131st Legislature

Senate of Maine

Senate District 29

Senator Anne Carney
3 State House Station
Augusta, ME 04333-0003
Office (207) 287-1515

Testimony of Senator Anne Carney introducing

LD 45, An Act to Prevent Retaliatory Evictions

Before the Joint Standing Committee on Judiciary

February 9, 2023

Representative Moonen and Esteemed colleagues on the Joint Standing Committee on Judiciary, as you know, I am Anne Carney, proudly representing Senate District 29, which includes South Portland, Cape Elizabeth, and part of Scarborough. Today I am pleased to introduce LD 45, "An Act to Prevent Retaliatory Evictions."

We are all familiar with Maine's housing crisis. Our constituents, and likely our friends and family members, are not able to find housing. They may need to move to take a new job, because their family is growing, or because their current housing is in such poor shape that it's uncomfortable or unsafe. Regardless of the reason, new housing is just not available or is unaffordable.

Senate District 29 has been hit hard by the housing crisis this year, when a company from Los Angeles bought Redbank Village, a neighborhood of 250 duplexes that provides housing that is affordable to families with low and moderate income. Redbank Village is special because it surrounds a community center with a gym and basketball court, a teen center where high school students can gather to do homework, and a sports field used by soccer teams of all ages.

In the spring of 2022, many tenants received unusual rent increase notices. They had a couple of weeks to agree to a rent increase; if they didn't accept quickly, at the end of the 45 day notice required by law the increase would be hundreds of dollars more per month. Even though the 45 day notice law says "A written or oral waiver of this requirement is against public policy and is void," there is no protection for tenants who assert their right to notice. 14 MRS §6015.

LD 45 would protect tenants when a landlord tries to raise rent in violation of Maine's 45 day notice law or a municipal notice ordinance, or in violation of the law prohibiting landlords from increasing rent when housing is uninhabitable. It does this by expanding the existing protections against retaliation found in Maine law.

Maine's forcible entry and detainer laws are found in Title 14, Chapter 709. A"no cause" eviction requires 30 days notice; a "for cause" eviction requires 7 days notice. If a landlord successfully gets a judgment in an eviction case, a writ of possession is issued seven days later. A tenant who does not move out within three days of service of the writ of possession, "is

deemed a trespasser without right and the defendant's goods and property are considered by law to be abandoned." 14 MRS §6005.

This law sounds harsh, and in many cases it is. Eviction often has longterm and devastating consequences for Maine families. When a family loses a home due to eviction, the family typically loses furniture, clothing, toys, because there is no place to put them. And once a judgment of eviction is entered, it appears on a tenant's rental history report and limits or eliminates their options for renting a safe and secure home in the future.

The existing law, 14 MRS §6001(3), protects tenants from "no cause" evictions if they have complained about a violation of the law – for example a building, housing, sanitary or other code, ordinance, or statute. It specifically protects tenants who have asserted a violation of 14 MRS §6021, the warranty that a dwelling unit is fit for human habitation, which is implied in every residential lease. It also specifically protects tenants who are not notified of the presence of radon in a dwelling unit or who are given false radon test results. 14 MRS §6030-D.

LD 45 adds three additional protections for tenants who face no cause eviction if they have asserted their rights under:

- 14 MRS §6015, which requires a landlord to provide at least 45 days' written notice of a rent increase;
- 14 MRS §6016, which forbids a landlord from increasing rent if the dwelling unit is in violation of the warranty of habitability; or
- A municipal ordinance limiting a rent increase.

These protections last for only 6 months following tenants' assertion of their legal rights.

The existing law protects tenants by creating a "rebuttable presumption" of retaliation. 14 MRS §6001(3). I'll explain how this works. If a tenant receives a "no cause" eviction notice within 6 months of asserting legal rights under one of these existing statutes, the law 'presumes' that retaliation is a factor in the decision to evict the tenant. The landlord can overcome this presumption by showing that a "for cause" reason exists and is a substantial reason for the eviction. If that is the case, the court can enter a judgment of eviction against the tenant.

The "rebuttable presumption" is re-worded to describe how a landlord overcomes the presumption and incorporates the standard burden of proof in civil cases. This gives landlords, tenants, and the court system clear direction for determining cases in which a claim of retaliation has been raised.

Thank you for your consideration and time. I am happy to answer your questions about the bill.

Anne Carney
State Senator, Senate District 29
South Portland, Cape Elizabeth, and part of Scarborough