

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1070

H.P. 805

House of Representatives, March 15, 2011

An Act To Expedite the Eviction Process and Lower the Eviction Workload of the Courts

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CUSHING of Hampden.
Cosponsored by Senator PLOWMAN of Penobscot and
Representatives: CEBRA of Naples, CURTIS of Madison, DAMON of Bangor, HAMPER of
Oxford, PARKER of Veazie, PRESCOTT of Topsham, RICHARDSON of Warren, WEAVER
of York.

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

2 **Sec. 1. 14 MRSA §6004-B** is enacted to read:

3 **§6004-B. Nonpayment of rent; payment to court**

4 If a complaint for forcible entry and detainer is based on nonpayment of rent, the
5 tenant shall pay, pursuant to the provisions of this section, to the court clerk the amount
6 alleged in the complaint as unpaid or, if the amount unpaid is contested, the amount
7 determined by the court and any rent accruing during the pendency of the action when
8 due, unless the tenant has raised the defense that the tenant has paid the rent in the
9 amount alleged by the complaint as unpaid.

10 **1. Date.** The tenant shall pay to the court clerk:

11 A. Unless the tenant contests the amount of accrued rent, the amount alleged in the
12 complaint on or before the date on which the tenant's answer to the complaint is due;
13 and

14 B. If the tenant contests the amount of accrued rent, the amount determined by the
15 court on the day that the court makes its determination.

16 The court may extend these time periods to allow for later payment for good cause
17 shown.

18 **2. Rent during pendency of action.** The court may order the tenant to pay to the
19 court clerk the rent that accrues during the pendency of the action.

20 **3. Account.** The court clerk shall deposit the amounts paid by a tenant in a separate
21 account and maintain records of the amounts paid.

22 **4. Contested amount.** If the tenant contests the amount of money to be paid to the
23 court clerk pursuant to subsection 1, the hearing concerning the amount is limited to only
24 the factual or legal issues concerning:

25 A. Whether the tenant has been properly credited by the landlord with all rental
26 payments made; and

27 B. What property constitutes rent under the rental agreement.

28 **5. Notice to tenant.** The court shall by order notify the tenant of the requirement
29 that rent be paid to the court clerk. The order must be issued immediately upon filing of
30 the tenant's initial pleading, motion or other filing.

31 **6. Counterclaim.** The filing of a counterclaim for money damages does not relieve
32 the tenant from the requirement that the tenant pay rent due to the court clerk pursuant to
33 subsection 1.

34 **7. Failure to pay.** Failure of the tenant to pay the rent to the court clerk pursuant to
35 court order issued under subsection 5 is deemed an absolute waiver of the tenant's
36 defenses to the action, and the landlord is entitled to an immediate default judgment
37 without further notice or hearing.

1 8. Balance. At the time of the judgment, the court shall determine the amount of the
2 funds deposited that are properly due the landlord and shall pay that amount to the
3 landlord. If the court determines that any of the amount paid by the tenant should be
4 refunded to the tenant, the court shall pay that amount to the tenant.

5 9. Landlord hardship. If the landlord is in actual danger of loss of the premises or
6 other hardship resulting from the loss of rental income from the premises, the landlord
7 may apply at any time to the court for the disbursement of all or part of the funds paid to
8 the clerk.

9 **SUMMARY**

10 This bill addresses forcible entry and detainer actions in which the landlord alleges
11 that the tenant has not paid the rent. The bill requires the tenant, when answering the
12 forcible entry and detainer complaint, to pay to the court clerk the amount stated in the
13 complaint that the tenant owes in accrued rent. If the tenant disputes the amount, the
14 court determines the appropriate amount to be paid to the court clerk. The court clerk
15 deposits the funds received in an account and maintains records of the amounts paid. The
16 court may require the tenant to pay rent as it accrues during the pendency of the action.

17 When the court enters the judgment in the action, the court determines who is to
18 receive the funds that the tenant paid to the clerk.

19 If the tenant fails to pay as required by the court, the tenant is deemed to have waived
20 all defenses and a judgment must be issued for the landlord.

21 The court may disburse money from the account to the landlord before the judgment
22 if the landlord is in actual danger of loss of the premises or faces other hardship from the
23 loss of rental income.