

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act Related to Rent Escrow

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

Sec. 1. 14 MRSA §6021, sub-§4, as amended by PL 1981, c. 428, §9, is further amended to read:

4. Remedies. If the court finds that the allegations in the complaint are true, the landlord ~~shall~~ beis deemed to have breached the warranty of fitness for human habitation established by this section, as of the date when actual notice of the condition was given to the landlord. In addition to any other relief or remedies ~~which~~that may otherwise exist, the court may take one or more of the following actions.

A. The court may issue appropriate injunctions ordering the landlord to repair all conditions ~~which~~that endanger or materially impair the health or safety of the tenant;

B. The court may determine the fair value of the use and occupancy of the dwelling unit by the tenant from the date when the landlord received actual notice of the condition until such time as the condition is repaired, and further declare what, if any, ~~moneys~~money the tenant owes the landlord or what, if any, rebate the landlord owes the tenant for rent paid in excess of the value of use and occupancy. In making this determination, there ~~shall beis~~ a rebuttable presumption that the rental amount equals the fair value of the dwelling unit free from any condition rendering it unfit for human habitation. A written agreement whereby the tenant accepts specified conditions ~~which~~that may violate the warranty of fitness for human habitation in return for a stated reduction in rent or other specified fair consideration ~~shall beis~~ binding on the tenant and the landlord.

C. The court may authorize the tenant to temporarily vacate the dwelling unit if the unit must be vacant during necessary repairs. No use and occupation charge ~~shall~~may be incurred by a tenant until such time as the tenant resumes occupation of the dwelling unit. If the landlord offers reasonable, alternative housing accommodations, the court may not surcharge the landlord for alternate tenant housing during the period of necessary repairs.

D. The court may enter such other orders as the court may ~~deem~~determine necessary to accomplish the purposes of this section. The court may not award consequential damages for breach of the warranty of fitness for human habitation.

~~Upon the filing of a complaint under this section, the court shall enter such temporary restraining orders as may be necessary to protect the health or well-being of tenants or of the public.~~

E. The court may order a disbursement from an escrow account under section 6026, subsection 2.

Upon the filing of a complaint under this section, the court shall enter such temporary restraining orders as may be necessary to protect the health or well-being of tenants or of the public.

Sec. 2. 14 MRSA §6026, sub-§2, as amended by PL 2005, c. 78, §1, is further amended to read:

2. Tenant action if landlord fails to act. If a landlord fails to maintain a rental unit in compliance with the standards of subsection 1 ~~and the reasonable cost of compliance is less than \$500 or an amount equal to 1/2 the monthly rent, whichever is greater~~, the tenant shall notify the landlord in writing of the tenant's intention to correct the condition at the landlord's expense of the rental unit that is out of compliance. ~~If the landlord fails to comply within 14 days after being notified by the tenant in writing by certified mail, return receipt requested, or as promptly as conditions require in case of emergency, the tenant may cause the work to be done with due professional care with the same quality of materials as are being repaired. Installation and servicing of electrical, oil burner or plumbing equipment must be by a professional licensed pursuant to Title 32. After submitting to the landlord an itemized statement, the tenant may deduct from the tenant's rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection~~ notify the appropriate municipal or local enforcement official or agency to inspect the rental unit and certify that the condition of the rental unit constitutes a violation of the standards of subsection 1. ~~If an appropriate municipal or local enforcement official or agency certifies that a rental unit violates the standards under subsection 1, within 10 days of this certification the tenant shall notify the landlord of the certification in writing by certified mail, return receipt requested. If the landlord does not remedy the condition certified in violation of subsection 1 within 15 days of notice of certification under this subsection, or make a substantial step to remedy the condition upon a showing that the condition cannot be remedied in 15 days, the tenant may deposit any rent due into an escrow account controlled by an attorney, bank or other disinterested 3rd party that accepts and holds escrow payments payable only upon order of a court or the signatures of both the tenant and the landlord or person to whom rent is customarily paid. If a tenant receives rental assistance from a governmental unit and the governmental unit is withholding rental assistance because the condition of the rental unit is not in compliance with the standards of subsection 1, the tenant may pay into escrow only the unassisted portion of the tenant's rent. If the parties cannot agree to the terms of the remedy to the condition of the rental unit not in compliance with the standards of subsection 1, either party may bring an action in District Court. After providing the parties with an opportunity to agree to the terms of the remedy through alternative means, the court shall determine whether the condition of the rental unit is not in compliance with the standards of subsection 1 and the scope of any remedy of a condition of the rental unit that is not in compliance with the standards of subsection 1 if the parties cannot agree to the terms of a remedy through alternative means. Pursuant to section 6021, subsection 4, paragraph E, the court may order funds to be disbursed from an escrow account under this subsection to remedy a condition of a rental unit out of compliance with the standards of subsection 1. A court's order under this subsection is not limited by the amount of funds in the escrow account or from any other remedy ordered under section 6021, subsection 4. The attorney, bank or 3rd party holding the funds in escrow may deduct from the escrow account reasonable administrative costs and fees for maintaining the escrow account. All court-ordered disbursements and administrative costs and fees paid from the escrow account under this subsection or by the tenant under subsection 9 are considered a cost of compliance and must be subtracted from the amount of rent owed to the landlord. Any funds remaining in the account after all court-ordered disbursements and administrative costs and fees are paid must be returned to the landlord. Compliance with this subsection by a tenant is a defense to a claim of nonpayment of rent. This subsection does not apply to repairs of damage caused by the tenant or the tenant's invitee.~~

Sec. 3. 14 MRSA §6026, sub-§4, as enacted by PL 1981, c. 428, §10, is repealed.

Sec. 4. 14 MRSA §6026, sub-§10, as enacted by PL 2009, c. 566, §14, is amended to read:

10. Foreclosure. For tenancies in buildings in which a foreclosure action brought pursuant to section 6203-A or 6321 has been filed and is currently pending, or in which a foreclosure judgment has been entered, if the landlord fails to maintain the premises in compliance with the standards in subsection 1, a tenant may exercise the tenant's rights pursuant to this section ~~without regard to the cost of compliance limitations set forth in subsection 2, except that the reasonable costs of compliance may not be more than the equivalent of 2 months' rent. A tenant who exercises the tenant's rights under this subsection and who thereafter seeks assistance pursuant to Title 22, chapter 1161 may not have any amounts expended under this subsection counted as income pursuant to Title 22, section 4301, subsection 7.~~

SUMMARY

This bill allows a tenant to place rent owed into an escrow account if the tenant's rental unit has a condition that endangers or materially impairs the health or safety of the tenant and the landlord fails to remedy the condition. If the tenant and landlord cannot agree to a remedy of an unhealthful or unsafe condition of a rental unit after the tenant has placed the rent into an escrow account, either side may bring an action in District Court to determine whether an unhealthful or unsafe condition of the rental unit exists. If a court rules for the tenant, the court may order funds to be disbursed from the escrow account to remedy the unhealthful or unsafe condition with those funds and administrative fees subtracted from the amount of rent the tenant owes the landlord. This bill also removes the ability of a tenant to repair a dangerous condition that the landlord has failed to repair after notice and deduct the cost of the repair from the tenant's rent.