



Maine Equal Justice
People Policy Solutions

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Testimony of Frank D'Alessandro, Maine Equal Justice
In support of LD 804 "An Act to Increase the Time Period for Notice to
Terminate a Tenancy at Will"
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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 804.

Maine Equal Justice supports LD 804. Mainers' health, wellbeing, and economic stability all start at home, and there is no worse threat to a family's stability than eviction—or the forcible removal from that home. Eviction is not just a condition of poverty, but a cause of it, as it forces families out of their communities away from their support systems, makes children change schools, negatively affects mental health, and causes job loss. No one should lose their home and risk becoming homeless if they haven't done anything wrong. LD 804 will help prevent unnecessary evictions and ensure housing stability for Mainers.

What This Bill Does

Under current law a landlord may terminate a tenancy at will by serving the tenant with either a 30 day notice or a 7 day notice. Under current law and this bill, a landlord may serve at tenant with a 7 day notice for the reasons set forth in 14 M.R.S. § 6001(2):

- A. The tenant, the tenant's family or an invitee of the tenant has caused substantial damage to the demised premises that the tenant has not repaired or caused to be repaired before the giving of the notice provided in this subsection;
- B. The tenant, the tenant's family or an invitee of the tenant caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy;

- C. The tenant is 7 days or more in arrears in the payment of rent;
- D. The tenant is a perpetrator of domestic violence, sexual assault or stalking and the victim is also a tenant;
- E. The tenant or the tenant's guest or invitee is the perpetrator of violence, a threat of violence or sexual assault against another tenant, a tenant's guest, the landlord or the landlord's employee or agent, except that this paragraph does not apply to a tenant who is a victim as defined in section 6000, subsection 4 and who has taken reasonable action under the circumstances to comply with the landlord's request for protection of the tenant, another tenant, a tenant's guest or invitee, the landlord or the landlord's employee or agent or of the landlord's property; or
- F. The person occupying the premises is not an authorized occupant of the premises.

This bill extends from 30 to 90 days the notice requirements for reasons not covered by set forth in 14 M.R.S. § 6001(2). This bill does not extend the time to evict tenants who have done something wrong nor does this bill prevent a landlord from terminating a tenancy at the end of a lease term. However this bill will ensure that tenants at will are given more time to locate alternative housing when faced with a no cause eviction.

The Practical Consequences of This Bill

This bill extends from 30 days to 90 days the notice period for an eviction brought against a tenant at will without cause. An at-will tenancy is one where a landlord-tenant relationship is not governed by a lease agreement for one year or another set time period. It is sometimes called a “month-to-month” tenancy.

A study of Maine’s eviction records done by Pine Tree Legal Assistance from 2019 to 2022 estimated that no-cause evictions account for an average of 19% of all eviction filings in Maine. With no cause evictions making up nearly 27% of all evictions in 2021. Landlords file the overwhelming majority of evictions in Maine (87%) for non-payment or another cause.¹ According to Pine Tree Legal Assistance, only 5% of no cause eviction cases were related to an underlying cause due to tenant behavior. On average this accounts for less than 1% of all eviction cases filed in the State of Maine.

According to records kept by Pine Tree Legal Assistance a change to the City of Portland Ordinance similar to that proposed in this bill resulted in a 25% reduction in no cause evictions

¹ In 2020, the Maine Affordable Housing Coalition (MAHC) compiled the first comprehensive study on Maine’s eviction filings. MAHC, Evictions in Maine: An Analysis of Eviction Filings and Outcomes as the COVID-19 Pandemic Threatens to Increase Rental Housing Instability 9 (Sept. 2020), <https://mainehousingcoalition.org/wpcontent/uploads/2020/09/Maine-Eviction-Report-FINAL-September-2020.pdf>.

for tenants located in Portland Maine compared to the rest of the State. This bill will improve stability for tenants by giving them more time to plan around a potential end-date to their tenancy. As a result of this bill, landlords may also look increasingly to evict at-will tenants with 7 day notices for the causes described above. Though this will result in a shorter notice period, it will provide tenants with the opportunity to defend themselves. Under current law, tenants have virtually no defense against a 30 day no-cause eviction notice.

Why Maine Equal Justice Supports LD 804

Eviction Creates Disastrous Consequences for Families

No one should lose their home and risk becoming homeless if they haven't done anything wrong. Finding affordable housing in Maine has become so difficult that many Mainers become homeless simply because they cannot find an apartment that meets their budget.

When a tenant gets a 30 day no-cause eviction notice, they are put in the impossible position of finding a new apartment and moving within 30 days' notice, or risk going to eviction court and being forcibly removed from their home.

Eviction—or the forcible removal of a family from their home—is often a traumatic and highly consequential event, especially for low-income families. The Eviction Lab at Princeton University, a leading team of researchers working to highlight the prevalence, causes, and consequences of evictions nationwide, describes the fallout of eviction this way:

Eviction causes a family to lose their home. They often are also expelled from their community and their children have to switch schools. Families regularly lose their possessions, too, which are piled on the sidewalk or placed in storage, only to be reclaimed after paying a fee. A legal eviction comes with a court record, which can prevent families from relocating to decent housing in a safe neighborhood, because many landlords screen for recent evictions. Studies also show that eviction causes job loss, as the stressful and drawn-out process of being forcibly expelled from a home causes people to make mistakes at work and lose their job. Eviction also has been shown to affect people's mental health: one study found that mothers who experienced eviction reported higher rates of depression two years after their move. The evidence strongly indicates that eviction is not just a condition of poverty, it is a cause of it.

Clearly, eviction causes financial losses to families who often lose their possessions and lose their jobs when they're forced from their homes and communities.² It also causes enormous personal trauma with significant repercussions to economic and personal well-being. Research

² Matthew Desmond & Carl Gershenson, Housing and Employment Insecurity Among the Working Poor, 63 Soc. Prob. 46, 46 (2016).

in the wake of the foreclosure crisis has tracked how housing instability negatively influences adult and children's physical and mental well-being including increasing the risk of depression in mothers.³ Eviction also increases suicide and anxiety.⁴ For children, it results in emotional and educational decline.⁵

People who have been evicted go on to be shadowed by an eviction judgment on their record and damaged credit that prevents them from moving forward and rebuilding their finances. Evidence shows that many housing providers screen prospective tenants out of the application process based on the existence of an eviction filing in a tenant's name, regardless of the basis or the legal outcome.⁶ As a result, families who have been evicted are often forced into poorer neighborhoods and substandard housing.

No tenant in Maine should have to suffer these consequences. But it is especially unfair to tenants whose landlords evict them with 30 days' notice without cause. Though these tenants have done nothing wrong except fail the impossible task of finding a new home and moving within 30 days, they can suffer devastating financial and health fallout from eviction and be barred from future housing opportunities.

All the evidence shows that Mainers' health and well-being starts with having a stable home and the opportunities that come with it. LD 804 is a crucial policy measure because it will help prevent unnecessary evictions and ensure housing stability for more Mainers.

Maine's Housing Crisis Highlights Deep Racial Inequality

While housing instability and eviction is always tragic, it is not a tragedy that befalls all families equally. Though Maine does not have a centralized database for evictions in the state, data from Maine State Housing Authority has shown that 34% of Maine's homeless population on any given night is Black or African American, though only 1.4% of Maine's population is Black or African American.⁷ Pine Tree Legal Assistance has also provided statistics that 12% of households they represented in eviction court were non-white, though only 5% of Maine's population is non-white. This reflects national data evidencing extreme racial disparities in evictions across the country; myriad studies have shown that Black women are the most likely

³ Matthew Desmond et al., *Eviction's Fallout: Housing, Hardship, and Health*, 94 *Social Forces* 295, 300-301 (2015).

⁴ Yerko Rojas & Sten-Åke Stenberg, *Evictions and Suicide: A Follow-Up Study of Almost 22,000 Swedish Households in The Wake Of The Global Financial Crisis*, 70 *J. of Epidemiology & Comm. Health* 409 (2016).

⁵ See Matthew Desmond, *Unaffordable America: Poverty, Housing, and Eviction*, U. Of Wis.: Inst. For Res. On Poverty (Mar. 2015), <https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf>.

⁶ Matthew Desmond & Monica Bell, *Housing, Poverty, and the Law*, 11 *Ann. Rev. L. & Soc. Sci.* 15 (2015); Paula A. Franzese, *A Place to Call Home: Tenant Blacklisting and the Denial of Opportunity*, 45 *Fordham Urb. L.J.* 661 (2018).

⁷ Maine State Housing Authority, *Maine Homelessness Survey: 2022 Point in Time Count* (March 17, 2023), https://www.mainehousing.org/docs/default-source/housing-reports/2022-point-in-time-survey---statewide.pdf?sfvrsn=1aa68615_7.

tenants are subject to eviction in the U.S. even when studies control for poverty.⁸ Maine's housing market is no exception.

The Impacts of No-Cause Evictions on Communities

No-cause eviction notices allow landlords to clear out tenants as neighborhoods gentrify. Many parts of Maine have been gentrifying for decades,⁹ but the pandemic has put unprecedented pressure on Maine's housing market. While so many people are buying and renting new Maine homes, many Mainers are struggling to stay in theirs.

Increasing property values are linked to gentrification. Gentrification is a process which displaces low-income community members, usually renters, when more affluent people move in. Gentrification is spurred by speculation in the real estate market which incentivizes landlords to raise rents and/or evict tenants to pursue higher-end development. This is occurring not only in Maine's cities, but also in rural parts of the State¹⁰ where houses and apartments are increasingly rented out short-term on platforms like Airbnb.¹¹

The pandemic has only highlighted and widened power and wealth disparities between landlords and tenants. Tenants don't get any benefits from the right to give their landlord 30 days' notice to end the tenancy because tenants have nowhere to move to since Maine's rental market is more expensive and competitive than ever before.

Maine's housing market has gotten so tight that even those with the ability to pay market rents cannot find available rental units. On April 8, 2021, the Bangor Daily News published an article about a retired couple in midcoast Maine who are facing the prospect of leaving the state because they cannot find a single rental property in their area.¹² The article reports there are far more tenants posting on Craigslist looking for apartments than there are landlords seeking tenants.¹³ In the same week that article was published, Maine Equal Justice was contacted by five households whose leases in seasonal rentals are coming to an end, but they cannot find any available housing.

⁸ For extensive research on this topic, see Matt Desmond's Pulitzer Prize winning work *Evicted: Poverty and Profit in the American City* (2016), which Desmond has further documented in *Eviction and the Reproduction of Urban Poverty*, 118 *Am. J. of Sociology* 1, 88-133 (July 2012), and at the Eviction Lab at Princeton University (<https://evictionlab.org/>).

⁹ See Tux Turkel, *No Vacancy: Landlords Capitalize on 'Insane' Market*, *Portland Press Herald* (Nov. 17, 2015), <https://www.pressherald.com/2015/11/15/landlords-use-power-hot-market-charge-pick-best-tenants-upgrade-properties-sometimes-neglect/> (documenting 40% increase in Portland rents between 2010 and 2015).

¹⁰ See University of Maine School of Marine Sciences, *Fishing Communities Need to Prepare For Gentrification Challenges* (Aug. 23, 2016), <https://umaine.edu/marine/2016/08/23/fishing-communities-need-prepare-gentrification-challenges-say-umaine-researchers-2/>; Megan Mayhew Bergman, *'We Have No Market But Lots of Lobsters': A Maine Lobsterwoman Fights For Her Livelihood*, *The Guardian* (July 23, 2020), <https://www.theguardian.com/environment/2020/jul/23/maine-lobsterwoman-coronavirus-climate-change>.

¹¹ Josh Bivens, *The Economic Costs and Benefits of Airbnb*, *Economic Policy Institute* (Jan. 30, 2019), <https://www.epi.org/publication/the-economic-costs-and-benefits-of-airbnb-no-reason-for-local-policymakers-to-let-airbnb-bypass-tax-or-regulatory-obligations/>.

¹² Abigail Curtis, *Apartment Seekers Advertise Themselves to Beat the Midcoast Maine Housing Crunch*, *Bangor Daily News* (Apr. 8, 2021), <https://bangordailynews.com/2021/04/08/news/midcoast/apartment-seekers-advertisethemselves-in-a-bid-to-beat-the-midcoast-maine-housing-crunch/>.

¹³ *Id.*

We must confront that gains for some result in losses for others and take steps to protect tenants in Maine’s housing crisis. The reality is tenants need housing stability over flexibility. LD 804 would at minimum ensure tenants have more time to secure housing in Maine’s expensive and competitive rental market instead of becoming homeless.

Preventing Eviction Prevents Extreme Costs to Society

The costs to families of displacement and disruption arising from eviction also create extreme costs to society.

In 2018, the Philadelphia Bar Association commissioned a comprehensive study on the cost of eviction in Philadelphia. The study highlighted the costs to communities, hospitals, state and local governments, and the economy in general when people are evicted from their homes. Research showed eviction increases emergency shelter costs, hospital costs (emergency room and in-patient), mental health costs, administrative burden for courts, and the deterioration of communities when people move away from their support systems.¹⁴

These costs are even greater during housing shortages when low-income tenants can’t find replacement housing. Indeed, in Maine, when a landlord evicts a tenant and they cannot find other housing, the landlord shifts the tenant’s shelter and relocation cost to the municipality without cause. The state General Assistance statute requires all municipalities to provide emergency housing assistance to homeless people who cannot afford their own accommodations.¹⁵

Evictions trap people in poverty because unstable housing makes it extremely difficult to maintain steady employment.¹⁶ Evictions have been linked to psychological trauma and have been identified “as a risk factor for suicide.”¹⁷ Those evicted have 63% higher odds of losing Medicaid coverage, and getting prescriptions filled or storing prescriptions becomes extremely difficult.¹⁸ A housing change during childhood can lead to half a year of loss in school.¹⁹ Children that are forced to move three or more times generally have lower earnings, fewer work hours, and less educational attainment.²⁰ Children with unstable housing “are more likely to be

¹⁴ Stout, Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants 7-8 (Nov. 13, 2018), <https://www.stout.com/en/news/stout-conducts-cost-benefit-study-right-to-counselphiladelphia/>.

¹⁵ See 22 M.R.S. §§ 4301(5-A) & 4309(5) (persons staying in emergency homeless shelters are presumptively eligible for General Assistance).

¹⁶ ACLU, NO EVICTION, *supra* note 5, at 3.

¹⁷ Matthew Desmond et al., *Evicting Children*, 92 SOCIAL FORCES 303, 303 (2013).

¹⁸ ACLU, NO EVICTION, *supra* note 5, at 6; THE NETWORK FOR PUBLIC HEALTH LAW, THE PUBLIC HEALTH IMPLICATIONS OF HOUSING INSTABILITY, EVICTION, AND HOMELESSNESS (2021), <https://www.networkforphl.org/wp-content/uploads/2021/04/Fact-Sheet-Public-Health-Implications-of-Housing-Instability-Eviction-and-Homelessness.pdf>.

¹⁹ ACLU, NO EVICTION, *supra* note 5, at 5

²⁰ *Id.*

truant, and are more likely to drop out”²¹ and they “are at higher risk for developmental delay, decreased academic achievement, anxiety, depression, behavioral disturbances, and even death.”²² By giving renters 90 days, instead of the current 30 days, many of the ill effects of unstable housing that come with eviction can be mitigated.

Extending the notice period for No-Cause Evictions Does Not Interfere With Landlords’ Rights

Landlords may argue that this bill eliminates an important landlord right: the right to recover their property at any time, for any reason (or without a reason), with 30 days’ notice. However, this is a mischaracterization of the 30 day no-cause notice provision in 14 M.R.S. § 6002. It does not exist to protect a landlord’s property rights. It is a tenant protection. The legislature can and should strengthen it to protect tenants’ and society’s interests in stable housing.

Property owners have the privilege, not the right, to profit by renting their buildings out to tenants. Landlords are justifiably subject to regulation to ensure that their business operations do not harm others. This includes keeping up the health and safety conditions of their buildings under state and local code, renting to tenants on fair and conscionable terms, and not forcibly removing tenants from their homes without due process.

Maine’s requirement of a minimum 30 days’ written notice to terminate a tenancy-at-will dates to 1863. Shortly after its enactment, the Law Court explained, “The object of the statute undoubtedly was to prevent a breach of the peace, by protecting the tenant from molestation at the hands of his landlord, until he shall have had a reasonable opportunity to provide himself with other accommodations.”²³ As far back as 1863, the Maine Legislature recognized that government must protect tenants in evictions to prevent the hardship caused when tenants are evicted and cannot find replacement housing. As the Law Court described, these outcomes affect not only tenants, but also the public by creating a “breach of the peace.”

The policy reasons for protecting tenants’ rights in eviction have even more weight today. Maine’s rental market has gotten more competitive and expensive than ever. We know that the social and economic costs of eviction and homelessness are vast. The effects of eviction ripple far beyond an individual landlord’s building and business and must be taken into account in devising sensible policy solutions for the housing crisis.

²¹ Matthew Desmond et al, *supra* note 9, at 320.

²² Ericka Petersen, *Building a House for Gideon: The Right to Counsel in Evictions*, 16 STAN. J. C.R. & C.L. 63, 69 (2020).

²³ *Cunningham v. Horton*, 57 Me. 420, 422 (1869) (emphasis added).

The Legislature can and should strengthen protections for tenants by extending the 30 day no cause notice provision to 90 days for tenants at will. This will promote housing stability and help ensure that low-income tenants do not become homeless when they have not done anything wrong.

Conclusion

Maine Equal Justice hopes the Committee will vote 'ought to pass' on LD 804. It provides a simple, cost-effective solution that Maine can enact immediately as a step towards ending Maine's housing crisis.

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