

125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1070

H.P. 805

House of Representatives, March 15, 2011

An Act To Expedite the Eviction Process and Lower the Eviction Workload of the Courts

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

Heath & Fuit

HEATHER J.R. PRIEST Clerk

Presented by Representative CUSHING of Hampden. Cosponsored by Senator PLOWMAN of Penobscot and Representatives: CEBRA of Naples, CURTIS of Madison, DAMON of Bangor, HAMPER of Oxford, PARKER of Veazie, PRESCOTT of Topsham, RICHARDSON of Warren, WEAVER of York.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 14 MRSA §6004-B is enacted to read:
3	§6004-B. Nonpayment of rent; payment to court
4 5 6 7 8 9	If a complaint for forcible entry and detainer is based on nonpayment of rent, the tenant shall pay, pursuant to the provisions of this section, to the court clerk the amount alleged in the complaint as unpaid or, if the amount unpaid is contested, the amount determined by the court and any rent accruing during the pendency of the action when due, unless the tenant has raised the defense that the tenant has paid the rent in the amount alleged by the complaint as unpaid.
10	1. Date. The tenant shall pay to the court clerk:
11 12 13	A. Unless the tenant contests the amount of accrued rent, the amount alleged in the complaint on or before the date on which the tenant's answer to the complaint is due; and
14 15	B. If the tenant contests the amount of accrued rent, the amount determined by the court on the day that the court makes its determination.
16 17	The court may extend these time periods to allow for later payment for good cause shown.
18 19	2. Rent during pendency of action. The court may order the tenant to pay to the court clerk the rent that accrues during the pendency of the action.
20 21	3. Account. The court clerk shall deposit the amounts paid by a tenant in a separate account and maintain records of the amounts paid.
22 23 24	4. Contested amount. If the tenant contests the amount of money to be paid to the court clerk pursuant to subsection 1, the hearing concerning the amount is limited to only the factual or legal issues concerning:
25 26	A. Whether the tenant has been properly credited by the landlord with all rental payments made; and
27	B. What property constitutes rent under the rental agreement.
28 29 30	5. Notice to tenant. The court shall by order notify the tenant of the requirement that rent be paid to the court clerk. The order must be issued immediately upon filing of the tenant's initial pleading, motion or other filing.
31 32 33	6. Counterclaim. The filing of a counterclaim for money damages does not relieve the tenant from the requirement that the tenant pay rent due to the court clerk pursuant to subsection 1.
34 35 36 37	7. Failure to pay. Failure of the tenant to pay the rent to the court clerk pursuant to court order issued under subsection 5 is deemed an absolute waiver of the tenant's defenses to the action, and the landlord is entitled to an immediate default judgment without further notice or hearing.

18. Balance. At the time of the judgment, the court shall determine the amount of the2funds deposited that are properly due the landlord and shall pay that amount to the3landlord. If the court determines that any of the amount paid by the tenant should be4refunded to the tenant, the court shall pay that amount to the tenant.

5 9. Landlord hardship. If the landlord is in actual danger of loss of the premises or
other hardship resulting from the loss of rental income from the premises, the landlord
may apply at any time to the court for the disbursement of all or part of the funds paid to
the clerk.

SUMMARY

This bill addresses forcible entry and detainer actions in which the landlord alleges that the tenant has not paid the rent. The bill requires the tenant, when answering the forcible entry and detainer complaint, to pay to the court clerk the amount stated in the complaint that the tenant owes in accrued rent. If the tenant disputes the amount, the court determines the appropriate amount to be paid to the court clerk. The court clerk deposits the funds received in an account and maintains records of the amounts paid. The court may require the tenant to pay rent as it accrues during the pendency of the action.

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- 17 When the court enters the judgment in the action, the court determines who is to 18 receive the funds that the tenant paid to the clerk.
- 19 If the tenant fails to pay as required by the court, the tenant is deemed to have waived 20 all defenses and a judgment must be issued for the landlord.
- The court may disburse money from the account to the landlord before the judgment if the landlord is in actual danger of loss of the premises or faces other hardship from the loss of rental income.