

**JOINT COMMITTEE ON THE JUDICIARY
BILL SUMMARY**

BILL NO. H1796

TITLE: An Act relative to rent escrow

SPONSOR: Rep. Bradley H. Jones, Jr.

COSPONSOR(S): Rep. Kimberly N. Ferguson Rep. David F. DeCoste
Rep. Paul K. Frost Rep. Todd M. Smola

HEARING DATE: April 22, 2025

PRIOR HISTORY: None

SENATE BILL: None

CURRENT LAW: Chapter 167D of the General Laws governs deposits and accounts.

Section 8A of Chapter 239 gives a tenant or occupant who is a defendant in an action to recover possession of the rented premises the right to raise a defense or counterclaim for breach of warranty or other material provision of the rental agreement or violation of any other law and claim damages on the same.

Paragraph 2 of this section outlines the standards for claiming a defense or counterclaim based on the condition of the premises. The tenant or occupant is not entitled to relief unless: (i) the condition was known to the owner before rent became in arrears; (ii) the landlord fails to show that the conditions were caused by the tenant or occupant; (iii) if the premises is a hotel or lodging house the occupant has resided in for less than 3 months; (iv) the landlord fails to show that the conditions cannot be remedied without vacating the premises.

Paragraph 3 states that if proof is given that premises are in violation of the standard of fitness for human habitation a presumption is created that the conditions existed in the premises. Proof of written notice creates a presumption that the recipient knew of the conditions mentioned in the notice.

Paragraph 4 prohibits the recovery of possession pending final disposition of the action if the court finds the requirements for a defense or counterclaim based on the conditions of the premises have been met. The court may, after hearing the case, require the

tenant or occupant pay the clerk the fair value of the use and occupation of the premises less the amount awarded under this section. These funds may be expended for repair of the premises as directed by the court. When all conditions are corrected the remainder will be paid to the landlord. A tenant or occupant may voluntarily deposit with the clerk any amount which may be in dispute which shall be held subject to the provisions of this section.

BILL SUMMARY:

Section 1 - adds a new section to Chapter 167D that requires a bank, upon the request of the tenant or occupant claiming relief under Section 8A of Chapter 239, to create an account with both parties' signatures and to make payment from such account upon court order. The bank may deduct ordinary and reasonable operating expenses. If the account is left inactive after 2 years, the bank will pay the entire amount in the account to the defendant in the counterclaim.

Section 2 – strikes the second, third and fourth paragraph of Section 8A of chapter 239. Inserts new Paragraph 2 with language updating the standards for when the tenant or occupant are not entitled to relief based on an allegation concerning the condition of the premises. The tenant is not entitled to relief without a showing that: (i) a local enforcement agency inspected and certified the condition of the premises constitutes a violation of the standards of fitness for human habitation, the tenant made timely notice to the landlord who failed to remedy the condition substantially within 15 days; maintains the same (ii) to (iv) currently in the section and listed above; or (v) the tenant or occupant proves that all rent withheld has been deposited into an escrow or court account with provisos for bona fide documented out-of-pocket expenses and tenants receiving rental assistance. Strikes Paragraphs 3 and 4 in their entirety.