

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1904

H.P. 1219

House of Representatives, May 9, 2023

An Act to Enact the Maine Fair Chance Housing Act

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Speaker TALBOT ROSS of Portland.
Cosponsored by Representatives: GERE of Kennebunkport, SALISBURY of Westbrook,
Senator: BEEBE-CENTER of Knox.

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

2 **Sec. 1. 5 MRSA §4611**, as amended by PL 2011, c. 613, §18 and affected by §29,
3 is further amended to read:

4 **§4611. Complaint**

5 Any aggrieved person, or any employee of the commission, may file a complaint under
6 oath with the commission stating the facts concerning the alleged discrimination, except
7 that a complaint must be filed with the commission not more than 300 days after the alleged
8 act of unlawful discrimination. In addition, any person may file a complaint pursuant to
9 section 4632 or section 4635.

10 **Sec. 2. 5 MRSA §4635** is enacted to read:

11 **§4635. Use of criminal history information**

12 A person aggrieved by a current or prospective housing provider's violation of section
13 4774 may file a complaint with the commission. The commission shall investigate and
14 review such complaints, as described in section 4612, and shall keep a record of all
15 complaints, reports of problems or concerns and suggestions regarding the implementation,
16 compliance and effect of chapter 337-E. The commission also shall conduct periodic
17 reviews with private housing providers to assess compliance with that chapter.

18 **1. Civil fine; mediation.** If the commission finds that a private housing provider has
19 violated section 4774, 4775 or 4776:

20 A. For a first or 2nd violation, the housing provider is subject to a civil fine not to
21 exceed \$100; and

22 B. For each subsequent violation, the housing provider shall submit to an investigation
23 conducted pursuant to section 4612.

24 The commission shall collect the fine in a civil action and forward it to the Treasurer of
25 State for deposit to the General Fund.

26 **2. Compliance counseling.** The commission shall provide counseling to a private
27 housing provider the commission has found to be in violation of chapter 337-E to ensure
28 future compliance by the private housing provider with chapter 337-E.

29 **Sec. 3. 5 MRSA c. 337-E** is enacted to read:

30 **CHAPTER 337-E**

31 **MAINE FAIR CHANCE HOUSING ACT**

32 **§4771. Short title**

33 This chapter may be known and cited as "the Maine Fair Chance Housing Act."

34 **§4772. Declaration of policy**

35 It is the declared public policy of the State to ensure that equitable access to safe, decent
36 and affordable housing extends to all residents of the State, including individuals involved
37 in the criminal justice system and their families.

1 **§4773. Definitions**

2 As used in this chapter, unless the context otherwise indicates, the following terms
3 have the following meanings.

4 **1. Criminal history information.** "Criminal history information" includes criminal
5 history record information as defined in Title 16, section 703, subsection 3 and other
6 information regarding the criminal history of an applicant, from whatever source.

7 **2. Housing provider.** "Housing provider" means an entity that owns, leases, manages
8 or develops housing in the State and any agent, such as a property management company,
9 that makes tenancy decisions on behalf of such an entity.

10 **3. Political subdivision.** "Political subdivision" has the same meaning as in Title 30-A,
11 section 2252.

12 **4. State.** "State" means the State or any office, department, agency, authority,
13 commission, board, institution, hospital or other instrumentality of the State.

14 **§4774. Limitations on use and disclosure of criminal history information**

15 **1. Inquiry only after conditional offer of housing.** A housing provider may not
16 inquire into or consider an applicant's criminal history information until the housing
17 provider has determined that the applicant meets all other qualifications for tenancy.

18 **2. Confidential.** Criminal history information obtained by or in the possession of the
19 State or any housing provider is confidential. A housing provider may not distribute or
20 disseminate criminal history information except as required by law. Information that
21 pertains to an applicant's criminal background check obtained in conjunction with a
22 housing decision by the State or a political subdivision is confidential unless disclosure is
23 specifically required by law.

24 **§4775. Violation by a private housing provider**

25 **1. Maine Human Rights Commission.** An individual who is aggrieved by a private
26 housing provider's violation of this chapter may file a complaint with the Maine Human
27 Rights Commission pursuant to section 4635. A private housing provider who violates
28 section 4774 is subject to fines and shall submit to an investigation by the Maine Human
29 Rights Commission, as specified in section 4635, subsection 1.

30 **2. Civil action.** An aggrieved individual may bring a civil action in a court of
31 competent jurisdiction against a private housing provider that has violated section 4774
32 and, upon prevailing, is entitled to such legal or equitable relief as the court may determine
33 appropriate and reasonable attorney's fees and costs.

34 **§4776. Violation by a public housing provider**

35 An individual who is aggrieved by a violation of section 4774 by the State or a political
36 subdivision may file a complaint with the Maine Human Rights Commission pursuant to
37 section 4635, but such public housing providers are not subject to civil fines pursuant to
38 that section. An individual may not bring a civil action for a violation of this chapter against
39 the State or a political subdivision.

40 **§4777. Application**

41 The provisions of this chapter apply to all housing providers notwithstanding any
42 provision of law to the contrary, except to the extent the other provision of law contains

1 additional limitations on the consideration of criminal history information of applicants for
2 housing.

3 **SUMMARY**

4 This bill establishes the Maine Fair Chance Housing Act, the purpose of which is to
5 ensure that a person is not denied housing based solely on the existence of a history of
6 criminal convictions. This bill prohibits a housing provider from considering an applicant's
7 criminal history until after the housing provider determines that the applicant meets all
8 other qualifications for tenancy.

9 A person who is aggrieved by a violation of the Maine Fair Chance Housing Act by a
10 housing provider may file a grievance with the Maine Human Rights Commission and, if
11 it is a violation by a private housing provider, may bring a civil action in court.