

April 18, 2025

To: The Distinguished Members of the Housing and Economic Development Committee

From: Daniel J. Bernier, representing the

Central Maine Apartment Owners Association working in conjunction with the Rental Housing Alliance of Southern Maine, the Greater Bangor Area Owners' and Managers' Association, the Capital Area Housing Association, and Lewiston Auburn Landlord Association.

*Re: LD 1534 An Act Enabling Municipalities to Protect Tenants and Stabilize Rents*

I am writing in opposition to this legislation. If you want to create a housing crisis in Maine you would pass LD 1534 as it would discourage development and prompt many smaller apartment owners to exit the business and sell their properties.

As worded, if a Town enacts the proposed ordinance, it would make it illegal to evict squatters as squatters do not have a lease and this eliminates the eviction for unauthorized occupant under existing section 6002(1)(F); it also eliminates no cause evictions. It would confuse the issue of evictions for violence as this proposal uses more restrictive wording than the existing wording under section 6002(1)(E); it appears that different wording would only allow an eviction for violence which occurs on the rented premises not on the sidewalk in front of the premises or if a tenant drove to the landlords home and assaulted them, that would not be a reason for an eviction. It eliminates the wording for damage to the premises which is in section 6002 (1) (A) and wording for the creation of a nuisance on the premises of section 6002 (1) (B) as reasons for an eviction.

If a woman owned a home and invited her boyfriend to move in with her, but then when they broke up, he refused to move, she would be unable to evict him as that is a no cause eviction.

This Law would require District Court Judges to know the ordinances of every Town when handling eviction hearings. An eviction is a cause of action regulated by Title 14. Causes of action have always been regulated by the State and not by municipalities whether it is foreclosures, evictions, ejectment actions, civil proceedings or equitable proceedings. Access to the courts has been the domain of the State, not of municipalities. To expect a District Court judge to know the different ordinances of every municipality is an unreasonable burden. This would also significantly increase attorneys' fees for apartment owners. Prior to proceeding with an eviction action, a lawyer would have to check the ordinances of each and every town. I realize that Portland has done some of this; however, Portland is the largest city in the state and can get away with certain things that smaller towns cannot. Regardless, Portland should not be regulating causes of action as that should be left to the State. Many attorneys would likely limit the number of municipalities in which they would handle cases. When drafting leases for apartment owners, attorneys and apartment owners would then have to have different leases for different municipalities further increasing costs for apartment owners, and ultimately, those costs would then be passed to tenants.

Eliminating so-called 'no cause' evictions would put tenants as well as apartment owners in danger. I have been doing evictions for thirty-one years and while I have used the 'no-cause' eviction notice for many evictions, I have never done an eviction for truly no cause. The allegation that apartment owners like evictions is alleging that apartment owners enjoy spending a thousand dollars on an eviction, a day at the court house, and enjoy having an empty unit that does not produce income. Apartment owners make money by renting apartments and lose money

when apartments are empty. The belief that apartment owners are flippantly evicting people for the fun of it is absurd as it is against their financial interest to do so.

Some of the reasons I have used 'no-cause' evictions over the years are demonstrated by the following examples: an elderly couple that owned a two-family home and were living in one unit and renting the other unit to a young couple. The young couple was bullying the elderly couple and engaging in elder abuse. At one point the tenants cut down all the shrubbery around the home and then pointed out the absence of provisions in the lease prohibiting such behavior. Under LD 1534, where the lease did not explicitly state that cutting the shrubbery down was prohibited, the elderly couple could not have evicted them. Another instance of using a "no-cause" eviction occurred when a lady renting an apartment in a building told her brother that he could occupy a tent in the parking lot. She pointed out that there were no provisions in the lease prohibiting her brother from occupying the tent in the parking lot. Under LD 1534, such instance would also not be a violation of the lease nor any current provision of Maine law. In another case, a tenant was making Molotov cocktails and throwing them. If the tenant had been throwing them in the building that would have been damage to premises and a violation of the lease under Maine law allowing an eviction. However, the tenant was outside throwing them in the yard and whether that constituted a violation of the lease is a significant question as whether that is damage to the "premises". Most importantly, if the tenant had been throwing them on the sidewalk or street in front of the apartment building that would not be cause for an eviction despite terrifying other tenants as that is not considered damage to the premises. This legislation would empower the absolute worst of tenants to take wild advantage of their apartment owners. This would leave good tenants in harm's way from dangerous tenants.

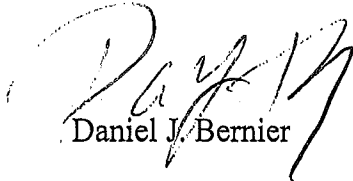
Regarding the rent control provisions of this Bill, municipalities can do this on their own, we do not need legislation to encourage municipalities to do this; however, rent control will

discourage investment in properties, making the housing crisis worse. This legislation would not permit an increase in rent higher than the consumer price index or five percent (5%) of the base rent, whichever is lower. If consumer prices were to increase by ten percent (10%) the apartment owner could only increase rents by five percent (5%). Why would you ever invest in property in that situation where inflation could wipe you out over time. The consumer price index is not always the best determination of rent as factors that affect rent are the cost of heating oil, bank interest rates charged to apartment owners, cost of building materials for repairs as well as the cost of buying buildings. There are various things included in the consumer price index that do not affect housing costs as much. As such, using the Consumer Price Index can cut both ways: basic factors that may affect housing costs could be more stable than the index, resulting in larger rent increases; or oil and building material costs could rise faster than the index, resulting in apartment owners failing to recoup their costs. This will discourage investment in development and exacerbate the housing shortage.

The provisions regarding empty buildings are very disturbing. If a building has been vacant for a year because of renovations, apartment owners would be forced to use that last year charged as the base rent for purposes of increase, penalizing the owner for upgrading their buildings. This would discourage rehab of buildings. The five percent (5%) annual increase is use it or lose it. If you were to pass this bill, apartment owners would be smart to increase their rent annually by five percent (5%) or by the consumer price index, whichever is lower. Otherwise, if an apartment owner went three (3) years without raising the rent, they would not be able to retroactively recoup funds from raises they did not make. Traditionally, rents did not go up for existing tenants very often as apartment owners tended to raise rent when a unit became vacant ahead of a new tenant. This legislation would encourage annual rent increases.

Thank you for your time and consideration.

Very truly yours,



Daniel J. Bernier

DJB/jc