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Public Law

124th Legislature

Second Regular Session

Chapter 566

H.P. 1278 - L.D. 1790

An Act To Implement the Recommendations of the Working Group To Study Landlord and Tenant Issues

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §6001, sub-§1-A is enacted to read:

1-A. Foreclosure. A bona fide tenancy in a building for which a foreclosure action brought pursuant to either section 6203A or 6321 is pending or for which a foreclosure judgment has been entered may be terminated only pursuant to the provisions of the federal Protecting Tenants at Foreclosure Act of 2009, Public Law 111-22, Sections 701 to 704.

Sec. 2. 14 MRSA §6001, sub-§3, as amended by PL 1989, c. 484, §§1 and 2, is further amended to read:

3. Presumption of retaliation. In any action of forcible entry and detainer there ~~shall be~~ is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months prior to the commencement of the action, the tenant has:

A. Asserted ~~his~~ the tenant's rights pursuant to section 6021;

B. Complained as an individual, or if a complaint has been made in that individual's behalf, in good faith, of conditions affecting that individual's dwelling unit ~~which~~ that may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation;

C. Complained in writing or made a written request, in good faith, to the landlord or the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties; or

E. Filed, in good faith, a fair housing complaint with the Maine Human Rights Commission or filed, in good faith, a fair housing complaint with the United States Department of Housing and Urban Development concerning acts affecting that individual's tenancy.

No writ of possession may issue in the absence of rebuttal of the presumption of retaliation.

Sec. 3. 14 MRSA §6001, sub-§5 is enacted to read:

5. Affirmative defense. A tenant may raise the affirmative defense of failure of the landlord to provide the tenant with a reasonable accommodation pursuant to Title 5, chapter 337 or the federal Fair Housing Act, 42 United States Code, Section 3601, et seq. If the court determines that the landlord has a duty to offer a reasonable accommodation and has failed to do so, the court shall deny the forcible entry and detainer and not grant possession to the landlord. If the court determines that the landlord is otherwise entitled to possession and either has no duty to offer a reasonable accommodation or has, in fact, offered a reasonable accommodation, the court shall grant the forcible entry and detainer.

Sec. 4. 14 MRSA §6002, as amended by PL 2009, c. 171, §§1 to 3, is further amended by adding after the first paragraph a new paragraph to read:

A notice to terminate under this section must include language advising the tenant that the tenant has the right to contest the termination in court. Failure to include language regarding the right to contest termination in the notice to terminate is not grounds to dismiss a forcible entry and detainer action. If the landlord fails to include language required by this paragraph in a notice to terminate and the tenant does not appear at the court hearing scheduled in any forcible entry and detainer action arising from the notice to terminate, the landlord's failure to include the required language in the notice to terminate constitutes sufficient grounds to set aside any default judgment entered against the tenant for failure to appear at the court hearing. This paragraph does not limit the right of a tenant to raise as a defense in an action for forcible entry and detainer the landlord's failure to include language in the notice to terminate as required by a lease agreement or any federal or state statutes, regulations or rules affecting the tenancy.

Sec. 5. 14 MRSA §6010-A, sub-§1, as enacted by PL 1985, c. 293, §3, is amended to read:

1. Scope of section. If a tenant unjustifiably moves from the premises prior to the effective date for termination of ~~his~~ the tenant's tenancy and defaults in payment of rent, or if the tenant is removed for failure to pay rent or any other breach of a lease or tenancy at will agreement, the landlord may recover rent and damages except amounts which ~~he~~ the landlord could mitigate in accordance with this section, unless ~~he~~ the landlord has expressly agreed to accept a surrender of the premises and end the tenant's liability. Except as the context may indicate otherwise, this section applies to the liability of a tenant under a lease~~, a periodic tenant~~ or tenancy at will agreement or ~~an~~ the tenant's assignee ~~of either~~.

Sec. 6. 14 MRSA §6010-A, sub-§4, ¶B, as enacted by PL 1985, c. 293, §3, is amended to read:

B. Rerenting the premises or a part of the premises, with or without notice, with rent applied against the damages caused by the original tenant and in reduction of rent accruing under the original lease or tenancy at will agreement;

Sec. 7. 14 MRSA §6013, as amended by PL 2003, c. 303, §1, is repealed and the following enacted in its place:

§ 6013. Property unclaimed by tenant

Any personal property that remains in a rental unit after the issuance of a writ of possession or that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit must be disposed of as follows.

1. Place in storage. The landlord shall place in storage in a safe, dry, secured location any personal property that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit.

2. Notice to tenant. The landlord shall send written notice by first class mail with proof of mailing to the last known address of the tenant concerning the landlord's intent to dispose of the property stored pursuant to subsection 1. The notice must include an itemized list of the items and containers of items of the property and advise the tenant that if the tenant does not respond to the notice within 14 days the landlord may dispose of the property as set forth in subsection 5.

3. Release of property claimed. If the tenant claims the property within 14 days after the notice under subsection 2 is sent, the landlord shall release the property to the tenant and may not condition release of the property to the tenant upon payment of any fee or any other amount that may be owed to the landlord by the tenant.

4. Continuation of storage for claimed property. If the tenant responds to the notice sent pursuant to subsection 2, the landlord shall continue to store the property for at least 24 days after the landlord sent the notice.

5. Conditional release; sale or disposal. A landlord shall comply with the following.

A. If the tenant makes an oral or written claim for the property within 14 days after the date the notice described in subsection 2 is sent, the landlord may not condition the release of the property to the tenant upon the tenant's payment of any rental arrearages, damages and costs of storage as long as the tenant makes arrangements to retrieve the property by the 24th day after the notice described in subsection 2 is sent.

B. If the tenant makes the claim as set forth in paragraph A but fails to retrieve the property by the 24th day, the landlord may employ one or more of the remedies described in paragraph D.

C. If the tenant does not make an oral or written claim for the property within 14 days after the notice described in subsection 2 is sent, the landlord may employ one or more of the remedies described in paragraph D.

D. With regard to any property that remains unclaimed by the tenant in accordance with this subsection, the landlord may take one or more of the following actions:

(1) Condition the release of the property to the tenant upon the tenant's payment of all rental arrearages, damages and costs of storage;

(2) Sell any property for a reasonable fair market price and apply all proceeds to rental arrearages, damages and costs of storage and sale. All remaining balances must be forwarded to the Treasurer of State; or

(3) Dispose of any property that has no reasonable fair market value.

Sec. 8. 14 MRSA §6021-A is enacted to read:

§ 6021-A. Treatment of bedbug infestation

1. Definition. As used in this section, unless the context otherwise indicates, "pest control agent" means a commercial applicator of pesticides certified pursuant to Title 22, section 1471D.

2. Landlord duties. A landlord has the following duties.

A. Upon written or oral notice from a tenant that a dwelling unit may have a bedbug infestation, the landlord shall within 5 days conduct an inspection of the unit for bedbugs.

B. Upon a determination that an infestation of bedbugs does exist in a dwelling unit, the landlord shall within 10 days contact a pest control agent pursuant to paragraph C.

C. A landlord shall take reasonable measures to effectively identify and treat the bedbug infestation as determined by a pest control agent. The landlord shall employ a pest control agent that carries current liability insurance to promptly treat the bedbug infestation.

D. Before renting a dwelling unit, a landlord shall disclose to a prospective tenant if an adjacent unit or units are currently infested with or are being treated for bedbugs. Upon request from a tenant or prospective tenant, a landlord shall disclose the last date that the dwelling unit the landlord seeks to rent or an adjacent unit or units were inspected for a bedbug infestation and found to be free of a bedbug infestation.

E. A landlord may not offer for rent a dwelling unit that the landlord knows or suspects is infested with bedbugs.

F. A landlord shall offer to make reasonable assistance, including financial assistance, available to a tenant who is not able to comply with requested bedbug inspection or control measures under subsection 3, paragraph C. After first disclosing what the cost of the tenant's compliance with requested bedbug inspection or control measures may be, a landlord may charge the tenant a reasonable amount for any such assistance, subject to a reasonable repayment schedule, not to exceed 6 months, unless an extension is otherwise agreed to by the landlord and the tenant.

3. Tenant duties. A tenant has the following duties.

A. A tenant shall promptly notify a landlord when the tenant knows of or suspects an infestation of bedbugs in the tenant's dwelling unit.

B. Upon receiving reasonable notice as set forth in section 6025, including reasons for and scope of the request for access to the premises, a tenant shall grant the landlord of the dwelling unit, the landlord's agent or the landlord's pest control agent and its employees access to the unit for purposes of an inspection for or control of the infestation of bedbugs. The initial inspection may include only a visual inspection and manual inspection of the tenant's bedding and upholstered furniture. Employees of the pest control agent may inspect items other than bedding and upholstered furniture when such an inspection is considered reasonable by the pest control agent. If the pest control agent finds bedbugs in the dwelling unit or in an adjoining unit, the pest control agent may have additional access to the tenant's personal belongings as determined reasonable by the pest control agent.

C. Upon receiving reasonable notice as set forth in section 6025, a tenant shall comply with reasonable measures to eliminate and control a bedbug infestation as set forth by the landlord and the pest control agent. The tenant's unreasonable failure to completely comply with the pest control measures results in the tenant's being financially responsible for all pest control treatments of the dwelling unit arising from the tenant's failure to comply.

4. Remedies. The following remedies are available.

A. The failure of a landlord to comply with the provisions of this section constitutes a finding that the landlord has unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy a condition that endangers or materially impairs the health or safety of a tenant pursuant to section 6021, subsection 3.

B. A landlord who fails to comply with the provisions of this section is liable for a penalty of $250 or actual damages, whichever is greater, plus reasonable attorney's fees.

C. A landlord may commence an action in accordance with section 6030A and obtain relief against a tenant who fails to provide reasonable access or comply with reasonable requests for inspection or treatment or otherwise unreasonably fails to comply with reasonable bedbug control measures as set forth in this section. For the purposes of section 6030A and this section, if a court finds that a tenant has unreasonably failed to comply with this section, the court may issue a temporary order or interim relief pursuant to Title 5, section 4654 to carry out the provisions of this section, including but not limited to:

(1) Granting the landlord access to the premises for the purposes set forth in this section;

(2) Granting the landlord the right to engage in bedbug control measures; and

(3) Requiring the tenant to comply with specified bedbug control measures or assessing the tenant with costs and damages related to the tenant's noncompliance.

Any order granting the landlord access to the premises must be served upon the tenant at least 24 hours before the landlord enters the premises.

D. In any action of forcible entry and detainer under section 6001, there is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months before the commencement of the action, the tenant has asserted the tenant's rights pursuant to this section.

Sec. 9. 14 MRSA §6023, as enacted by PL 1979, c. 180, is amended to read:

§ 6023. Agency

Any person authorized to enter into a residential ~~rental~~ lease or tenancy at will agreement on behalf of the owner or owners of the premises ~~shall be~~ is deemed to be the owner's agent for purposes of service of process and receiving and receipting for notices and demands.

Sec. 10. 14 MRSA §6024, as amended by PL 1985, c. 638, §5, is further amended to read:

§ 6024. Heat and utilities in common areas

~~No~~ A landlord may not enter into a lease or ~~offer to lease~~ tenancy at will agreement for a dwelling unit in a multi-unit residential building where the expense of furnishing heat or electricity or any other utility to the common areas or other area not within the unit is the sole responsibility of the tenant in that unit, unless both parties to the lease or tenancy at will agreement have agreed in writing that the tenant will pay for such costs in return for a stated reduction in rent or other specified fair consideration that approximates the actual cost of ~~electricity~~ providing heat or utilities to the common areas. "Common areas" ~~include~~ includes, but ~~are~~ is not limited to, hallways, stairwells, basements, attics, storage areas, fuel furnaces or water heaters used in common with other tenants. Except as provided in this section, a written or oral waiver of this requirement is against public policy and is void. Any person in violation of this section is liable to the ~~lessee~~ tenant for actual damages or ~~$100~~ $250, whichever is greater, and reasonable attorneys' fees and costs. In any action brought pursuant to this section, there is a rebuttable presumption that the landlord is aware that the tenant has been furnishing heat or utility service to common areas or other units. If the landlord rebuts this presumption, the landlord is required to comply with this section but is only liable to the tenant for actual damages suffered by the tenant.

Sec. 11. 14 MRSA §6024-A, as enacted by PL 1989, c. 87, §1, is repealed and the following enacted in its place:

§ 6024-A. Landlord failure to pay for utility service

1. Deduct from rent. If a landlord fails to pay for utility service in the name of the landlord, the tenant, in accordance with Title 35-A, section 706, may pay for the utility service and deduct the amount paid from the rent due to the landlord.

2. Award damages. In addition to the remedy set forth in subsection 1, upon a finding by a court that a landlord has failed to pay for utility service in the name of the landlord, the court shall award to the tenant actual damages in the amount actually paid for utilities by the tenant or $100, whichever is greater, together with the aggregate amount of costs and expenses reasonably incurred in connection with the action. The court may also award to the tenant reasonable attorney's fees.

3. Presumption. In any action brought pursuant to subsection 2, there is a rebuttable presumption that the landlord knowingly failed to pay for the utility service. If the landlord rebuts this presumption, the landlord is liable to the tenant only for actual damages suffered by the tenant.

Sec. 12. 14 MRSA §6026, sub-§1, as enacted by PL 1981, c. 428, §10, is amended to read:

1. Prohibition of dangerous conditions. ~~No~~ A landlord ~~leasing~~ who enters into a lease or tenancy at will agreement renting premises for human habitation may not maintain or permit to exist on those premises any condition ~~which~~ that endangers or materially impairs the health or safety of the tenants.

Sec. 13. 14 MRSA §6026, sub-§5, as enacted by PL 1981, c. 428, §10, is amended to read:

5. Waiver. A provision in a lease~~, whether oral or written,~~ or tenancy at will agreement in which the tenant waives either ~~his~~ the tenant's rights under this section or the duty of the landlord to maintain the premises in compliance with the standards of fitness specified in this section or any other

duly promulgated ordinance or regulation is void, except that a written agreement whereby the tenant accepts specified conditions ~~which~~ that may violate the warranty of fitness for human habitation in return for a stated reduction in rent or other specified fair consideration is binding on the tenant and the landlord.

Sec. 14. 14 MRSA §6026, sub-§10 is enacted to read:

10. Foreclosure. For tenancies in buildings in which a foreclosure action brought pursuant to section 6203A or 6321 has been filed and is currently pending, or in which a foreclosure judgment has been entered, if the landlord fails to maintain the premises in compliance with the standards in subsection 1, a tenant may exercise the tenant's rights pursuant to this section without regard to the cost of compliance limitations set forth in subsection 2, except that the reasonable costs of compliance may not be more than the equivalent of 2 months' rent. A tenant who exercises the tenant's rights under this subsection and who thereafter seeks assistance pursuant to Title 22, chapter 1161 may not have any amounts expended under this subsection counted as income pursuant to Title 22, section 4301, subsection 7.

Sec. 15. 14 MRSA §6026-A, as enacted by PL 2009, c. 135, §1, is amended to read:

§ 6026-A. Municipal intervention to provide for basic necessities

In accordance with the procedures provided in this section, the municipal officers of any town or city or their designee may provide for ~~the delivery of heating fuel~~ basic necessities and any ~~associated heating system~~ repair activities to ensure the continued habitability of any premises leased for human habitation. For the purposes of this section, "basic necessities" means those services, including but not limited to maintenance, repairs and provision of heat or utilities, that a landlord is otherwise responsible to provide under the terms of a lease, a tenancy at will agreement or applicable law.

1. Imminent threat to habitability of leased premises exists. The leased premises must be ~~out of heating fuel or nearly out of heating fuel~~ in need of basic necessities such that the municipal officers or their designee can make a finding that an imminent threat to the continued habitability of the premises exists.

2. Attempt to contact landlord. The municipal officers or their designee must document a good faith attempt to contact the landlord of the premises under subsection 1 regarding:

A. The municipality's determination of the threat to habitability;

B. The municipality's intention to provide for ~~the delivery of heating fuel~~ basic necessities;

C. The municipality's intention to subsequently recover the municipality's direct and administrative costs from the landlord; and

D. The landlord's ability to avert the municipality's actions by causing the ~~delivery~~ provision of ~~adequate supplies of heating fuel~~ basic necessities by a time certain.

This communication to the landlord must be either in person, by telephone or by certified mail as may be warranted considering the degree or imminence of the threat.

3. Municipality may provide for basic necessities. If the landlord cannot be contacted in a timely manner or if the landlord does not cause the ~~delivery~~ provision of ~~adequate supplies of heating fuel~~ basic necessities by a deadline identified by the municipal officers or their designee, the

municipality may provide for ~~the delivery of an adequate supply of heating fuel~~ basic necessities and whatever attendant activities may be necessary to ensure the proper functioning of the leased ~~premises' heating system~~ premises.

4. Lien. The municipality has a lien against the landlord of the leased premises for the amount of money spent by the municipality to provide for ~~the adequate supply of heating fuel~~ basic necessities and attendant activities pursuant to this section, as well as all reasonably related administrative costs pursuant to subsection ~~3~~ 5.

5. Filing of notice of lien; interest; costs. The municipal officers or their designee shall file a notice of the lien under subsection 4 with the register of deeds of the county in which the property is located within 30 days of providing for ~~the delivery of heating fuel~~ basic necessities. That filing secures the municipality's lien interest for an amount equal to the costs recoverable pursuant to this section. Not less than 10 days prior to the filing, the municipal officers or their designee shall send notification of the proposed action by certified mail, return receipt requested, to the owner of the real estate and any record holder of the mortgage. The lien notification must contain the title, address and telephone number of the municipal ~~official~~ officer or officers who authorized the provision of ~~heating fuel~~ basic necessities, an itemized list of the costs to be recovered by lien and the provisions of this subsection regarding interest rates and costs. The lien is effective until enforced by an action for equitable relief or until discharged. Interest on the amount of money secured by the lien may be charged by the municipality at a rate determined by the municipal officers but in no event may the rate exceed the maximum rate of interest allowed by the Treasurer of State pursuant to Title 36, section 186. Interest accrues from and including the date the lien is filed. The costs of securing and enforcing the lien are recoverable upon enforcement.

Sec. 16. 14 MRSA §6030, as amended by PL 1991, c. 704, is further amended to read:

§ 6030. Unfair agreements

1. Illegal waiver of rights. It is an unfair and deceptive trade practice in violation of Title 5, section 207 for a landlord to require a tenant to enter into a ~~rental~~ lease or tenancy at will agreement for a dwelling unit, as defined in section 6021, in which the tenant agrees to a ~~lease or rule~~ provision that has the effect of waiving a tenant right established in chapter 709, this chapter ~~and~~ or chapter 710A. This subsection does not apply when the law specifically allows the tenant to waive a statutory right during negotiations with the landlord.

2. Unenforceable provisions. The following ~~rental~~ lease or tenancy at will agreement or rule provisions for a dwelling unit, as defined in section 6021, are specifically declared to be unenforceable and in violation of Title 5, section 207:

A. Any provision that absolves the landlord from liability for the negligence of the landlord or the landlord's agent;

B. Any provision that requires the tenant to pay the landlord's legal fees in enforcing the ~~rental~~ lease or tenancy at will agreement;

C. Any provision that requires the tenant to give a lien upon the tenant's property for the amount of any rent or other sums due the landlord; and

D. Any provision that requires the tenant to acknowledge that the provisions of the ~~rental~~ lease or tenancy at will agreement, including tenant rules, are fair and reasonable.

3. Exception. Notwithstanding subsection 2, paragraph B, a ~~rental~~ lease or tenancy at will agreement or rule provision that provides for the award of attorney's fees to the prevailing party after a contested hearing to enforce the ~~rental~~ lease or tenancy at will agreement in cases of wanton disregard of the terms of the ~~rental~~ lease or tenancy at will agreement is not in violation of Title 5, section 207 and is enforceable.

Sec. 17. 14 MRSA §6030-B, as amended by PL 2007, c. 238, §1, is further amended to read:

§ 6030-B. Environmental lead hazards

1. Environmental lead hazard disclosure. A landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property shall provide to potential tenants and lessees a residential real property disclosure statement that includes, but is not limited to, information about the presence or prior removal of lead-based paint in accordance with Title 22, section 1328.

2. Application. The landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the residential real property disclosure statement under subsection 1 when a structure that is part of the real property was built prior to 1978.

3. Notification of repairs. A landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property who undertakes, or who engages someone else to undertake, any repair, renovation or remodeling activity in a residential building built before 1978 that includes one or more units that are rented for human habitation shall give notice of the activity and the risk of an environmental lead hazard pursuant to this subsection.

A. Notice must be given at least 30 days before the activity is commenced by:

(1) Posting a sign on the building's exterior entry doors; and

(2) A notice sent by certified mail to every unit in the building.

B. Notwithstanding paragraph A, notice may be given less than 30 days before the activity is commenced by:

(1) Posting a sign on the building's exterior entry doors; and

(2) Obtaining from one adult tenant of each unit in the building a written waiver of the 30-day notice requirement and a written acknowledgment of receipt of notice for the particular activity.

C. The waiver of the 30-day notice requirement pursuant to paragraph B must be in plain language, immediately precede the signature of the adult tenant, be printed in no less than 12-point boldface type and be in the following form or in a substantially similar form:

NOTICE: YOU ARE WAIVING YOUR RIGHT UNDER STATE LAW TO RECEIVE 30 DAYS' NOTICE PRIOR TO ANY REPAIR, RENOVATION OR REMODELING ACTIVITY TO A RESIDENCE BUILT BEFORE 1978. RESIDENCES BUILT BEFORE 1978 MAY CONTAIN LEAD PAINT SUFFICIENT TO POISON CHILDREN AND SOMETIMES ADULTS. WORKERS PERFORMING RENOVATIONS OR REPAIRS IN HOUSING BUILT BEFORE 1978 SHOULD USE LEAD-SAFE WORK PRACTICES THAT MINIMIZE AND CONTAIN LEAD DUST AND SHOULD CLEAN THE WORK AREA THOROUGHLY TO PREVENT LEAD POISONING.

D. For purposes of this subsection, "repair, renovation or remodeling activity" means the repair, reconstruction, restoration, replacement, sanding or removal of any structural part of a residence that may disturb a surface coated with lead-based paint.

E. For purposes of this subsection, "environmental lead hazard" means any condition that may cause exposure to lead from lead-contaminated dust or lead-based paint.

F. Emergency repairs are exempt from the notification provisions of this subsection. For purposes of this paragraph, "emergency repairs" means repair, renovation or remodeling activities that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard or threatens equipment or property with significant damage.

G. A person who violates this subsection commits a civil violation for which a fine of up to $500 per violation may be assessed. This paragraph is enforceable in either District Court or Superior Court.

H. This subsection may not be construed to limit a tenant's rights, a landlord's duties or any other provisions under section 6026 or Title 22, chapter 252.

Sec. 18. 14 MRSA §6030-C, as enacted by PL 2005, c. 534, §1, is amended to read:

§ 6030-C. Residential energy efficiency disclosure statement

1. Energy efficiency disclosure. A landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property that will be used by a tenant or lessee as a primary residence shall provide to potential tenants or lessees a residential energy efficiency disclosure statement in accordance with Title 35A, section 10006, subsection 1 that includes, but is not limited to, information about the energy efficiency of the property.

2. Provision of statement. A landlord or other ~~lessor~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the residential energy efficiency disclosure statement required under subsection 1 in accordance with this subsection. The landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the statement to any person who requests the statement in person and shall post the statement in a prominent location in a property that is being offered for rent or lease. Before a tenant or lessee enters into a contract or pays a deposit to rent or lease a property, the landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the statement to the tenant or lessee, obtain the tenant's or lessee's signature on the statement and sign the statement. The landlord or ~~lessor~~ other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall retain the signed statement for a minimum of 7 years.

Sec. 19. 14 MRSA §6030-D, as enacted by PL 2009, c. 278, §1, is amended to read:

§ 6030-D. Radon testing

1. Testing. By 2012 and every 10 years thereafter, a landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall have the air of the residential building tested for the presence of radon. A test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165.

2. Notification. A landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall provide written notice to a tenant or potential tenant regarding the presence of radon in the building, including the date and results of the most recent test conducted under subsection 1, and the risk associated with radon. The ~~department~~ Department of Health and Human Services shall prepare a standard disclosure statement form for ~~landlords and~~ a landlord or other ~~lessors of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for real property to use to disclose to a tenant or potential tenant information concerning radon. The form must include an acknowledgment that the tenant or potential tenant has received the disclosure statement required by this subsection. The department shall post and maintain the forms required by this subsection on its publicly accessible website in a format that is easily downloaded.

3. Mitigation. When the test of a residential building under subsection 1 reveals a level of radon of 4.0 picocuries per liter of air or above, the landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for that building shall, within 6 months, mitigate the level of radon in the residential building until it is reduced to a level below 4.0 picocuries per liter of air. If a landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building is required to obtain a permit under a local or municipal ordinance, mitigation must occur within 6 months after obtaining any necessary permit. Mitigation services must be provided by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165. After mitigation has been performed pursuant to this subsection to reduce the level of radon, the landlord or other ~~lessor of~~ person who on behalf of a landlord enters into a lease or tenancy at will agreement for the residential building shall provide written notice to tenants that radon levels have been mitigated.

4. Penalty. A person who violates this section commits a civil violation for which a fine of not more than $250 per violation may be assessed.

Sec. 20. 14 MRSA §6031, sub-§2, as enacted by PL 1977, c. 359, is amended to read:

2. Security deposit. "Security deposit" means any advance or deposit, regardless of its denomination, of money, the primary function of which is to secure the performance of a ~~rental~~ lease or tenancy at will agreement for residential premises or any part thereof.

Sec. 21. 14 MRSA §6031, sub-§3, as enacted by PL 2007, c. 370, §1, is amended to read:

3. Surety bond. "Surety bond" means a bond purchased by a tenant in lieu of making a security deposit when the function of the bond is to secure the performance of a ~~rental~~ lease or tenancy at will agreement for residential premises or any part of residential premises.

Sec. 22. 14 MRSA §6032, as enacted by PL 1977, c. 359, is amended to read:

§ 6032. Maximum security deposit

~~No lessor of~~ A lease or tenancy at will agreement for a dwelling intended for human habitation ~~shall~~ may not require a security deposit equivalent to more than the rent for 2 months.

Sec. 23. 14 MRSA §6036, as enacted by PL 1977, c. 359, is amended to read:

§ 6036. Waiver of provisions

Any provision, whether oral or written, in or pertaining to a ~~rental~~ lease or tenancy at will agreement whereby any provision of this chapter for the benefit of a tenant or members of ~~its~~ the tenant's household is waived ~~shall be deemed to be~~ is against public policy and ~~shall be~~ is void.

Sec. 24. 14 MRSA §6038, as amended by PL 1999, c. 213, §2, is repealed and the following enacted in its place:

§ 6038. Treatment of security deposit

1. Requirements. During the term of a tenancy, a security deposit given to a landlord as part of a residential rental agreement may not be treated as an asset to be commingled with the assets of the landlord or any other entity or person. All security deposits received after October 1, 1979 must be held in an account of a bank or other financial institution under terms that place the security deposit beyond the claim of creditors of the landlord or any other entity or person, including a foreclosing mortgagee or trustee in bankruptcy, and that provide for transfer of the security deposit to a subsequent owner of the dwelling unit or to the tenant in accordance with section 6035. Upon the transfer of the dwelling unit, the new owner shall assume all responsibility for maintaining and returning to tenants all security deposits accounted for and transferred pursuant to section 6035. Upon request by a tenant, a landlord shall disclose the name of the institution and the account number where the security deposit is being held. A landlord may use a single escrow account to hold security deposits from all of the tenants. A landlord may use a single escrow account to hold security deposits from tenants residing in separate buildings if the buildings are owned by different entities as long as the different entities are substantially controlled or owned by a single landlord.

2. Remedies. Upon a finding by a court that a violation of this section has occurred, the tenant is entitled to recover from the landlord actual damages, $500 or the equivalent of one month's rent, whichever is greatest, together with the aggregate amount of costs and expenses reasonably incurred in connection with the action. The court may also award to the tenant reasonable attorney's fees.

3. Application. The provisions of subsection 2 apply to all security deposits collected by a landlord after June 1, 2010. As of October 1, 2010, the provisions of subsection 2 apply to all security deposits held by or on behalf of a landlord.

Sec. 25. 33 MRSA §1954, sub-§2, as amended by PL 2003, c. 303, §2, is repealed.

Effective July 12, 2010