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Written Testimony of Lynn Ward, Pine Tree Legal Assistance
In Support of LD 45
“An Act to Prevent Retaliatory Evictions”

Dear Senator Carney, Representative Moonen and members of the of the Joint Standing Committee on Judiciary;

This testimony is submitted in support of LD 45 and to urge that this committee vote ought to pass on LD 45 as drafted.

My name is Lynn Ward. I am a staff attorney at Pine Tree Legal Assistance. I am a resident of Auburn, Maine. I have represented hundreds of Maine residents with low incomes over my five years serving Androscoggin County.

Since 1967 Pine Tree Legal Assistance has provided free legal services to low-income people throughout the State of Maine. In 2022, Pine Tree Legal Assistance provided legal services to Maine families and individuals in 7,582 cases, of which 4,738 (62%) involved representation of clients in housing cases, including preventing evictions and foreclosures, enforcing safe housing laws, and enforcing housing discrimination laws. In evictions, our representation ranges from advising clients on the phone, to negotiating for and defending tenants during eviction proceedings. In 2022, Pine Tree Legal provided representation in 2,702 eviction cases statewide.

The changes proposed by LD 45 would amend Maine’s eviction statutes to better protect tenants who face eviction because they asserted their rights under Maine’s rental housing laws. For example, under Maine law tenants may seek repairs when conditions in their rented homes and apartments pose health or safety risks. Also, Maine law currently requires a landlord to provide a tenant with a 45-day written notice before increasing rent. Often, when a tenant asserts these rights, a landlord will then try to evict. If the tenant does not have a lease, the landlord can file an eviction without stating any reason, this is known as a “30 day no cause eviction.”

Under current law, a judge must presume that a landlord is retaliating against a tenant if in the six months before the tenant got an eviction notice, the tenant complained about housing conditions, filed a housing discrimination complaint, or provided the landlord notice that a tenant was a victim of certain crimes. To overcome that presumption, the landlord only needs to state some other reason for the eviction. There is no clear burden of proof required to overcome the presumption of retaliation. LD 45 would clarify the burden of proof where a tenant has asserted a retaliation defense and a landlord attempts to rebut the presumption of retaliation and will prevent landlords from wrongfully evicting tenants who are merely asserting their rights. The proposed language of LD 45 will expand protection

from retaliation to tenants whose landlord tried to impose an illegal rent increase and the tenant refused to pay the higher rent amount.

With 27 % of occupied housing units statewide occupied by renters and the tightening of Maine's rental market¹, the addition of protections from retaliatory evictions and clarity about the burden of proof when a retaliation defense is raised are more important than ever before. This is because Mainers are increasingly cost-burdened, meaning that they pay over 30% of their income to housing costs. When it comes to our lowest income residents, 58% are severely cost burdened- meaning that they pay over half of their income to housing costs. In 2022, there were only 51 available and affordable housing units for per 100 extremely low-income Maine households. Providing protections to residents who have properly asserted their rights under Maine housing law is critical because there simply are very few places that a wrongfully evicted tenant can move to.

As set forth above, when a landlord provides a tenant with a 30 day no cause notice to quit, Maine law offers only a few defenses. It is not surprising then, that a review of eviction cases in five courts located in various parts of the state shows that landlords are using no cause evictions much more often. In fact, no cause evictions have jumped from 2.9% of evictions filed in 2019 to 12.43% in 2021. No cause evictions can be the most difficult to defend, because unlike in for-cause eviction proceedings, tenants cannot force the landlord to prove that the conduct alleged to be the reason for the eviction occurred.

Through our representation of thousands of Mainers, Pine Tree Legal has seen that even when the existing presumption of retaliation applies, landlords will assert grounds for eviction which have never been raised to the tenant as a means of rebutting the presumption of retaliation. In response to a tenants claim of retaliation, a landlord only need to assert some nondescript reason such as "I just want to renovate the unit" or "I'm considering selling the building." In many cases, courts do not even require proof beyond those claims. There is no clear requirement that the landlord meet some standard or a certain burden of proof. This has caused many tenants be afraid to stand up for their rights out of concern that their landlord will be granted judgment even though they violated the tenants' rights. LD 45 clarifies the burden of proof and makes clear that the landlord must show a substantial reason for the eviction, not just any reason.

Over the past year, our staff has seen a dramatic increase in the number of tenants who call to report that their landlord has notified them that their rent will be going up substantially, sometimes by over 50%. Often, these notices are not legal because they were not given in writing or were not long enough as required by 14 MRS 6015 or were given when a home was in violation of the warranty of habitability act- a violation of 14 MRS 6016. Unfortunately, without existing protections from retaliation for refusing an illegal rent increase, many tenants choose to pay the increase, even when their household budgets cannot sustain it. These tenants will explain to us that they paid the amount because they had nowhere to go and were concerned about becoming homeless.

Recently, one of our advocates worked with a tenant who complained to their landlord about electrical and plumbing problems in their unit. Instead of fixing the problems immediately, the landlord notified the tenant that their rent would be more than doubled. Within days of telling their landlord they could

¹ That percentage is higher in areas like Lewiston, where some neighborhoods have over 80% of their units occupied by renters.

not agree to that rent increase, the tenant was served with a no-cause eviction notice. Another advocate had a client who was served with a notice that their rent would be going up in less than 45 days. Even though that notice was illegal, under existing law, if the tenant refused to pay the increased rent, the tenant would have no recourse if the landlord choose to proceed with a no cause eviction rather than comply with the law. Because of the lack of legal protection from eviction and a lack of available and affordable housing, time and time again, our advocates are forced to advise clients of the potential they will be evicted if they refuse to pay illegal rent increases.

All tenants deserve to assert their rights under Maine's housing laws and to be free from retaliation when they do so. Once the presumption of retaliation is established, it is not unreasonable to require a landlord to demonstrate by a preponderance of the evidence that at the time a notice to quit was given, a valid reason for eviction unrelated to the tenant's assertion of rights existed. The changes set forth in LD 45 will prevent unjust evictions, and for that reason, we urge this committee to vote "Ought to Pass" on LD 45 as drafted.