

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1710

H.P. 1099

House of Representatives, April 18, 2023

An Act to Establish the Maine Rental Assistance and Guarantee Program and Amend the Laws Regarding Tenants and the Municipal General Assistance Program

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GOLEK of Harpswell.
Cosponsored by Senator CARNEY of Cumberland and
Representatives: CLOUTIER of Lewiston, CRAVEN of Lewiston, GATTINE of Westbrook,
GERE of Kennebunkport, RANA of Bangor, Speaker TALBOT ROSS of Portland, Senators:
DAUGHTRY of Cumberland, PIERCE of Cumberland.

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

2 **Sec. 1. 5 MRSA §4581-A, sub-§3, ¶B**, as amended by PL 2021, c. 366, §10 and
3 c. 476, §3, is further amended to read:

4 B. Discriminate in the granting of financial assistance, or in the terms, conditions or
5 privileges relating to obtaining or the use of any financial assistance, against any
6 applicant because of race or color, sex, sexual orientation or gender identity, physical
7 or mental disability, religion, ancestry, national origin, familial status or any previous
8 actions seeking and receiving an order of protection under Title 19-A, section 4007; or

9 **Sec. 2. 5 MRSA §4581-A, sub-§4**, as enacted by PL 2011, c. 613, §11 and affected
10 by §29, is amended to read:

11 **4. Receipt of public assistance.** For any person furnishing rental premises or public
12 accommodations to refuse to rent or impose different terms of tenancy to any individual
13 who is a recipient of federal, state or local public assistance, including medical assistance
14 and housing subsidies, primarily because of the individual's status as recipient;

15 **Sec. 3. 5 MRSA §4581-A, sub-§5** is enacted to read:

16 **5. Discrimination based on source of income.** For any owner, lessee, sublessee,
17 managing agent or other person having the right to sell or rent or manage a housing
18 accommodation, or any agent of these, to:

19 A. Refuse to rent or negotiate for the rental of, or otherwise make unavailable or deny,
20 a dwelling to any person because the person's source of income is a public assistance
21 program or because of the requirements of any program providing the source of
22 income; or

23 B. Refuse to participate in or comply with any federal, state or local requirements of a
24 tenant-based rental assistance program.

25 (1) Refusing to participate in or comply with any federal, state or local
26 requirements of a tenant-based rental assistance program includes, but is not
27 limited to, the following:

28 (a) Refusing to allow inspections of a dwelling by the public housing authority
29 or other entity administering a tenant-based rental assistance program;

30 (b) Refusing to make reasonable repairs necessary for the dwelling to meet
31 the housing quality standards of the tenant-based rental assistance program.
32 Repairs are considered reasonable if they do not substantially alter or change
33 the rental unit or do not require repairs substantially different from those that
34 would be required to bring the rental unit into compliance with the implied
35 warranty of fitness for habitation as described in Title 14, section 6021 or local
36 building or housing codes applicable for new construction;

37 (c) Refusing to complete any paperwork required by the tenant-based rental
38 assistance program; and

39 (d) Refusing to provide information required by the public housing authority
40 or other entity administering the source of income or tenant-based rental
41 assistance program.

1 (2) For the purposes of this paragraph, "tenant-based rental assistance program"
2 means a federal, state or local program that provides any form of rental assistance,
3 including but not limited to, vouchers and coupons, in which program participants
4 select their appropriate housing.

5 This subsection does not apply to an owner of fewer than 4 dwellings held for rental
6 purposes; or

7 **Sec. 4. 5 MRSA §4581-A, sub-§6** is enacted to read:

8 **6. Requirement to provide affordable housing.** For any owner to fail to provide
9 affordable housing in accordance with this subsection.

10 A. An owner of more than 10 units of residential rental property in the State shall
11 ensure that at least 10% of the units available for rental qualify as affordable housing.
12 For purposes of this subsection, "affordable housing" means a rental unit in which a
13 household with an income that does not exceed 80% of the median income for the area
14 as defined by the United States Department of Housing and Urban Development under
15 the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as
16 amended, does not spend more than 30% of the household's monthly income on
17 housing costs.

18 B. An owner is entitled to a tax credit for the loss of income experienced as a result of
19 complying with the requirements of paragraph A.

20 **Sec. 5. 10 MRSA §1310-H, sub-§5** is enacted to read:

21 **5. Credit reporting prohibited.** An entity may not report to a credit reporting agency
22 a tenant's failure to pay an unaffordable rent. As used in this subsection, "unaffordable
23 rent" means a situation in which the total amount paid by a tenant to a landlord, utility
24 company and heating fuel provider exceeds 30% of the tenant's household gross monthly
25 income.

26 **Sec. 6. 22 MRSA §3763, sub-§9,** as enacted by PL 1997, c. 530, Pt. A, §16, is
27 amended to read:

28 **9. Emergency assistance.** The department shall establish and operate a program of
29 emergency assistance to needy families with children. This program must provide benefits
30 to needy families with children in emergency situations in which the family is deprived of
31 the basic necessities essential to its support, including but not limited to, fire and other
32 natural disasters, terminations of utility service or lack of adequate shelter emergencies, as
33 defined in section 4301, subsection 4 and in rules as adopted by the department, in the
34 amount necessary to alleviate the emergency being experienced by the family.

35 A. In determining what constitutes an emergency with respect to utility terminations,
36 the department shall grant assistance when an otherwise qualified family has received
37 a disconnection notice and has exhausted their ability to negotiate and pay the terms of
38 a reasonable payment arrangement.

39 B. The program may not be used to supplant local responsibility for operating or
40 funding a general assistance program.

41 C. The department may not expend more than \$750,000 annually of state general
42 assistance funds for the purposes of covering the cost of services set out in this
43 subsection.

1 **Sec. 7. 22 MRSA §4305, sub-§3-B**, as amended by PL 2005, c. 231, §1, is further
2 amended to read:

3 **3-B. Temporary maximum Maximum levels.** Notwithstanding subsection 3-A,
4 municipalities shall establish an aggregate maximum level of assistance that is ~~110% of the~~
5 ~~applicable existing housing fair market rents as established by the United States~~
6 ~~Department of Housing and Urban Development pursuant to 24 Code of Federal~~
7 ~~Regulations, Section 888.115, applying the sum of the average rent for the municipality,~~
8 ~~the cost of groceries needed to provide a healthy, budget-conscious diet as determined by~~
9 ~~the United States Department of Agriculture for the appropriate family size and a~~
10 ~~reasonable amount for other basic necessities sufficient to maintain health and decency. In~~
11 ~~determining the maximum level of assistance, the municipality shall apply the zero-~~
12 ~~bedroom level for one person, the one-bedroom level for 2 persons, the 2-bedroom level~~
13 ~~for 3 persons, the 3-bedroom level for 4 persons and the 4-bedroom level for 5 persons.~~
14 ~~For each additional person, the aggregate maximum level increases by \$75. For the~~
15 ~~purposes of this subsection, municipalities with populations greater than 10,000 are deemed~~
16 ~~Standard Metropolitan Statistical Areas in those counties for which there are 2 fair market~~
17 ~~rent values and the aggregate maximum level of assistance for all Standard Metropolitan~~
18 ~~Statistical Areas is the average of the fair market rental values for the Standard~~
19 ~~Metropolitan Statistical Areas and areas that are not Standard Metropolitan Statistical~~
20 ~~Areas for each county in which there are 2 fair market rental values the difference in~~
21 ~~average rent between a 3-bedroom and a 4-bedroom unit. The average rent for the~~
22 ~~municipality must be determined pursuant to a survey conducted by the Department of~~
23 ~~Health and Human Services and the Maine State Housing Authority.~~

24 ~~Beginning October 2005 and annually thereafter, the aggregate maximum level of~~
25 ~~assistance must be established at the greater of 110% of the fair market rents as determined~~
26 ~~in this subsection and the amount achieved by annually increasing the most recent~~
27 ~~aggregate maximum level of assistance by the percentage increase in the federal poverty~~
28 ~~level of the current year over the federal poverty level of the prior year.~~

29 ~~For the purposes of this subsection, "federal poverty level" means that measure defined by~~
30 ~~the federal Department of Health and Human Services and updated annually in the Federal~~
31 ~~Register under authority of 42 United States Code, Section 9902(2).~~

32 **Sec. 8. 22 MRSA §4305, sub-§3-C**, as enacted by PL 2011, c. 655, Pt. R, §1, is
33 repealed.

34 **Sec. 9. 22 MRSA §4305, sub-§3-D**, as enacted by PL 2013, c. 368, Pt. OO, §7, is
35 repealed.

36 **Sec. 10. 22 MRSA §4308, sub-§1**, as amended by PL 1993, c. 410, Pt. AAA, §6,
37 is repealed and the following enacted in its place:

38 **1. Comprehensive application form.** The department shall develop a comprehensive
39 application form for general assistance, emergency assistance and any statewide rental
40 assistance program, which must be used by all municipalities and other government entities
41 or a nonprofit agency to determine eligibility for all of the programs. Unless the applicant
42 affirmatively indicates otherwise in writing, an application for a program under this
43 subsection is considered an application for all of the programs. The government entity to
44 whom the application for a program under this subsection is initially filed shall determine

1 the applicant's eligibility for each of the programs and notify the applicant of its eligibility
2 decision as required by the rules governing each program.

3 **Sec. 11. 22 MRSA §4308, sub-§2, ¶B**, as amended by PL 1991, c. 528, Pt. OOO,
4 §1 and affected by Pt. RRR and amended by c. 591, Pt. OOO, §1, is further amended to
5 read:

6 B. Municipalities ~~may~~ shall by standards adopted in municipal ordinances ~~restrict~~
7 provide for the disbursement of emergency assistance in excess of general assistance
8 maximums otherwise established by ordinance as necessary to alleviate emergency
9 situations to the extent that those situations could not have been averted by the
10 applicant's use of income and resources for basic necessities. The person requesting
11 assistance shall provide evidence of income and resources for the applicable time
12 period.

13 **Sec. 12. 22 MRSA §4308, sub-§4** is enacted to read:

14 **4. Appropriate services.** A general assistance program must provide trauma-
15 informed services and culturally and linguistically appropriate services to all applicants.
16 For purposes of this subsection, "trauma-informed services" means services that
17 acknowledge and are informed by the widespread impact of trauma and recognize the
18 potential paths for recovery; recognize the unique signs and symptoms of trauma in clients,
19 families and staff; respond by fully integrating knowledge about trauma into policies,
20 procedures and practices; and seek to actively avoid retraumatization. For purposes of this
21 subsection, "culturally and linguistically appropriate services" means services that are
22 designed to serve culturally diverse populations in a person's preferred language; function
23 effectively within the context of cultural beliefs, behaviors and needs presented by a person
24 who applies to or is a participant in a general assistance program and the person's
25 community; contribute to a work environment that supports diversity; promote community
26 engagement; build trust and relationships with general assistance applicants and
27 participants; actively support and enable general assistance participants to make informed
28 choices; and value and facilitate the exchange of information with general assistance
29 participants.

30 **Sec. 13. 22 MRSA §4309, sub-§1**, as amended by PL 1989, c. 840, §4, is further
31 amended to read:

32 **1. Eligibility of applicant; duration of eligibility.** The overseer shall determine
33 eligibility each time a person applies or reapplies for general assistance pursuant to this
34 chapter and the ordinance adopted by the municipality in accordance with section 4305.
35 The period of eligibility must ~~not exceed one month~~ be for a period of 6 months. At the
36 expiration of that period the person may reapply for assistance and the person's eligibility
37 may be redetermined.

38 **Sec. 14. 22 MRSA §4311, sub-§1**, as amended by PL 2015, c. 267, Pt. SSSS, §1,
39 is further amended by enacting at the end a new last blocked paragraph to read:

40 The department shall reimburse each municipality and each Indian tribe 100% of the direct
41 costs incurred by that municipality or tribe for the general assistance program granted by
42 that municipality or tribe to a household pursuant to section 4308, subsection 2, paragraph
43 B for that portion of emergency assistance granted by the municipality or tribe that exceeds
44 the general assistance maximums established by the municipality or tribe.

1 (1) An applicant for assistance must be required to apply for any available
2 federally funded housing voucher program, including but not limited to the housing
3 voucher program under Section 8 of the United States Housing Act of 1937, Public
4 Law 75-412, 50 Stat. 888, as amended, and a federal shelter plus care program
5 authorized by the federal McKinney-Vento Homeless Assistance Act, Public Law
6 100-77 (1987) as amended by the federal Homeless Emergency Assistance and
7 Rapid Transition to Housing Act of 2009, Public Law 111-22, Division B (2009),
8 and must participate in the federally funded program if the applicant is found
9 eligible and awarded a voucher.

10 (2) An applicant's income may not exceed 30% of the area median income,
11 adjusted for family size, in accordance with federal standards generally accepted
12 at the time of incorporation under this subchapter and comparable to standards of
13 the federal Department of Housing and Urban Development in existence on
14 October 1, 2023, except that once approved for the program an applicant remains
15 eligible to receive continued rental assistance pursuant to the provisions of the
16 program until the household income exceeds 80% of the area median income.

17 (3) A participant in the program must be required to pay 30% of the participant's
18 countable income toward the participant's rental obligation. Income must be
19 determined pursuant to the regulations that govern the housing voucher program
20 under Section 8 of the United States Housing Act of 1937, Public Law 75-412, 50
21 Stat. 888, as amended.

22 (4) A tenant must reside in an apartment in which the rent is at or below 125% of
23 the fair market rent established by the federal Department of Housing and Urban
24 Development in existence on October 1, 2023 for the household size in the area in
25 which the rental unit is located.

26 B. Rental assistance payments for program participants must be paid from the fund
27 established in section 4994-G directly to the landlord of the participant or to a property
28 management company designated by the landlord.

29 C. A landlord may receive rental assistance payments under the program only if the
30 landlord agrees to:

31 (1) Exclude credit score, rental history and last month's rent from the rental
32 application;

33 (2) Work with individuals who provide housing navigation affiliated with housing
34 authorities, general assistance programs or nonprofit organizations who assist
35 tenants with locating housing and the rental process and who provide mentoring
36 services to promote successful landlord-tenant relationships;

37 (3) Waive late fees for tenants for any month in which rental assistance is paid by
38 the program; and

39 (4) Not evict a program participant for nonpayment of rent during any month rental
40 assistance is paid by the program.

41 **2. Rental guarantee.** The rental guarantee component of the program must be
42 administered in accordance with this subsection.

1 A. The purpose of the rental guarantee component of the program is to encourage
2 landlords to work with the program and other rental assistance programs available in
3 the State, including but not limited to rental assistance programs administered by or
4 available through the Maine State Housing Authority, the Department of Health and
5 Human Services, local housing authorities, other state and local agencies, federal
6 agencies, municipalities and tribal governments.

7 B. The Maine State Housing Authority shall annually provide at least \$1,000,000 of
8 available funds provided pursuant to section 4994-G for the rental guarantee
9 component of the program. The funds may be used:

10 (1) To hire housing navigators affiliated with local housing authorities, general
11 assistance programs or nonprofit organizations to assist tenants with locating
12 housing and with the rental application process and to provide mentoring services
13 to promote successful landlord-tenant relationships;

14 (2) To provide a letter of credit to landlords who enter into a 12-month rental
15 agreement with a person receiving rental assistance through a municipal general
16 assistance program under Title 22, chapter 1161. The letter of credit must guarantee
17 up to one month of rental assistance and verified property damages, not to exceed
18 \$2,000, in the event the tenancy is unsuccessful;

19 (3) To expand the availability of programs that assist landlords who participate in
20 rental assistance programs available in the State, as described in paragraph A, with
21 mitigation and repair of damages to units and mitigation of lost funds due to unpaid
22 rent and tenant payment of security deposits; and

23 (4) To connect landlords with resources for the abatement of lead paint hazards in
24 residential housing if needed.

25 **3. Rules.** The Maine State Housing Authority may adopt rules to implement this
26 section. Rules adopted pursuant to this subsection are routine technical rules as defined in
27 Title 5, chapter 375, subchapter 2-A.

28 **§4994-G. Maine Rental Assistance and Guarantee Program Fund**

29 The Maine Rental Assistance and Guarantee Program Fund is established within the
30 Maine State Housing Authority. The Maine State Housing Authority may apply money in
31 the fund for purposes authorized by this subchapter. The fund may not lapse, but must be
32 carried forward to carry out the purposes of this subchapter.

33 **Sec. 18. 32 MRSA §11002, sub-§6,** as amended by PL 2013, c. 521, Pt. E, §1, is
34 further amended by enacting at the end a new first blocked paragraph to read:

35 "Debt collector" includes any entity attempting to collect a debt for unpaid rent when the
36 rent is unaffordable rent except that this subsection does not apply to the collection of a
37 rental debt not otherwise subject to the provisions of this chapter when the debt arises from
38 the rental of a unit located in a building with no more than 4 rental units, one of which is
39 occupied by the owner. As used in this subsection, "unaffordable rent" means a situation
40 in which the total amount paid by a tenant to a landlord, utility company and heating fuel
41 provider exceeds 30% of the tenant's household gross monthly income.

42 **Sec. 19. 36 MRSA §4641, sub-§2-B** is enacted to read:

1 **2-B. Primary residence.** "Primary residence" has the same meaning as the term
2 "homestead" as defined in section 681, subsection 2.

3 **Sec. 20. 36 MRSA §4641-A, sub-§1, ¶A,** as enacted by PL 2001, c. 559, Pt. I, §3
4 and affected by §15, is amended to read:

5 A. ~~The~~ Prior to January 1, 2024, the rate of the tax is \$2.20 for each \$500 or fractional
6 part of \$500 of the value of the property transferred.

7 **Sec. 21. 36 MRSA §4641-A, sub-§1, ¶A-1** is enacted to read:

8 A-1. Beginning January 1, 2024, the following tax rates apply:

9 (1) The rate of the tax is \$2.20 for each \$500 or fractional part of \$500 of the value
10 of the property transferred when the sales price is less than the median sales price
11 in the county in which the sale occurred;

12 (2) The rate of the tax is \$2.75 for each \$500 or fractional part of \$500 of the value
13 of the property transferred when the sales price is greater than the median sales
14 price in the county in which the sale occurred;

15 (3) The rate of the tax is \$3.30 for each \$500 or fractional part of \$500 of the value
16 of the property transferred when the sales price is greater than 2 times the median
17 sales price in the county in which the sale occurred but less than \$1,000,000; and

18 (4) The rate of the tax is \$4.40 for each \$500 or fractional part of \$500 of the value
19 of the property transferred when the sales price is \$1,000,000 or greater.

20 The median sales price must be the median price set forth in the housing facts and
21 affordability index for the State as determined by the Maine State Housing Authority
22 for the year prior to the year in which the sale occurred.

23 **Sec. 22. 36 MRSA §4641-A, sub-§2, ¶A,** as enacted by PL 2001, c. 559, Pt. I, §3
24 and affected by §15, is amended to read:

25 A. ~~The~~ Prior to January 1, 2024, the rate of the tax is \$2.20 for each \$500 or fractional
26 part of \$500 of the value of the real property owned by the entity and located in this
27 State.

28 **Sec. 23. 36 MRSA §4641-A, sub-§2, ¶A-1** is enacted to read:

29 A-1. Beginning January 1, 2024, the following tax rates apply:

30 (1) The rate of the tax is \$2.20 for each \$500 or fractional part of \$500 of the value
31 of the property transferred when the sales price is less than the median sales price
32 in the county in which the sale occurred;

33 (2) The rate of the tax is \$2.75 for each \$500 or fractional part of \$500 of the value
34 of the property transferred when the sales price is greater than the median sales
35 price in the county in which the sale occurred;

36 (3) The rate of the tax is \$3.30 for each \$500 or fractional part of \$500 of the value
37 of the property transferred when the sales price is greater than 2 times the median
38 sales price in the county in which the sale occurred but less than \$1,000,000; and

39 (4) The rate of the tax is \$4.40 for each \$500 or fractional part of \$500 of the value
40 of the property transferred when the sales price is \$1,000,000 or greater.

1 The median sales price must be the median price set forth in the housing facts and
2 affordability index for the State as determined by the Maine State Housing Authority
3 for the year prior to the year in which the sale occurred.

4 **Sec. 24. 36 MRSA §4641-B, sub-§4-B, ¶E**, as amended by PL 2021, c. 753, §1,
5 is further amended to read:

6 E. In fiscal year 2015-16 ~~and each fiscal year thereafter~~ and in each fiscal year prior
7 to fiscal year 2023-24, the Treasurer of State shall credit the revenues derived from the
8 tax imposed pursuant to section 4641-A, subsection 1 in accordance with this
9 paragraph.

10 (1) At the beginning of the fiscal year, the Maine State Housing Authority shall
11 certify to the Treasurer of State the amount that is necessary and sufficient to meet
12 the authority's obligations relating to bonds issued or planned to be issued by the
13 authority under Title 30-A, section 4864.

14 (2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in
15 accordance with this subparagraph. The Treasurer of State shall first pay revenues
16 available under this subparagraph to the Maine State Housing Authority, which
17 shall deposit the funds in the Maine Energy, Housing and Economic Recovery
18 Fund established in Title 30-A, section 4863, until the amount paid equals the
19 amount certified by the Maine State Housing Authority under subparagraph (1),
20 after which the Treasurer of State shall credit any remaining revenues available
21 under this subparagraph to the General Fund.

22 (3) On a monthly basis, the Treasurer of State shall credit 50% of the revenues to
23 the Maine State Housing Authority, except that, ~~notwithstanding paragraph F~~, in
24 fiscal year 2015-16, the Treasurer of State shall first credit \$6,291,740 of the
25 revenues available under this subparagraph to the General Fund and except that,
26 ~~notwithstanding paragraph F~~, in fiscal year 2016-17, the Treasurer of State shall
27 first credit \$6,090,367 of the revenues available under this subparagraph to the
28 General Fund and except that, ~~notwithstanding paragraph F~~, in fiscal years 2017-
29 18 and 2018-19, the Treasurer of State shall first credit \$2,500,000 of the revenues
30 available under this subparagraph to the General Fund. The Maine State Housing
31 Authority shall deposit the funds received pursuant to this subparagraph in the
32 Housing Opportunities for Maine Fund created in Title 30-A, section 4853.
33 Beginning July 1, 2023, the Maine State Housing Authority shall use 25% of funds
34 transferred to the Housing Opportunities for Maine Fund under this subparagraph
35 to support the creation of new housing units, through new construction or adaptive
36 reuse, that are affordable to low-income households.

37 **Sec. 25. 36 MRSA §4641-B, sub-§4-B, ¶F**, as enacted by PL 2011, c. 453, §6, is
38 repealed.

39 **Sec. 26. 36 MRSA §4641-B, sub-§4-B, ¶G**, as enacted by PL 2011, c. 453, §6, is
40 repealed.

41 **Sec. 27. 36 MRSA §4641-B, sub-§4-B, ¶H** is enacted to read:

42 H. Notwithstanding any provision of law to the contrary, beginning in fiscal year 2023-
43 24, revenue from section 4641-A, subsection 1, paragraph A-1 and section 4641-A,
44 subsection 2, paragraph A-1 must be credited to the Emergency Housing Relief Fund

1 unaffordable. It prohibits any entity from reporting to a credit reporting agency the
2 nonpayment of rent that is unaffordable.