



Maine Equal Justice

People Policy Solutions

126 Sewall Street
Augusta, ME 04330-6822
TTY/Voice: (207) 626-7058
Fax: (207) 621-8148
www.mejp.org

Frank D'Alessandro
Legal Services Director
(207) 626-7058, ext. 202
frank@mejp.org

Testimony of Frank D'Alessandro, Maine Equal Justice
In support of LD 691 "An Act to Reduce Barriers to Housing by Prohibiting Tenant Application Fees"
March 23, 2023

Good morning, Senator Carney, Representative Moonen, and distinguished members of the Committee on Judiciary. My name is Frank D'Alessandro, and I am the Legal Services Director of Maine Equal Justice. We are a civil legal services organization, and we work with and for people with low income seeking solutions to poverty through policy, education, and legal representation. Thank you for the opportunity to offer testimony in support of LD 691.

What This Bill Does

This bill would protect tenants from prohibitive application fees.

Why Maine Equal Justice Supports LD 691

Maine Equal Justice supports LD 691 because application fees make housing unavailable to low-income tenants. Housing has become more and more difficult to find, leaving renters to compete in a tight market where 41% are already cost burdened and on top of that are expected to be able to afford numerous non-refundable application fees in hopes of finding a rental unit.¹ Practices such as application fees that make housing inaccessible to low-income tenants are a gender justice issue, a racial justice issue, an economic justice issue, and a children's right issue.²

In addition, as recognized by the Secretary of Housing and Urban Development, the Screening Reports that application fees pay for are often inaccurate:

Landlords typically use application fees to pay for tenant screening reports, and these reports may have inaccurate information and questionable validity in predicting renter

¹ Lucas Dufalia, *Nearly half of all Maine tenants cannot afford rent, new study says*, The Portland Press Herald (June 24, 2022), <https://www.pressherald.com/2022/06/23/nearly-half-of-all-mainers-cannot-afford-rent-new-study-says/> (citing Joint Center for Housing Studies of Harvard, *The State of the Nation's Housing* (2022)).

² Eric Dunn, *Georgetown Journal on Poverty Law and Policy*, (2022), <https://www.law.georgetown.edu/poverty-journal/wp-content/uploads/sites/25/2023/01/The-Case-Against-Rental-Application-Fees.pdf>

behavior... these renters may end up paying numerous application fees only to be repeatedly rejected for this inaccurate information in their tenant screening reports.

As a result of the shortcomings inherent in the screening services paid for by application fees the Secretary encourage rental housing providers to “Eliminate rental application fees or limit application fees to only those necessary to cover actual and legitimate costs of services.”³

Cost-burdened Renters and Housing Shortages

Maine is facing a housing crisis that disproportionately affects renters. From 2001 to 2018, “renter incomes grew by 0.5 percent” while “rents increased by 13 percent.”⁴ According to Pine Tree Legal Assistance, the number of complaints they received from clients concerning rent increases quadrupled between 2019 and 2022. The end of rental assistance and the unbridled rises in rental costs has led to at least 41% of tenants in Maine being “cost-burdened” (spending more than one-third of their gross income on rent) and 20% of those being “severely” cost-burdened (spending more than half of their income on rent).⁵ As of 2022, nationwide, at least 20% of renters are currently behind on payments.⁶ Add to this that Maine is somewhere between 20,000 and 25,000 housing units short,⁷ and that nationally there is “less housing available for rent and sale than at any time in 30 years,”⁸ and what we are left with is a recipe for disaster.

Abuse of Application Fees

Landlords will likely argue that application fees are necessary to off-set the cost of advertising their rental unit, background checks, or to simply discourage applicants from shopping around, but Vermont banned application fees over 20 years ago and Massachusetts banned application fees almost ten years ago, and there has been no evidence of a significant increase in costs accrued or burdened by the landlords.⁹

In the midst of a housing crisis sensible public policy means protecting tenants, reducing discrimination and segregation, and improving access to safe and affordable housing. Landlords absorbing such a minor cost associated with the business of leasing housing is justified by the societal benefits of improved and safer communities.¹⁰

Background checks typically cost between \$15 and \$40, and are often cited as the reason for

³ https://www.hud.gov/sites/dfiles/PA/documents/Junk_Fees_Memo_SOHUD_signed.pdf

⁴ Sammi Aibinder & Lindsay Owens, The Roosevelt Institute, No Room for Rent: Addressing Rising Rent Prices through Public Investment and Public Power 3 (2021), <https://rooseveltinstitute.org/publications/no-room-for-rent-addressing-rising-rent-prices-through-public-investment-and-public-power/>.

⁵ *Id.*

⁶ ACLU, No Eviction Without Representation 1 (2022) (Hereinafter ACLU, No Eviction) (citing U.S. Census Bureau, Source: U.S. Census Bureau Household Pulse Survey, Week 42 (2022), https://www2.census.gov/programs-surveys/demo/tables/hhp/2022/wk42/housing1b_week42.xlsx).

⁷ *Id.*

⁸ Jim Parrot & Mark Zandi, Urban Institute & Moody’s Analytics, Overcoming the Nation’s Daunting Housing Supply Shortage 1 (March 2021), <https://www.moodyanalytics.com/-/media/article/2021/Overcoming-the-Nations-Housing-Supply-Shortage.pdf>

⁹ Eric Dunn (n1)

¹⁰ Eric Dunn (n1)

an application fee. A nonrefundable application fee can range anywhere from \$25 to \$75 dollars and in most cases the tenant never knows if a background check was ever run if they end up denied the unit¹¹. In addition to renters trying to save enough for first months rent and a security deposit, they also must set aside enough to pay for the fees while applying for apartments. Many Mainers live paycheck to paycheck, and many other Mainers (especially elder and disabled Mainers) live on fixed incomes. Due to the tight housing market, many renters have to submit numerous applications before being “accepted.” Every time an adult low-income tenant pays an application fee it creates an additional financial burden to accessing safe and quality housing.¹ In some cases, prospective tenants have been known to spend hundreds of dollars in application fees and typically never hear back from a landlord.¹² The abuse of application fees by landlords has led eight states and numerous municipalities to enact policies on application fees. The Georgetown Journal on Poverty Law & Policy highlights the ways that landlords can exploit the application fee system:

...received over 100 applications, for which it collected \$50 each, for a single vacancy—or over \$5,000 in application fees to re-let a single unit. The potential to collect two or three times the monthly rent for an apartment through the application and admission process may create an incentive to repeat the screening and leasing process as often as possible, so as to maximize such profits. This could induce landlords to decline renewal of expiring leases, shorten lease terms, or more quickly pursue eviction over minor lease violations or delinquencies that have been resolved.

Application Fees Disproportionately Affect Communities of Color and Women

People of color, specifically black female heads of households, face the greatest barriers in obtaining housing and are disproportionately affected by application fees.¹³ A study done by Zillow.com showed Black and Latinx renters “...must typically submit 50% more rental applications...than the typical white or Asian renter.” In fact, nearly 40% of Black and Latinx find themselves submitting more than five housing applications.¹⁴

Credit history, criminal history, and past evictions are the most common pieces of background information used to deny applicants housing¹⁵. As we know, these factors are not felt by communities equally. Black, indigenous, and people of color are arrested, convicted, and incarcerated at higher rates than white individuals even though white people commit crimes at comparable rates.¹⁶ This is all contradictory to the research that shows how stable and affordable housing reduces recidivism rates¹⁷ and crime, especially survival crimes such as theft, trespassing and loitering, and prostitution.¹⁸ Several

¹¹ Nick Schroeder, Bangor Daily News, In Portland’s pricey housing market, some landlords accused of abusing rental fees (January 2020), <https://www.bangordailynews.com/2019/12/02/news/renters-say-application-fees-a-barrier-to-living-in-portlands-pricy-housing-market/>

¹² Cara Derosé, Maine Beacon, Portland renters report spending hundreds on application fees in apartment hunt (November 2019), <https://mainebeacon.com/portland-renters-report-spending-hundreds-on-application-fees-in-apartment-hunt/>

¹³ Eric Dunn (n1)

¹⁴ Eric Dunn (n1)

¹⁵ Eric Dunn (n1)

¹⁶ Eric Dunn (n1)

¹⁷ U.S. Department of Housing and Urban Development, Promoting Mental Health Through Housing Stability (May 2022), <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-053122.html>

¹⁸ Kimberly Burrows, Urban Institute, Can Housing Interventions Reduce Incarceration and Recidivism? (February 2019), <https://housingmatters.urban.org/articles/can-housing-interventions-reduce-incarceration-and-recidivism>

studies have demonstrated how credit history and credit scoring can both be discriminatory and disadvantageous to people and communities of color. Nationally, Black individuals constituted almost 20% of all adult renters but were nearly 33% of all eviction filings,¹⁹ and four out of every five black renter lives in a county where landlords disproportionately file evictions against Blacks.²⁰ Black renters face serial eviction filings (eviction filed repeatedly against the renter at the same address) at a rate of 14.9%, Latino/a have a rate of 13.2%, and Asians have a rate of 11.8%. All the while, whites have a rate of 9.8%.²¹ In general, women are nearly 16% more likely to be evicted than men.²² But, in particular, Black women are twice as likely than white women to have an eviction filed against them,²³ they are more likely to have an eviction filed against them that is dismissed, and they are the group most harmed by the current tenant screening policies that blacklist an individual with even a single eviction.²⁴ Additionally, over 60% of Black women renters are cost burdened, making them even more vulnerable for eviction filings.²⁵

These national trends are also found in Maine. In Maine, Black women renters are filed against for eviction at double the rate of white renters.²⁶ Pine Tree Legal Assistance has reported that 12% of the tenants they represent in evictions identify themselves as people of color, though only 5% of Maine's population is non-white. Similarly, Maine Housing data shows that 34% of Maine's homeless population is Black or African American even though only 1.4% of Maine's population is Black or African American.²⁷ It is clear that the "threshold for filing against white renters is higher than the threshold for filing against black and Latin[o/a] renters."²⁸ There can be no question that practices such as application fees are a racial and gender issue.

Conclusion

Housing application fees impede and thwart the efforts to stabilize housing in Maine and therefore Maine Equal Justice hopes the Committee will vote 'ought to pass' on LD 691.

We thank you for the opportunity to provide testimony and I am happy to answer any questions.

¹⁹ Peter Hepburn et al., *Racial and Gender Disparities Among Evicted Americans*, 7 SOCIAL SCIENCE 649, 653 (Dec. 16, 2020), <https://sociologicalscience.com/articles-v7-27-649/>.

²⁰ ACLU, NO EVICTION, *supra* note 7, at 7.

²¹ Peter Hepburn et al., *supra* note 13, at 657-58

²² *Id.* at 655.

²³ Sandra Park, *supra* note 12.

²⁴ ACLU, NO EVICTION, *supra* note 7, at 7.

²⁵ Abby Boshart, *How Tenant Screening Services Disproportionately Exclude Renters of Color from Housing*, URBAN INSTITUTE (Dec. 21, 2022), <https://housingmatters.urban.org/articles/how-tenant-screening-services-disproportionately-exclude-renters-color-housing>.

²⁶ Sophie Beiers, et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color*, ACLU (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color>

²⁷ MAINE 2022 POINT IN TIME COUNT [HTTPS:// WWW.MAINEHOUSING.ORG/DOCS/DEFAULT-SOURCE/HOUSING-REPORTS/2022-POINT-IN-TIME-SURVEY---STATEWIDE.PDF?SFVRSN=1AA68615_7](https://www.mainehousing.org/docs/default-source/housing-reports/2022-point-in-time-survey---statewide.pdf?sfvrsn=1aa68615_7)

²⁸ Peter Hepburn et al., *supra* note 13, at 659.