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**Testimony on behalf of Maine Equal Justice in *Support* of LD 1710, An Act to Establish the Maine Rental Assistance and Guarantee Program and Amend the Laws Regarding Tenants and the Municipal General Assistance Program**

**May 12, 2023**

Good morning, Senator Pierce, Representative Gere, distinguished members of the Special Committee on Housing. This testimony is submitted by Andrea Steward, (She/Her/Hers) a policy advocate at Maine Equal Justice and Frank D'Alessandro (He/Him/His) the Director of Legal Services at Maine Equal Justice. We are a civil legal services organization, and we work with and for people with low incomes seeking solutions to poverty through policy, education, and legal representation to increase economic security, opportunity, and equity for people in Maine. Thank you for the opportunity to offer testimony in support of LD 1710.

**What This Bill Does**

1. Section 1 through 4 amends the Maine Human Rights Act to prohibit discrimination against a tenant - based on their participation in rental assistance programs
2. Section 5 through 18 amends the Maine Fair Debt Collection Practices Act to prohibit the collection of unaffordable rent.
3. Section 17 creates a State Rental Assistance and Guarantee Program
4. Section 19-24 establishes a graduated real estate transfer tax for homes sold at and above the median sales price within their county

**Homelessness is an Inevitable Result of Inequality and a Housing System that Leaves Many Struggling to Make Rent**

Maine's housing landscape leaves many Mainers behind. Even before the pandemic, thousands of Mainers struggled month in and month out to afford rent and stay housed. In Maine, wages are not high enough for everyone to keep a roof over their heads.<sup>1</sup> On average, Mainers need an annual income of \$47,194 to pay for a two-bedroom home, but a typical low-income renter makes only \$37,966 (and many make far less).<sup>2</sup> Today, Maine continues to compare unfavorably on median household income with our New England neighbors. We have the lowest median household income of any New England state and are lower than the

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<sup>1</sup> National Low Income Housing Coalition, Maine Housing Profile (2023). <https://nlihc.org/oor/state/me>

<sup>2</sup> Id.

US average.<sup>3</sup> As a result, nearly 72% of extremely low-income households pay more than 30% of their monthly income towards rent, and 52% pay more than 50% of their monthly income towards rent; a threshold which HUD deems severely rent burdened.<sup>4</sup> With so many households living on a razor thin edge to make rent, it is no surprise that in the 5 years before the pandemic, Maine Courts handled between 5,300 and 6,200 eviction cases every year. Most of these evictions were for nonpayment of rent.<sup>5</sup> This means that an average of 14 to 17 households faced loss of their homes every day – these included families with children, seniors, veterans, and single adults striving to make ends meet. These individual experiences of displacement ripple out into Maine’s economy.

### **Housing Instability is Socially and Economically Harmful for Mainers and Maine.**

Maine has a shortage of 22,498 affordable homes for extremely low income Mainers.<sup>6</sup> Maine needs more housing, and we must ensure that new housing made available is actually affordable to people with limited means. Currently, extremely low income tenants have insufficient income to pay the rent charged by affordable housing units. The Low-Income Tax Credit Program and Rural Tax Credit Program are the major sources of financing to create affordable housing in Maine. These programs define “affordable housing” as a unit that is affordable to households at 80% annual median income (AMI). 80% of the AMI for a household of 4 in Maine was \$62,880 in 2021. New rental units created by these programs will not be affordable to households whose income is below this amount without some rent relief to help bridge the gap. Rent relief that helps address the affordability gap for these renters is necessary so that Maine’s most vulnerable tenants can afford to live in affordable housing.

Meanwhile, the largest rental assistance program in the U.S., the Section 8 Housing Choice Voucher Program (“Section 8 Voucher Program”), only funds vouchers for 1 in every 5 families who are eligible for it. In Maine, there are 15,000 families on the waitlist for the program. These families wait years for needed assistance. Without rental assistance, families face trauma and the devastating impact of losing the place they call home. Neighborhoods lose community members suddenly. Children are uprooted to change school districts mid-year, harming their educational and social development. Furthermore, in an eviction, the costs are high for families and communities with the burden for communities being borne by schools, local governments, organizations, and businesses. Tenants often lose most of their possessions – forced to take only what they can fit in their car. Once evicted, many tenants find themselves unable to find stable, safe housing and are forced to move into more substandard housing.<sup>7</sup>

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<sup>3</sup> Maine Children’s Alliance, 2023 Maine Kids Count, (May 2023), [https://www.mekids.org/site/assets/files/2031/2023\\_kidscount\\_databook\\_interactive.pdf](https://www.mekids.org/site/assets/files/2031/2023_kidscount_databook_interactive.pdf)

<sup>4</sup> Id.

<sup>5</sup> Maine Affordable Housing Coalition, Evictions in Maine: Analysis of Eviction Filings and Outcomes as the Covid-19 Pandemic Threatens to Increase Rental Housing Instability, (Sept. 2020), <https://mainehousingcoalition.org/wpcontent/uploads/2020/09/Maine-Eviction-Report-FINAL-September-2020.pdf>

<sup>6</sup> National Low Income Housing Coalition, 2023 Maine Housing Profile, (Apr. 2023), [https://nlihc.org/sites/default/files/SHP\\_ME.pdf](https://nlihc.org/sites/default/files/SHP_ME.pdf)

<sup>7</sup> Matthew Desmond & Rachel Tolbert Kimbro, Eviction’s Fallout: Housing Hardship and Health, Social Forces (2015), [https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015\\_2.pdf](https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf).

One Waterville hotel worker described how hard it is to hear people calling the hotel searching for shelter in crisis:

Listening to people who are desperately looking for housing call into the hotel is like listening to the apocalypse on the radio. Their whole lives are shattered and there's nothing I can do. You can't pay rent when you aren't making enough money. People haven't gotten help with rent in time and now they're homeless. The housing crisis is so much bigger now and renters need help.

An extremely low-income family of four in Piscataquis County just barely earns \$20,000 in annual income. These extremely low-income households are the households most vulnerable to housing instability.<sup>8</sup>

One tenant from Winslow describes the impossible bind renters are in to balance the cost of housing with their other basic needs:

[T]he biggest fear for me and many others is debt . . . . Poor people all over the state are plunging deeper into debt to keep afloat so they don't become homeless. Those stories you hear about people not being able to afford a \$400 emergency? For many it's much worse than that. . . . For me it's keeping up with car payments. I had to push off my car payment for two months in order to make rent. I'm paying a lot of interest in order to make sure I don't lose my housing. This is the bind that so many find themselves in: we need our cars for when we work but keeping up with payments in addition to all the other needs our families have is nearly impossible. Others in my community are being driven deeper into debt due to overdue rent and fees as well as increased food costs, student loans, health insurance and medical expenses for those who lost coverage through their job, and phone, electricity, and internet.

For severely rent burdened households, missing any one of these bills can lead to housing instability and eviction--a family's forced removal from their home. Finding affordable housing has become so difficult, many Mainers become homeless because they simply cannot find a home that meets their budget.

Evictions trap people in poverty because unstable housing makes it extremely difficult to maintain steady employment.<sup>9</sup> Evictions have been linked to psychological trauma and have been identified "as a risk factor for suicide."<sup>10</sup> Those evicted are 63% more likely to lose Medicaid coverage, and getting prescriptions filled or storing prescriptions becomes

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<sup>8</sup> National Low Income Housing Coalition, *Housing Needs by State: Maine*, (Accessed on March 2, 2021) <https://nlihc.org/housing-needs-by-state/maine>,

<sup>9</sup> ACLU, *No EVICTION*, *supra* note 5, at 3.

<sup>10</sup> Matthew Desmond et al., *Evicting Children*, 92 *SOCIAL FORCES* 303, 303 (2013).

extremely difficult.<sup>11</sup> A housing change during childhood can lead to half a year of loss in school.<sup>12</sup> Children that are forced to move three or more times generally have lower earnings, fewer work hours, and less educational attainment.<sup>13</sup> Children with unstable housing “are more likely to be truant, and are more likely to drop out”<sup>14</sup> and they “are at higher risk for developmental delay, decreased academic achievement, anxiety, depression, behavioral disturbances, and even death.”<sup>15</sup> Many of these evictions would be avoidable with timely access to ongoing rental assistance, which reduce and stabilize tenants’ housing burden.

Despite knowing the benefits of rental assistance, more money is dedicated to homeownership subsidies that have greater benefits for higher-income households, instead of families that need it the most to survive.<sup>16</sup>

### **Rental Assistance Programs Bolster and Close Gaps in Maine’s Housing System.**

When everyone has access to safe, stable, and affordable housing it makes all of our families and neighborhoods safer. Housing is one of the best studied social determinants of health. These studies have found that an individual’s access to stable housing is linked to lower rates of violent crimes and survival crimes such as trespassing, sex work, loitering, and theft.<sup>17</sup> Providing stable housing for people who have recently been incarcerated has been shown to reduce recidivism rates<sup>18</sup>. Housing assistance programs that stabilize tenants long term correlates with fewer incidences of intimate partner violence.<sup>19</sup>

Rental assistance is crucial to ensure stability for people with very low incomes to close the affordability gap. This is a population that the housing market will never be able to meet the needs of without structural, long term changes. This will help individuals meet their rent while more affordable housing is built, they wait for federal rental assistance, or while they strive towards a job that pays a living wage.

A Center for Budget and Policy Priorities (CBPP) study on Maine shows high levels of work force participation by those on rental assistance programs. The majority of individuals who could work, did. The study showed that the majority of individuals who accessed these vital rental assistance programs utilized them for an average of three years or less.<sup>20</sup>

The pandemic afforded us a prime opportunity to collect and learn from data on the connection

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<sup>11</sup> 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>.

<sup>12</sup> ACLU, *NO EVICTION*, *supra* note 5, at 5

<sup>13</sup> *Id.*

<sup>14</sup> Matthew Desmond et al, *supra* note 9, at 320.

<sup>15</sup> Ericka Petersen, *Building a House for Gideon: The Right to Counsel in Evictions*, 16 *STAN. J. C.R. & C.L.* 63, 69 (2020).

<sup>16</sup> CBPP, *Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families*, (Dec. 5, 2019), <https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand>

<sup>17</sup> Kimberly Burrowes, Urban Institute, *Can Housing Interventions Reduce Incarceration and Recidivism* (2019). <https://housingmatters.urban.org/articles/can-housing-interventions-reduce-incarceration-and-recidivism>

<sup>18</sup> HUD, *Promoting Mental Health Through Housing Stability* (2022). <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-053122.html>

<sup>19</sup> The Network for Public Health Law (n4)

<sup>20</sup> CBPP, (n16).

between housing stability for low income families and direct cash programs such as rental assistance and the expanded child tax credit. One state saw a 63% drop in daily eviction filings from before the moratorium on evictions and after the moratorium on evictions was lifted.<sup>21</sup> In Maine, we have seen how cash assistance programs single handedly cut child poverty by over 40%. The effectiveness of these programs looks like child poverty hitting historic lows in 2020; however, you can already see child poverty rates rising since the expanded child tax credit and emergency rental assistance programs have ended.<sup>22</sup>

Rental assistance programs have not only been found to reduce poverty, homelessness, and housing instability, but are also associated with improving adult and child health and providing people the ability to move to low poverty areas.<sup>23</sup> Rental Assistance has been identified as a more effective intervention that substantially reduces the number of individuals and families experiencing housing instability.<sup>24</sup> The CBPP study illustrates the impacts rental assistance can have on a families entire well being. Rental assistance reduced the number of families living in their cars, on the streets, and in shelters by ¾ and reduced families couch surfing or living in otherwise overcrowded conditions by half.

Finally, rental assistance helps preserve families and keeps more children in their homes,<sup>25</sup> which directly aligns with strategies three and four of DHHS’ recently released Maine Child Safety and Family Well-Being Plan. Strategy three is “to improve the economic security of parents and caregivers to provide safety and stability for their children” and strategy four is “to provide services and resources to help parents and caregivers ensure the safety, health, and nurturing care of their children” Children whose families receive rental assistance thrive at school and home showing fewer sleep disruptions and behavioral problems and closing the academic achievement gap by half. Higher college attendance rates, increased annual earnings of 30%, and overall higher success later in life including lower incarceration rates has been linked to children whose families had the opportunity to move to lower poverty areas.<sup>26</sup>

When families don’t have to stretch their budgets to meet unaffordable housing costs they can afford other necessities for their families or be able to put some into savings. Individuals and families with more disposable income have more money to put back into our local economies.

### **This Bill Will Help Address Racial Inequality Highlighted by Maine’s Housing Crisis**

Existing rental assistance programs such as Section 8 are not available to newest members of our Maine Community – asylum seekers and refugees. Instead, these families must rely on the General Assistance program – a critical emergency social safety net that is not meant to be a

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<sup>21</sup> HUD, FY 2022 Impact Evaluation of the Emergency Rental Assistance (ERA) Program, (2022), [https://www.hud.gov/program\\_offices/spm/gmomgmt/grantsinfo/fundingopps/fy22\\_impacteval](https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps/fy22_impacteval)

<sup>22</sup> Maine Children’s Alliance, (n5)

<sup>23</sup> CBPP, (n18)

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id.

permanent solution. Because the General Assistance caps on housing assistance are below market-rate rents, these renters are effectively barred from much of the rental market. Instead, they are often steered into substandard housing that poses a health and safety threat to their families.

During the pandemic, many Black, Indigenous and people of color in Maine did not have the luxury of working from home. Many make up Maine's essential workforce - seafood processors, dairy workers, cleaning staff, health care workers, grocery workers, homecare workers, public servants, and more. Yet, as described above, these same essential workers face significant housing instability and are at far greater risk of homelessness. In Maine, we must root out discrimination wherever we find it.

### **Rental Assistance Provides Stability for Renters in Unstable Times**

A Portland renter described the impact that rental assistance had on her ability to weather rent increases and stay housed and healthy during the pandemic.

She said, I am a 70-year-old and have lived in the same place for the last 43 years. . .

I recently received a notice of rent increase of 36.3% . . . A \$300.00 increase effective July 1, 2020. Now, more than ever, I'm grateful for Section 8 housing assistance . . . All this in the middle of an emergency and I know there are many renters out there dealing with this on their own without any assistance.

With a Section 8 Voucher, this tenant's rent amount will stay stable with her income, and the Portland Housing Authority will pay the rent increase.

### **Rental Assistance Should Ensure Stability, but Stigma Leads to Instability**

Every person and family should have the freedom to choose where they call home.

Unfortunately, in Maine, landlords have more power over where someone can live, work, and send their children to school by denying Section 8 Vouchers. Discrimination against low-income tenants who participate in rental assistance programs has a far reaching impact that touches every aspect of their life. Maine must do more to promote housing stability and opportunity by protecting those who participate in rental assistance programs because even when families receive a voucher they will still struggle to find safe, affordable housing.

Section 8 Vouchers are intended to provide safe affordable housing options for low income families with the opportunity to move to lower poverty areas if they choose. These vouchers bridge the affordability gap to allow tenants to afford fair market rent homes. They are required to contribute 30% of their monthly income to rent and the rest is subsidized. This program provides stability for tenants and ensures landlords get paid.

But voucher holders face outright discrimination because of their participation in the program. A

voucher holder should be able to move into any community in Maine with a market rate unit, but in reality, their housing choices are severely limited by their ability to find a landlord who will participate in the program. Tenants routinely apply to dozens of landlords before finding one who will accept their voucher.

Program administrators often put a time stamp on how long a voucher holder has to find and lease a home. This ranges from 30 to 120 days. If they fail to do so they will lose their voucher and likely become or remain homeless. Maine Housing demonstrates these challenges in their report from 2015 that showed less than half of Section 8 Voucher holders found a place within 30 days.<sup>27</sup> Hundreds of people in Maine who have vouchers can't use them due to the limited number of landlords willing to participate in the program.

In 2018, the Bangor Daily News documented one man's long struggle to find housing for his family.<sup>28</sup> Lawrence Bergeron had a housing voucher that would have assured his ability to pay the rent in any market-rate unit. Still, he had to apply to nearly one hundred apartments over almost six months until he found a landlord willing to accept his voucher. In that time, Bergeron and his four grandchildren lived out of their car.

Lawrence Bergeron's experience is not unique. Though housing authorities have not published Maine's statewide data on voucher utility rates, housing advocates agree that many voucher holders simply cannot find landlords willing to rent to them.

A social worker in Portland shared a story with Maine Equal Justice about a woman who became homeless after she was evicted due to a disturbance in the apartment caused by her abuser. The woman is currently in a homeless shelter. Though she has had a Section 8 Voucher for four months, she remains in the shelter because she can't find a landlord who will rent to her.

Maine Housing reported a lower success rate with over 600 households being unable to find any housing that would accept their voucher. With an average annual subsidy of \$7,500, this represents over \$4.5 million of federal rental assistance left on the table, and this only accounts for Maine Housing, one of the many housing authorities administering the Section 8 Voucher program in Maine.

### **Landlord Policies Denying Voucher Holders Work Against Fair Housing Laws**

Disparate impact discrimination occurs when protected classes suffer disparate outcomes from seemingly neutral policies, i.e. a landlord's no-voucher policy. Regardless of a landlord's intent, a policy of refusing to rent to voucher holders disparately impacts non-white tenants, people with

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<sup>27</sup> This was part of Maine Housing's decision to extend their 30 day time limit to 120 days, in part to avoid the need to process extension requests. Maine Housing administers one-third of the State's 12,000 Section 8 Vouchers with the rest being administered by local housing authorities. Callie Ferguson, Homeless with 4 Kids, A Bangor Man Called Nearly 100 Landlords to Find a Place to Live, Bangor Daily News (Nov. 19, 2018), <https://bangordailynews.com/2018/11/19/news/bangor/homeless-with-4-kids-a-bangor-man-called-nearly-100-landlords-to-find-a-place-to-live/>.

<sup>28</sup> Id.

disabilities, single women heads of household, and families with children. Such policies can shift low-income tenants into substandard housing in poor neighborhoods and perpetuate segregation, which works against our national fair housing laws that envision communities with truly “integrated and balanced living patterns.”<sup>29</sup>

Demographics of Maine tenants served by federal rental assistance programs (including subsidized apartment complexes such as public housing) show that families and people with disabilities are likely to be disparately impacted by landlord policies denying vouchers. 52% of people receiving federal rental assistance are in families with children and 32% have a disability.<sup>30</sup> Though racial demographics of voucher holders in Maine are not publicly available, studies from other parts of the country show that people of color are disparately impacted by landlord policies denying voucher holders regardless of the landlord’s intent to discriminate. Nationally, at least 48% of Section 8 Voucher holders are Black and at least 18% are Hispanic.<sup>31</sup>

A recent study in Northeast Ohio documented that when Black and white testers responded to housing ads that explicitly mentioned no-voucher policies, the landlord treated the white testers more favorably than the Black testers. This included responses such as ignoring the Black tester but responding to the white tester and responding to the white tester first though the Black tester made the first inquiry. The study concluded landlords were likely using no-voucher policies to some extent as a proxy for race-based discrimination.<sup>32</sup>

Though Maine has yet to conduct its own comprehensive study of race discrimination in no voucher policies, it is significant that Maine Housing reports 34.6% of Maine’s homeless population to be Black or African American, while representing less than 2% of Maine’s population.<sup>33</sup> Pine Tree Legal Assistance has also provided statistics that they disproportionately represent people of color in evictions compared to Maine’s population demographics where only 5% of Mainers are non-white. These statistics reflect systemic racial disparities in Maine’s housing market.

These barriers are not unique to Maine. Across the country there’s clear evidence of outright

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<sup>29</sup> Ari B. Solotoff, *Dussault v. RRE Coach Lantern Holdings, LLC: Does the Maine Human Rights Act Recognize Disparate Impact Liability for Claims of Housing Discrimination Brought by Section 8 Recipients Under Maine Law?*, 67 Me. L. Rev. 183, 206 (2014) (citation omitted).

<sup>30</sup> CBPP, *Maine Federal Rental Assistance Fact Sheet*, supra note 6.

<sup>31</sup> Abby Vesoulis, 'A Mask for Racial Discrimination.' *How Housing Voucher Programs Can Hurt the Low-Income Families They're Designed to Help*, Time (Feb. 20, 2020), <https://time.com/5783945/housing-vouchersdiscrimination/>; see also Emily Badger, *How Section 8 Became a Racial Slur: A History of Public Housing in America*, Washington Post (June 15, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/06/15/howsection-8-became-a-racial-slur/> (documenting the history of stigmatizing associations between Black Americans, poverty, and subsidized housing, due to systemic racism in national housing policy).

<sup>32</sup> Michael Lepley & Lenore Mangiarelli, *Housing Voucher Discrimination and Race Discrimination in Cuyahoga County 12*, The Housing Center (Dec. 2017), <https://www.thehousingcenter.org/wpcontent/uploads/2017/12/Voucher-and-Race-Discrimination.pdf>.

<sup>33</sup> Maine State Housing Authority, *Maine Homelessness Survey*:

[https://www.mainehousing.org/docs/default-source/housing-reports/2022-point-in-time-survey---statewide.pdf?sfvrsn=1aa68615\\_7#:~:text=Note%3A%20The%20PIT%20reported%203%2C455,110%20in%20domestic%20violence%20shelters.&text=%E2%80%9COutside%20Maine%E2%80%9D%20regions%20defined%20by%20the%20U.S.%20Census.](https://www.mainehousing.org/docs/default-source/housing-reports/2022-point-in-time-survey---statewide.pdf?sfvrsn=1aa68615_7#:~:text=Note%3A%20The%20PIT%20reported%203%2C455,110%20in%20domestic%20violence%20shelters.&text=%E2%80%9COutside%20Maine%E2%80%9D%20regions%20defined%20by%20the%20U.S.%20Census.)



denial of Section 8 vouchers by landlords with the denial rate being even higher in more expensive neighborhoods.<sup>34</sup> This is likely in part because landlords can more easily deny low-income tenants in tight markets with high competition for units. For example, the Portland Press Herald has documented how Portland’s rapidly gentrifying rental market has been squeezing voucher holders and other low-income tenants.<sup>35</sup> However, the denial rate falls by over half in cities with protections against source-of-income discrimination. This leads to a deconcentration of poverty as renters move to lower poverty neighborhoods. As rents increase throughout the state, voucher holders will face increasing challenges to finding housing unless we act now to remove the barrier of unfair stigma against voucher holders.

### **Low-Income Tenants Need LD 1710’s Protections for Equal Footing in Maine’s Competitive Rental Market**

According to the Center on Budget and Policy Priorities data from 2019, 3 in 10 Mainers with low incomes are either homeless or pay over half their income on rent.<sup>36</sup> The pandemic has pushed Maine’s housing affordability problems to a crisis point, showing us how vulnerable our state is to a wave of evictions. In 2022, there were 4,972 evictions<sup>37</sup> and according to Pine Tree Legal Services, 53% of those were for non payment of rent.

While rental costs have risen across the state, wages haven’t kept pace. At the end of my testimony, I’ve included a graph and table that illustrate some of the cost challenges people with low incomes are experiencing during this housing crisis.

### **LD 1710’s Protections Promote the Goals of Housing Voucher Programs**

A common argument against policies prohibiting discrimination on the basis of participation in a rental assistance program is that it violates Congress’s intent to make landlord participation in the Section 8 Voucher program “voluntary.” But policy makers and courts across the country have agreed that prohibiting discrimination against voucher holders promotes the purposes of the Section 8 Voucher program.

Courts have rejected the characterization of the Section 8 Voucher program as “voluntary.”<sup>38</sup> Instead, they’ve noted that the text and history of federal law creating the Section 8 Voucher Program does not “indicate, much less establish, that voluntary participation by landlords was an important Congressional objective,” and “[t]he only declared objective is to assist State and local

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<sup>34</sup>Mary Cunningham, et al., A Pilot Study of Landlord Acceptance of Housing Vouchers: Executive Summary 3, Urban Institute (2018), <https://www.urban.org/research/publication/pilot-study-landlord-acceptance-housing-choicevouchers>.

<sup>35</sup> See Randy Billings, High-priced Housing Market is Squeezing Low-income Renters, Portland Press Herald (Nov.9, 2019), <https://www.pressherald.com/2019/11/09/low-income-families-squeezed-by-limited-housing-options/>.

<sup>36</sup> Center for Budget and Policy Priorities, Maine Federal Rental Assistance Fact Sheet (Dec. 10, 2019), <https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets#ME>.

<sup>37</sup> State of Maine Judicial Branch, 15-year monthly filing trends, (Feb 2023), <https://www.courts.maine.gov/about/reports/fed-monthly15yr-report.pdf>

<sup>38</sup> See *Austin Apartments Ass’n v. City of Austin*, 89 F.Supp.3d 886, 895 (W.D. Tex. 2015) (collecting cases).

governments in expanding affordable housing for low-income families.”<sup>39</sup> Accordingly, state and federal courts have found that prohibiting discrimination against voucher holders will “advance rather than denigrate” Congress’s objectives.<sup>40</sup> In one of the most recent landlord challenges to such a policy, a federal court agreed with the City of Austin that the “purposes and objectives” of the Section 8 Voucher Program are “‘to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families,’ not to protect landlords’ rights.”<sup>41</sup>

Maine can meet landlords’ concerns over the administrative components of the programs without harming low-income tenants. Many voucher programs across the country and in Maine have successfully used landlord incentives and supports to ensure that landlords can easily navigate the program. Those have included landlord bonuses for participating in voucher programs, hotlines to answer technical questions, repair assistance so units will meet program standards, and damage mitigation funds in case repairs are needed at the end of a tenancy beyond the security deposit.<sup>42</sup> Housing programs in Maine have already been successful with these models. For example, the Maine Homeless Veteran Action Committee launched a damage mitigation fund in 2020 which helps to house homeless veterans. FairTide, located in Kittery, launched a pilot program in 2020 which has also shown success.

Maine can make voucher programs work for both landlords and tenants while promoting the goals of expanding access to stable homes for low-income tenants.

### **The Law Court’s Holding in Dussault v. RRE Coach Lantern Holdings Requires the Legislature’s Action to Advance this Non-Discrimination Policy**

The Law Court’s holding in *Dussault v. RRE Coach Lantern Holdings, LLC* (2014 ME 8, 86 A.3d 52) requires the Legislature to make explicit the policy of non-discrimination against participants in rental assistance programs. Based on the Law Court’s interpretation of Maine Human Rights Act’s existing public assistance provision (5 M.R.S. § 4581-A(4)) a landlord may legally refuse to rent to a Section 8 Voucher holder by simply asserting their desire not to comply with the administrative components of the program. (*Dussault* 2014 ME 8, ¶¶ 17-18, 86 A.3d 52). The Law Court noted it was “limited by the language that the Legislature has enacted” in the Maine Human Rights Act, and the Legislature has not explicitly “required landlords to

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<sup>39</sup> *Montgomery Cnty. v. Glenmont Hills Assocs. Privacy World*, 936 A.2d 325, 336 (Md. 2007); see also *Franklin Tower One, L.L.C. v. N.M.*, 725 A.2d 1104, 1113 (N.J. 1999) (“[T]he voluntary nature of the Section 8 program is not at the heart of the federal scheme.”); *Comm’n on Human Rights & Opportunities v. Sullivan Assocs.*, 739 A.2d 238, 246 (Conn. 1999) (“Requiring landlords to extend rental opportunities to otherwise eligible section 8 recipients. . . is not an obstacle to the congressional agenda but serves instead to advance its remedial purpose.”).

<sup>40</sup> *Bourbeau v. Jonathan Woodner Co.*, 549 F. Supp. 2d 78, 88–89 (D.D.C.2008).

<sup>41</sup> *Austin Apartment Ass’n*, 89 F. Supp. 3d at 895 (citing 42 U.S.C. § 1437(a)(1)(A)).

<sup>42</sup> For example, Marin County in California has a Landlord Partnership Program where participating landlords who lease 50 percent of their units to voucher holders can have building permit fees waived for repairs or improvements at the rental site. The program also offers a dedicated landlord liaison 24-hour hotline to address immediate concerns, workshops and training for landlords, and an online landlord portal in an effort to make participation in the program “attractive and feasible” and “streamlined.” Marin Housing Authority, Landlord Partnership Program, <https://www.marinhousing.org/landlord-partnership-program> (last visited Apr. 19, 2021).

accept Section 8 vouchers.” (Id. ¶ 19.)

LD 1710 explicitly prohibits landlords from relying on administrative and other program requirements as justification for denying voucher holders. This cures the lack of clarity that the Law Court highlighted in *Dussault* and will achieve our State’s desired non-discrimination policy.

LD 1710 explicitly provides, “It shall be prohibited for a landlord to refuse to rent or negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any person because of the person’s source-of-income *or because of the requirements of any program providing the source of income,*” and sets out specific “requirements” a landlord may attempt to eschew, such as the tenancy addendum at issue in *Dussault*. As stated above, the overwhelming consensus in other states is that such policies advance the goals of the Section 8 Voucher Program.

### **Changes to the Real Estate Transfer Tax**

LD 1710 also proposes to increase Maine’s Real Estate Transfer Tax for higher priced homes and dedicate a portion of the real estate transfer tax to pay for a rental assistance program.

While Maine’s housing crisis has become worse property values have increased during the pandemic in every county across the State. The Maine Association of Realtors reported a 22% increase in median sales price between Fall 2019 and Fall 2020<sup>43</sup>; 12.91% between February 2020 and 2021<sup>44</sup>; 16.8% between January 2021 and January 2022<sup>45</sup>; 11.21% between January 2022 and 2023 <sup>46</sup> 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 State.<sup>47</sup> We must confront that gains for some result in losses for others and take steps to end the rental housing crisis. Adjusting Maine’s Real Estate Transfer Tax rates will capture some of the growth in Maine’s real estate market—growth that is contributing to the affordability crisis in many parts of the State— and supply revenue needed to face the rental housing crisis.

Maine Equal Justice also emphasizes that increasing the tax rate will not slow or dampen Maine’s real estate market. Studies from other states have found that modest increases in real

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<sup>43</sup> Maine Association of Realtors, State of Maine Single Family Home Sales, <https://www.mainerealtors.com/wp-content/uploads/2021/02/StateofMaine20Data.pdf> (last updated Dec. 31, 2020).

<sup>44</sup> <https://www.mainerealtors.com/wp-content/uploads/2021/03/MaineHousingReport-February2021.pdf>

<sup>45</sup> <https://www.mainerealtors.com/wp-content/uploads/2022/01/MaineHousingReport-December21.pdf>

<sup>46</sup> <https://www.mainerealtors.com/wp-content/uploads/2023/02/MaineHousingReport-January23.pdf>

<sup>47</sup> 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-communitiesneed-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-coronavirusclimate-change>.

estate transfer tax rates do not significantly affect market behavior, likely because the RETT represents such a small cost in comparison to the overall transaction cost of buying a home. For example, a study of Washington D.C.'s 2006 RETT increase from 2.2% to 2.9% for houses sold over \$400,000 showed the change did not significantly impact the frequency or number of transactions.<sup>48</sup>

Currently, 45% of RETT revenues are put into the HOME Fund at Maine State Housing Authority, which has historically used the funds for programs like homebuyer and owner assistance, home improvements and repairs, affordable housing development, and homeless assistance. All of these programs are important to Maine's low-income populations, and Maine Equal Justice supports them. However, given the urgent needs outlined above, we recommend that both the increased revenue to the HOME Fund from Maine's booming market and the increase in the RETT rate be specifically designated for rental assistance programs.<sup>49</sup>

Maine's RETT rate has only been adjusted three times since its enactment in 1967: 1975, 1983, and 1993. This is the longest the State has gone without updating RETT since it was enacted. Maine is only taxing real estate transfers at 0.44% of the total price. At this point, all of our neighboring New England states have higher property transfer tax rates than Maine.<sup>50</sup> To put it in perspective with inflation, the \$2.20/\$500 rate in 1993 would be equal to \$4.04 in 2021 dollars. On this basis alone, the Legislature should support an increase in Maine's RETT rate to update it for our State's needs today.

A graduated tax rate, like what we have in our federal income tax system, is the equitable way to do this. Several other states and Washington D.C. have recognized this and increased their tax rates at the high-end of the real estate market.<sup>51</sup>

Maine Equal Justice supports increasing tax rates for property above the median sales price to capture revenue from the higher priced or luxury portion of Maine's real estate market. We encourage the Committee to set the rates using a data-driven approach based on data from Maine's real estate market and looking to other states' successful use of a graduated RETT.

## **Consumer Protections**

This bill also makes changes to the Maine Fair Debt Collection Practices Act and Maine Fair Credit Reporting Act to protect Maine tenants who have been unable to pay unaffordable rents.

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<sup>48</sup> Joel Slemrod et al., *The Behavioral Response to Housing Transfer Taxes: Evidence from a Notched Change in D.C. Policy*, 100 J. URB. ECON. 137 (2017).

<sup>49</sup> When Rhode Island increased its RETT in 2014 to \$2.50 for every \$500, it placed over 50% of the increase in restricted funds for rental assistance, homelessness prevention, housing retention, and lead abatement, retaining the rest for the state's general fund and the municipality collecting the tax.

<sup>50</sup> Massachusetts: \$2.28 per \$500; New Hampshire: \$3.75 per \$500; Rhode Island: \$2.30 per \$500; Vermont: 1.25% of sale price with lower rates for primary residences and owner-occupied farms.

<sup>51</sup> Hawaii, New Jersey, Washington, and Washington D.C. have graduated tax rates with the initial threshold set around the state median home sales price. For an example of how New Jersey protects low-income homeowners through its graduated RETT scheme, see N.J. Division of Taxation, *Realty Transfer Fee Overview*, [https://www.state.nj.us/treasury/taxation/realty\\_over.shtml](https://www.state.nj.us/treasury/taxation/realty_over.shtml) (last visited Feb. 26, 2021).

## **Maine Fair Debt Collection Practices Act**

Creditors have powerful debt collection instruments at their disposal. These debt collection tools can include garnishment of wages, as well as the seizure of liquid assets and liens. The Maine Fair Debt Collection Practices Act (FDCPA) provides protections to consumers.<sup>52</sup> These protections prohibit the debt collector from harassing or abusing the debtor, making false or misleading representations concerning the debt owed or engaging in unfair practices to collect the debt.<sup>53</sup> While the Maine FDCPA currently only applies to debt collectors, eleven states and the District of Columbia currently provide at least some of the protections offered by the FDCPA to all actions taken to collect a debt.<sup>54</sup>

Section 18 of this bill would extend the protections of Maine Fair Debt Collection Practices Act who are sued due to the non-payment of an unaffordable rent<sup>55</sup> while excluding landlords with fewer than 4 rental units. As the very least low-income tenants who are unable to pay an unaffordable rent should not be subject to harassment, abuse, or other unfair debt collection practices.

## **Maine Fair Credit Reporting Act**

Section 5 of this act prevents anyone from reporting the non payment of an unaffordable rent to a credit reporting agency. Landlords typically refer unpaid rent to debt collectors, and many collectors regularly report debts to credit bureaus. This collection account is a negative entry in a credit report that can remain for up to seven years and significantly lower someone's credit score. A lower credit score hurts many tenants' ability to secure new housing. It also reduces access to affordable credit. Tenants in this situation are often forced to turn to predatory lenders and landlords who charge above-market rates for low-quality housing, trapping them in a spiral of debt.<sup>56</sup> This is because most landlords and property managers use credit reports and scores as part of their tenant screening process, even though they are not reliable predictors of tenant performance. Many will not rent to a household with any record of a late rent payment, so families whose credit reports indicate past struggles to make rent payments could have their applications rejected or be asked to pay unaffordable security deposits. A history of non payment of an unaffordable rent is not a good indicator of a tenant's ability to pay an affordable rent.<sup>57</sup>

An unaffordable rent creates a serious risk of harm to tenants, including eviction and homelessness. These risks should not be compounded by a reduced credit score resulting from

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<sup>52</sup> <https://legislature.maine.gov/statutes/32/title32ch109-Asec0.html>

<sup>53</sup> <https://legislature.maine.gov/statutes/32/title32sec11013.html>

<sup>54</sup> <https://library.nclc.org/book/fair-debt-collection/alaska-stat-ssss-0824041-0824380>, App. D.

<sup>55</sup> Affordable housing is generally defined as housing on which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities. <https://archives.hud.gov/local/nv/goodstories/2006-04-06glos.cfm>

<sup>56</sup> [https://www.nclc.org/wp-content/uploads/2022/09/1B\\_Salt\\_in\\_the\\_Wound.pdf](https://www.nclc.org/wp-content/uploads/2022/09/1B_Salt_in_the_Wound.pdf)

<sup>57</sup> <https://thehill.com/opinion/finance/3872880-why-rent-reporting-can-harm-rather-than-help-vulnerable-tenants/>

the non payment of an unaffordable rent. Prohibiting the reporting of a tenant's inability to pay an unaffordable rent will therefore not harm landlords while protecting tenants.

**Conclusion**

I have been at the other hearings in this committee room, and I was moved by the stories that have been shared. It has also made it clearly evident to me the importance of the HOME Act. When we talk about stability for renters, this is it.

Everyone in Maine deserves a safe and affordable place to call home and the opportunities to fulfill their potential that come with it. This is critical both to the well-being of families but also to attract and keep the workforce necessary to ensure our State's economic development. Investing in housing stability for Maine people is the foundation to help Mainers rebuild better. Rental assistance and strong rights for renters can make all communities more open, affordable, and vibrant.