

MAINE STATE LEGISLATURE

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LEGAL AND VETERANS AFFAIRS

Reported by: The Majority of the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 76, L.D. 164, Bill, "An Act to Reduce the Number of Days a Tenant May Be in Arrears for Rent Payments"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 14 MRSA §6002, as amended by PL 1993, c. 211, §2, is further amended to read:

§6002. Tenancy at will; buildings on land of another

Tenancies at will must be terminated by either party by a minimum of 30 days' notice, except as provided in subsection 1, in writing for that purpose given to the other party, but if the landlord or the landlord's agent has made at least 3 good faith efforts to serve the tenant, that service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's last and usual place of abode. In cases where when the tenant, if liable to pay rent, is not in arrears at the expiration of the notice, the 30 days' notice must be made to expire upon the date rent is due. Either party may waive in writing the 30 days' notice at the time the notice is given, and at no other time prior to the giving of the notice. The A termination based on a 30-day notice is not affected by the receipt of money, whether previously owed or for current use and occupation, until the date a writ of possession is issued against the tenant during the period of actual occupancy after receipt of the notice. When the tenancy is terminated, the tenant is liable to the process of forcible entry and detainer without further notice and without proof of any relation of landlord and tenant unless the tenant has paid,

COMMITTEE AMENDMENT

after service of the notice, rent that accrued after the termination of the tenancy. These provisions apply to tenancies of buildings erected on land of another party. Termination of the tenancy is deemed to occur at the expiration of the time fixed in the notice.

1. Causes for 7-day notice of termination of tenancy.

Notwithstanding any other provisions of this chapter, in the event that the landlord can show, by affirmative proof, that the tenant, the tenant's family or an invitee of the tenant has caused substantial damage to the demised premises which that the tenant has not repaired or caused to be repaired before the giving of the notice provided in this subsection, has caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy, or when the tenant is 14 7 days or more in arrears in the payment of his rent, the tenancy may be terminated by the landlord by 7 days' notice in writing for that purpose given to the tenant, and in the event that the landlord or his the landlord's agent has made at least 3 good faith efforts to serve the tenant, that service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's last and usual place of abode. If a tenant, who is 14 7 days or more in arrears in the payment of his rent, pays the full amount of rent due before the expiration of the 7-days' 7-day notice in writing, that notice ~~shall--be~~ is void. Thereafter, in all residential tenancies, if the tenant pays all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually expended by the landlord before the issuance of the writ of possession as provided by section 6005, then the tenancy must be reinstated and no writ of possession may issue. Payment or written assurance of payment through the general assistance program, as authorized by the State or a municipality pursuant to Title 22, chapter ~~1251, 1161~~ shall-be-given has the same effect as payment in cash.

2. Ground for termination notice. Any A notice of

termination issued pursuant to subsection 1 must indicate the specific ground claimed for issuing the notice. If a ground claimed is rent arrearage of 14 7 days or more, the notice must also include a statement indicating the amount of the rent that is 14 7 days or more in arrears as of the date of the notice and ~~that--the--tenant--can--negate--the--effect--of--the--notice--of--termination--as--it--applies--to--rent--arrears--if--the--tenant--pays--the--full--amount--of--rent--arrears--before--the--expiration--of--the--notice.~~ A termination notice issued on the ground of rent arrearage must also state the following: "If you pay the amount of rent due as of the date of this notice before this notice

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2 expires, then this notice as it applies to rent arrearage is
3 void." For all residential tenancies, a termination notice
4 issued on the ground of rent arrearage must also state: "After
5 this notice expires, if you pay all rental arrears, all rent due
6 as of the date of payment and any filing fees and service of
7 process fees actually paid by the landlord before the writ of
8 possession issues at the completion of the eviction process, then
9 your tenancy will be reinstated." If the notice states an
10 incorrect rent arrearage the notice can not be held invalid if
11 the landlord can show the error was unintentional.

12 **3. Breach of warranty of habitability as an affirmative**
13 **defense.** In an action brought by a landlord to terminate a
14 rental agreement on the ground that the tenant is in arrears in
15 the payment of his rent, the tenant may raise as a defense any
16 alleged violation of the implied warranty and covenant of
17 habitability, provided that the landlord or the landlord's agent
18 has received actual or constructive notice of the alleged
19 violation, and has unreasonably failed under the circumstances to
20 take prompt, effective steps to repair or remedy the condition
21 and the condition was not caused by the tenant or another person
22 acting under the tenant's control. Upon finding that the
23 dwelling unit is not fit for human habitation, the court shall
24 permit the tenant either to terminate the rental agreement
25 without prejudice or to reaffirm the rental agreement, with the
26 court assessing against the tenant an amount equal to the reduced
27 fair rental value of the property for the period during which
28 rent is owed. The reduced amount of rent thus owed shall must be
29 paid on a pro rata basis, unless the parties agree otherwise, and
30 payments shall become due at the same intervals as rent for the
31 current rental period. The landlord may not charge the tenant
32 for the full rental value of the property until such time as it
33 is fit for human habitation.

34 **Sec. 2. §6005, first ¶,** as amended by PL 1979, c. 327, §1, is
35 further amended to read:

38 When the defendant is defaulted or fails to show sufficient
39 cause, judgment shall must be rendered against him the defendant
40 by the District Court for possession of the premises and a writ
41 of possession be issued to remove him the defendant, which may be
42 served by a constable. A writ of possession may not issue in any
43 case in which the ground for termination of the tenancy was rent
44 arrears and the defendant paid the amount necessary to
45 reinstate the tenancy as provided by section 6002.'

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47 Further amend the bill by inserting at the end before the
48 statement of fact the following:

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FISCAL NOTE

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

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STATEMENT OF FACT

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This amendment, like the original bill, allows a landlord to give a tenant notice to quit the premises if the tenant's rent is more than 7 days overdue. The amendment also gives the tenant who is behind in the rent a longer period in which to stop the eviction process by paying the rent due plus any court fees actually paid by the landlord. Under current law, once the 7-day notice to quit has expired, the landlord is under no obligation to accept the overdue rent and reinstate the tenancy. Under the amendment, if the tenant pays the overdue rent and the court fees to the landlord before the court issues the writ of possession, the landlord must reinstate the tenancy. The amendment also revises the statements that must be in the notice to reflect this change. The amendment also adds a fiscal note.