

PROPOSED AMENDMENT TO LD 2176

An Act to Create a Right to Judicial Review Under the Maine Civil Rights Act for Persons Erroneously Detained

Amend the bill by striking the title and replacing it with the following

An Act to Safeguard Personal Information and Strengthen Tenant Rights in Maine

*Amend the bill by striking everything after the enacting clause and replacing it with the
following:*

Sec. 1. 14 MRSA §6001, sub-§ 3 is amended to read:

3. Presumption of retaliation. In any action of forcible entry and detainer there is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months prior to the commencement of the action, the tenant has:

- A. Asserted the tenant's rights pursuant to section 6015, 6016, 6021, 6030-D, 6030-I or 6030-J;
- B. Complained as an individual, or if a complaint has been made in that individual's behalf, in good faith, of conditions affecting that individual's dwelling unit that may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation;
- C. Complained in writing or made a written request, in good faith, to the landlord or the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties;
- D.
- E. Prior to being served with an eviction notice, filed, in good faith, a fair housing complaint for which there is a reasonable basis with the Maine Human Rights Commission or filed, in good faith, a fair housing complaint for which there is a reasonable basis with the United States Department of Housing and Urban Development concerning acts affecting that individual's tenancy;
- F. Prior to being served with an eviction notice, provided the landlord or the landlord's agent with notice that the tenant or tenant's minor child is a victim; ~~or~~
- G. Prior to being served with an eviction notice, communicated to the landlord or the landlord's agent about an act of sexual harassment or filed a complaint with a law

enforcement agency, the Maine Human Rights Commission or a court of an act of sexual harassment by the landlord or the landlord's agent against the tenant or a family or household member of the tenant; or

H. Prior to being served with an eviction notice, filed in good faith an action alleging that a landlord disclosed private information in violation of section 6025-B, subsection 4 or the Attorney General filed an action pursuant to section 6025-B, subsection 5.

If an action of forcible entry and detainer is brought for any reason set forth in section 6002, subsection 1 or for violation of a lease provision, the presumption of retaliation does not apply, unless the tenant has asserted a right pursuant to section 6026.

A writ of possession may not issue in the absence of rebuttal of the presumption of retaliation.

Sec. 2. 14 MRSA §6025, is amended to read:

§6025. Access to premises

1. Tenant obligations. A tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

A tenant may not change the lock to the dwelling unit without giving notice to the landlord and giving the landlord a duplicate key within 48 hours of the change. A victim may change the locks to the unit at the victim's expense. If the victim changes the locks to the unit, the victim shall provide the landlord with a duplicate key within 72 hours of changing the locks. For the purposes of this subsection, "victim" has the same meaning as in section 6000, subsection 4.

2. Landlord obligations. Except in the case of emergency or if it is impracticable to do so, the landlord shall give the tenant reasonable notice of the landlord's intent to enter and shall enter only at reasonable times. Twenty-four hours is presumed to be a reasonable notice in the absence of evidence to the contrary. An emergency when the welfare of an animal is at risk as described in section 6025-A is grounds for permitting entry without 24 hours' notice.

3. Remedy. If a landlord makes an entry in violation of this section, makes a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful that have the effect of harassing the tenant, the tenant may recover actual damages or ~~\$100~~ 250, whichever is greater, and obtain injunctive relief to prevent recurrence of the conduct, and if the tenant obtains a judgment after a contested hearing, reasonable attorney's fees.

If a tenant changes the lock and does not provide the landlord with a duplicate key, in the case of emergency the landlord may gain admission through whatever reasonable means necessary and charge the tenant reasonable costs for any resulting damage. If a tenant changes the lock and refuses to provide the landlord with a duplicate key, the landlord may terminate the tenancy with a 7-day notice.

4. Waiver. Any agreement by a tenant to waive any of the rights or benefits provided by this section is against public policy and is void.

Sec. 3. 14 MRSA §6025-B is enacted to read:

§6025-B. Disclosure of information.

- 1. Definition.** For purpose of this section, “personal information” means:
 - A. Identifying information about a tenant or any resident of the tenant’s household, including name, address, telephone number, email address;
 - B. Information about racial or ethnic origins, religious beliefs, health conditions, sexual activity, sexual orientation, gender identity, national origin, citizenship, immigration status or Alien number;
 - C. A social security number, driver's license number or nondriver identification card number;
 - D. Billing, financial or payment method information, except that "sensitive data" does not include the last 4 digits of a debit card or credit card number; or
 - E. Information concerning a tenant's status as a victim of a crime. For the purposes of this paragraph, "victim" has the same meaning as in Title 17-A, section 2101, subsection 2.
- 2. Prohibition.** Except as provided in subsection 3, a landlord, a landlord’s agent or any other person acting under the direction of the landlord may not, with the intent to harass, intimidate or otherwise cause a person to vacate a rental property, disclose the personal information of a person or a member of the person’s household if the person is a tenant, prospective tenant, occupant or prospective occupant of the rental property owned or managed by the landlord to any person without the express consent of the tenant, prospective tenant, occupant or prospective occupant. There is a rebuttable presumption that disclosure of this information is a violation of this section.
- 3. Exceptions.** Notwithstanding subsection 2, a landlord may disclose the personal information of a person or a member of the person’s household if the person a tenant, prospective tenant, occupant or prospective occupant in response to a judicial warrant or in exigent circumstances.
- 4. Remedy.** If a landlord discloses personal information in violation of this section, the tenant may recover actual damages or \$1000, whichever is greater, and obtain injunctive relief to prevent recurrence of the conduct, and if the tenant obtains a judgment after a contested hearing, reasonable attorney's fees.

5. Unfair trade practice. Any disclosure of private information in violation of this section is presumptively a violation of the Maine Unfair Trade Practices Act pursuant to Title 5, chapter 10.

6. Waiver. Any agreement by a tenant to waive any of the rights or benefits provided by this section is against public policy and is void.

SUMMARY

This amendment increases the penalty when a landlord enters the dwelling of a tenant without reasonable notice from \$100 to \$250. The amendment also makes it illegal for a landlord to disclose personal information of a person or a member of the person's household if the person is a tenant, prospective tenant, occupant or prospective occupant of a rental property owned or managed by the landlord to any person without the express consent of the tenant, prospective tenant, occupant or prospective occupant, except in response to a judicial warrant or in exigent circumstances. The amendment creates a \$1,000 penalty for a landlord who discloses personal information in violation of this act. The amendment makes any agreement by a tenant to waive any of the rights or benefits provided by this act void. Finally, the amendment clarifies in any action of forcible entry and detainer there is a presumption of retaliation if, prior to being served with an eviction notice, the tenant filed in good faith an action alleging that a landlord disclosed private information.