Testimony in Opposition to LD 1552:
"An Act to Prohibit Landlords from Setting Rents Through the Use of Artificial Intelligence"

Senator Carney, Representative Kuhn, and the distinguished members of the Committee on Judiciary, my name is Harris Van Pate, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free market think tank, a nonpartisan, nonprofit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to submit testimony in opposition to LD 1552, "An Act to Prohibit Landlords from Setting Rents Through the Use of Artificial Intelligence."

While this bill may be well-intentioned in its effort to curb collusive or non-competitive practices, its practical effect will severely and arbitrarily restrict the tools landlords, especially small and independent ones, can use to make informed pricing decisions in a competitive housing market. The vague and expansive language of LD 1552 threatens to criminalize ordinary conduct, hinder market efficiency, violate free speech rights, and set a dangerous precedent for economic regulation.

Bill Language Vagueness: Vagueness of "Algorithmic Device"

LD 1552 defines an "algorithmic device" as <u>any device</u> that uses "one or more algorithms to perform calculations of data […] for the purpose of advising a landlord concerning the amount of rent." By this definition, common tools used daily by Mainers could be inadvertently swept under this law, including:
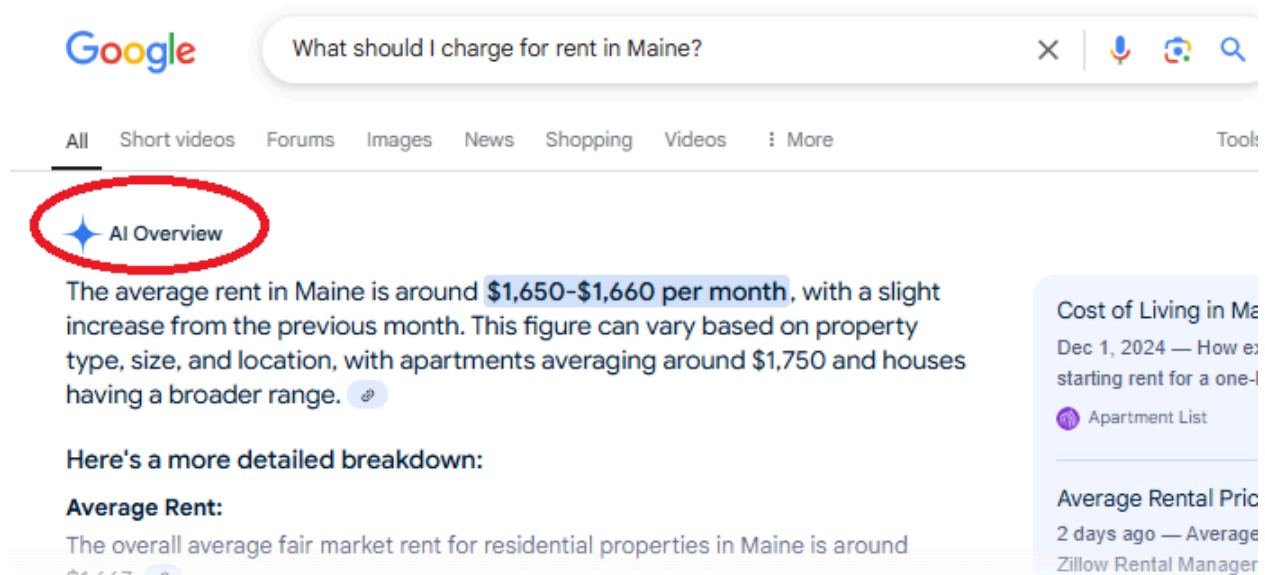
- A calculator used to total rent-related expenses;
- A Google Sheet formula computing an average of nearby rents;
- An Excel spreadsheet tracking cost-of-living adjustments;
- Zillow's rent estimate widget;
- A simple decision tree tool that suggests rent based on square footage.

All of these tools perform algorithmic calculations and advise landlords, even if in a rudimentary way, on potential rent levels. Under the bill's broad language, landlords could be liable for consulting them.

Bill Language Vagueness: Vagueness of "Artificial Intelligence" (AI)

The bill's definition of "artificial intelligence" — an "engineered or machine-based system" that "infers from input how to generate outputs" — is so expansive it could apply to:

- Microsoft Excel's conditional formulas like =IF(), =AVERAGE(), or =VLOOKUP();
- Financial calculators or rent-setting spreadsheets;
- Property management software that suggests rent increases based on CPI;
- Even the auto-generated responses from Google's AI Overview when searching "What should I charge for rent in Maine?"

In reality, a landlord who simply Googles "what should I charge for rent in Maine?" — a reasonable and common action — will now receive an AI-generated response. This simple inquiry could put them in violation of this bill, triggering potential civil penalties under Maine's Unfair Trade Practices Act. This is not hyperbole; it is a documented, replicable outcome.

Furthermore, if the bill's purpose is to ban any use or consideration of AI outcomes in rent calculations, this restriction isn't even a fluke of the bill's current vague language. Using Google, which now integrates AI, would violate most bills restricting AI usage in rent-setting. Thus, this restriction on Google usage isn't even a bug, but rather a feature of the bill.

AI Is an Important Market Tool

Artificial intelligence and algorithmic tools are not nefarious collusion engines. They are essential to a modern economy, providing market transparency, reducing search costs, and enabling small players to compete with large firms.

Landlords, especially independent and rural ones, may not have the resources to commission custom market research. AI and algorithmic tools allow small landlords to access the same market insights that more prominent actors use. Banning these tools does not prevent market concentration — it enshrines it.

AI Bans May Hurt Small Businesses

Rather than protecting renters, this bill may entrench the dominance of significant real estate firms with access to proprietary data and human analysts. Smaller landlords—particularly in rural and suburban Maine— may be more likely to rely on low-cost digital tools to set competitive, fair prices. Eliminating access to AI tools could force them to guess or overcompensate, harming their financial stability and tenants who could face less accurate, less data-informed pricing.

"Use" and "Consider" Language Is Dangerously Broad

The bill prohibits even the "use" of these tools to "consider" the output of AI or algorithmic tools when setting rent. This could criminalize internal deliberations, making it unlawful for a landlord to *think* about and reject algorithmic advice. While references to the classic novel 1984 are typically overly done and melodramatic, it would not be unfair to describe this bill as the criminalization of thought.

Such a broad restriction on mental consideration of information is nearly impossible to enforce and dangerously oversteps constitutional and statutory norms of due process.

Conflict with Federal Antitrust Principles

The bill is rooted in concerns about algorithmic collusion. However, federal antitrust law already prohibits such conduct when there is evidence of coordination or anti-competitive agreement. It does not ban the use of tools in the abstract. While the US Department of Justice in *Duffy v. Yardi Systems* expressed concerns about usage of management software to coordinate rents between firms specifically, they did not advocate or imply that all usage of artificial intelligence or algorithmic calculation tools was comparable to illegitimate tech-based price fixing.[1]

LD 1552 flips this principle on its head, punishing conduct without any evidence of collusion, solely based on the type of tool used — an apparent deviation from established antitrust norms.

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[1] https://www.justice.gov/d9/2024-03/420301.pdf

Speech and Censorship Concerns

This bill potentially restricts access to, and use of, publicly available information — including online search results, spreadsheets, and calculators — based solely on their classification as "AI" or "algorithmic." This raises significant First Amendment concerns.

A landlord who asks a search engine, "What should I charge for rent?" receives not only listings but also an AI-generated overview. Under this bill, the very act of reading, googling, or "considering" this information could be unlawful. This is not only impractical—it is possibly unconstitutional.

Vagueness and Due Process Concerns

LD 1552's vague and sweeping definitions risk violating basic principles of due process. Individuals must be able to understand what the law requires of them. As written, this bill fails that test.

The U.S. Supreme Court has repeatedly invalidated overly vague civil statutes with meaningful penalties. In *FCC v. Fox Television Stations* (2012), the Court held that vague rules—even those without criminal penalties—violate due process when they fail to give adequate notice of prohibited conduct.[2] Landlords reading this bill cannot reasonably discern whether using a spreadsheet, asking Google, or referencing local market data puts them at risk of violation and enforcement.

Conclusion

Maine's housing market needs competition, transparency, and innovation — not technophobia and arbitrary bans. LD 1552 proposes a sweeping prohibition with vague language, dubious enforceability, and serious constitutional risks.

Rather than curbing anti-competitive behavior, this bill would undermine small landlords, restrict free access to market information, and entrench inequality in information access. For these reasons, Maine Policy Institute strongly urges this committee to vote "Ought Not to Pass" on LD 1552. Thank you for your consideration.

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[2] https://www.oyez.org/cases/2011/10-1293