



Free Legal Help for Maine's Seniors

May 18, 2023

Testimony of John Brautigam, Esq., Legal Services for the Elderly, in support of LD 1490 – An Act to Reduce Rental Housing Costs by Eliminating Additional Fees at or Prior to the Commencement of Tenancy.

Good afternoon, Senator Carney and Representative Moonen. On behalf of Legal Services for the Elderly I would like to offer brief comments in support of LD 1490. Legal Services for the Elderly (LSE) is a nonprofit legal services organization with the mission of providing free legal assistance to Maine's older adults when their basic human needs are threatened. Next year we will mark 50 years of service.

We recently testified before the Select Committee on Housing that there is not one aspect to the housing crisis in Maine, but several. One aspect of the crisis that we see most vividly is that those challenged by the loss of housing are having great difficulty making the transition to a new rental.

Their difficulties go beyond the unprecedented increase in rent. The sheer number of applicants competing for the same rental unit ensures a long search that requires an enormous amount of energy and is sure to produce multiple disappointments. They must bear all this with the pressure to have a roof over their head by a date certain.

But one other challenge stands out: the difficulty of saving up enough funds to afford the transition. The initial payment required by a landlord can add up to far more than the disposable funds that many individuals or families are able to accumulate. Sometimes a tenant can roll over a security deposit from a prior lease, but not always.

The requirement of large payments at commencement of a tenancy has far-reaching consequences. It could exacerbate the already precarious financial situation faced by many low-income older renters, deepening inequalities in our housing system. In the worst case, a large up-front payment becomes a de facto disqualifier for low-income applicants.

For example, a two-bedroom rental currently listed in Lewiston requires \$1875 for the first month's rent plus \$3750 for a security deposit for a total payment of \$5625.

Many Maine families simply do not have any savings. Typically, more than sixty percent of Mainers have \$1,000 or less in savings:

LEGAL SERVICES FOR THE ELDERLY, INC.
5 Wabon Street, Augusta, Maine 04333
(207) 621-0087 Fax (207) 621-0742
Offices in Augusta, Bangor, Lewiston, Biddeford and Presque Isle
LSE Helpline 1-800-750-5353 (Voice/TTY)
www.mainelse.org

\$0 in savings: 46.15%
\$1-\$1,000 in savings: 15.38%
\$1,000 or more in savings: 38.46%¹

The figures are even lower for women and racial or ethnic minorities.

A rental may be prohibitive where a person has next to no cash on hand and is asked to deposit upfront costs that may add up to thousands of dollars. As a result, many are left with no choice but to continue living in substandard or unsafe conditions, perpetuating a cycle of housing instability and compromising their well-being. I do not know of statistics showing how often tenants move from one rental to another, but we suspect that it is near an all-time high. There are more and more evictions and terminations for economic reasons as landlords attempt to improve the financial performance of their properties. To the extent that turnover increases, there are more renters facing these obstacles.

For years our landlord-tenant law has required no more than the equivalent of two months of rent as a security deposit. This reflects a public policy that believes larger upfront payments would unduly burden tenants and especially those older renters who may be facing health issues or other challenges associated with aging. Their limited mobility and increased medical costs may lead to higher living expenses and ever-tightening financial constraints. Some leave their apartment because they simply can no longer afford the rent. The resulting stress and anxiety further erode financial stability and have a profound impact on their overall quality of life, exacerbating health conditions and hindering their ability to age with dignity and security. It becomes a vicious cycle.

The amount of rent initially paid has not been regulated but paying more than one month at a time was not a common practice. Some landlords also charged a fee for changing the lock. Although these levels strained many tenants, it has worked well for landlords. Unfortunately, we now know that a practice common in other states of charging two months' rent as the initial rent payment is becoming more prevalent in Maine. This bill would prevent this practice from becoming the expected norm. Pre-payment of a second month's rent or additional fees such as "move in fees," "administrative fees," or "cleaning fees" are not necessary and would not be allowed if LD 1490 becomes law.

It is our responsibility as a society to ensure that all individuals, regardless of their socioeconomic status, can find and maintain safe and affordable housing, allowing them to live their years with dignity and peace of mind. We believe that it is fair and reasonable to cap the costs of commencing a rental at the level that does not disadvantage landlords and gives everyone a fair chance to find a place to call home. LD 1490 strikes this balance.

We support LD 1490 and thank Representative Kessler for bringing this proposal forward. Thank you.

¹ <https://www.gobankingrates.com/saving-money/budgeting/how-much-savings-americans-have-every-state/> Even with inflation, these 2019 figures are probably similar in 2023.

The website www.nolo.com/legal-encyclopedia includes the following compilation of state security deposit laws.²

State Security Deposit Limits

State	Limit
Alabama	One month's rent, except for pet deposits, deposits to cover undoing tenant's alterations, deposits to cover tenant activities that pose increased liability risks.
Alaska	Two months' rent, unless rent exceeds \$2,000 per month. Landlord may ask for an additional month's rent as deposit for a pet that is not a service animal, but may use it only to remedy pet damage.
<u>Arizona</u>	One and one-half months' rent
Arkansas	Two months' rent, but this limit does not apply to landlords who own 5 or fewer properties, unless the landlord has hired a third party to manage the property.
<u>California</u>	Two months' rent (unfurnished); three months' rent (furnished). If the tenant is an active service member, no more than one month's rent (unfurnished) or two months' rent (furnished). Add extra one-half month's rent for waterbed.
<u>Colorado</u>	No statutory limit
<u>Connecticut</u>	Two months' rent (tenant under 62 years of age); one month's rent (tenant 62 years of age or older). Tenants who paid a deposit in excess of one month's rent, who then turn 62 years old, are entitled, upon request, to a refund of the amount that exceeds one month's rent.
Delaware	One month's rent on leases for one year or more. For month to month tenancies, no limit for the first year, but after that, the limit is one month's rent (at the expiration of one year, landlord must give tenant a credit for any deposit held by the landlord that is in excess of one month's rent). No limit for furnished units. Tenant may offer to supply a surety bond in lieu of or in conjunction with a deposit, which landlord may elect to receive.
<u>District of Columbia</u>	One month's rent
<u>Florida</u>	No statutory limit
<u>Georgia</u>	No statutory limit
Hawaii	One month's rent. Landlord may require an additional one month's rent as security deposit for tenants who keep a pet.
Idaho	No statutory limit
<u>Illinois</u>	No statutory limit
<u>Indiana</u>	No statutory limit
<u>Iowa</u>	Two months' rent

² <https://www.nolo.com/legal-encyclopedia/chart-security-deposit-limits-state-29020.html>

Kansas	One month's rent (unfurnished); one and one-half month's rent (furnished); for pets, add extra one-half month's rent.
Kentucky	No statutory limit
Louisiana	No statutory limit
Maine	Two months' rent
<u>Maryland</u>	Two months' rent
<u>Massachusetts</u>	One month's rent
<u>Michigan</u>	One and one-half months' rent
<u>Minnesota</u>	No statutory limit. If landlord collects a "prelease deposit" and subsequently rents to tenant, landlord must apply the prelease deposit to the security deposit.
Mississippi	No statutory limit
<u>Missouri</u>	Two months' rent
Montana	No statutory limit
Nebraska	One month's rent (no pets); one and one-quarter months' rent (pets).
<u>Nevada</u>	Three months' rent; if both landlord and tenant agree, tenant may use a surety bond for all or part of the deposit.
New Hampshire	One month's rent or \$100, whichever is greater; no limit when landlord and tenant share facilities.
<u>New Jersey</u>	One and one-half month's rent. Any additional security deposit, collected annually, may be no greater than 10% of the current security deposit.
New Mexico	One month's rent (for rental agreement of less than one year); no limit for leases of one year or more.
<u>New York</u>	One month's limit for units other than those subject to the City Rent and Rehabilitation Law or the Emergency Housing Rent Control Law.
<u>North Carolina</u>	One and one-half months' rent for month-to-month rental agreements; two months' rent if term is longer than two months; may add an additional "reasonable" nonrefundable pet deposit.
North Dakota	One month's rent. If tenant has a pet, an additional pet deposit of up to \$2,500 or two months' rent, whichever is greater. To encourage renting to persons with records of felony convictions, landlords may charge these applicants up to two months' rent as security. Applicants who have had court judgments entered against them "for violating the terms of a previous rental agreement" can also be charged up to two months' rent (this appears to refer to prior evictions and might not apply to evictions based on conduct not prohibited by the rental agreement).
<u>Ohio</u>	No statutory limit
Oklahoma	No statutory limit
<u>Oregon</u>	No statutory limit. Landlord may not impose or increase deposit within first year unless parties agree to modify the rental agreement to allow for a pet or other cause, and the imposition or increase relates to that modification.

<u>Pennsylvania</u>	Two months' rent for first year of renting; one month's rent during second and subsequent years of renting.
Rhode Island	One month's rent
<u>South Carolina</u>	No statutory limit
South Dakota	One month's rent (higher deposit may be charged if special conditions pose a danger to maintenance of the premises).
<u>Tennessee</u>	No statutory limit
<u>Texas</u>	No statutory limit
Utah	No statutory limit
Vermont	No statutory limit
<u>Virginia</u>	Two months' rent. Alternatively, landlord may permit a tenant to provide damage insurance coverage in an amount not more than two months' rent in lieu of the payment of a security deposit. The damage insurance coverage must meet the requirements listed in Virginia Code Annotated sections 55.1-1226(I)-(K).
<u>Washington</u>	Landlords must allow tenants to pay the deposit and fees in installments (does not apply if the deposit and any nonrefundable fees are less than 25% of the monthly rent, or the landlord has not demanded the last month's rent). Tenants with tenancies of three months or more may pay in three equal and consecutive installments, beginning at the start of the tenancy; two installments for shorter tenancies. Installment schedules must be written and signed. Does not apply to holding deposits (which may not be more than 25% of the first month's rent).
West Virginia	No statutory limit
<u>Wisconsin</u>	No statutory limit
Wyoming	No statutory limit