor of the tenant;

18 C. Any provision that requires the tenant to give a lien
19 upon the tenant's property, including a tenant's mobile
20 home, for the amount of any rent or other sums due the
21 landlord; and

22 D. Any provision that requires the tenant to acknowledge
23 that the provisions of the rental agreement, including
24 tenant rules, are fair and reasonable.

25
26
27
28
29
30
31
32 **STATEMENT OF FACT**

33
34 This bill ensures that form leases not subject to bargaining
35 and required by landlords do not require the tenant to give up
36 tenant rights guaranteed by state law. It also prohibits
37 specific rental agreements that require the tenant to grant
38 unfair concessions to the landlord. These tenant protections
39 apply both to tenants of apartments and tenants of mobile home
40 parks.
41
42