

## Heat and the Implied Warranty and Covenant of Habitability

Maine law provides for an Implied Warranty and Covenant of Habitability in 14 M.R.S. §6021. This provision of the statute states that there is an implied warranty of fitness for human habitation included in the agreement (written or oral) for rental of a dwelling unit. Heating requirements are specifically governed. Section 6 of the statute provides:

“It is a breach of the implied warranty of fitness for human habitation when the landlord is obligated by agreement or lease to provide heat for a dwelling unit and:

- A. The landlord maintains an indoor temperature which is so low as to be injurious to the health of occupants not suffering from abnormal medical conditions;
- B. The dwelling unit’s heating facilities are not capable of maintaining a minimum temperature of a least 68 degrees Fahrenheit at a distance of 3 feet from the exterior walls, 5 feet above floor level at an outside temperature of minus 20 degrees Fahrenheit; or
- C. The heating facilities are not operated so as to protect the building equipment and systems from freezing.”

Municipalities may adopt or retain more stringent standards but less restrictive standards are invalid.

A landlord and tenant may enter into an agreement whereby the landlord may provide heat at less than 68 degrees Fahrenheit under specific circumstances. If this arrangement is selected, Section 6-A of the statute notes:

“The agreement must:

- A. Be in a separate written document, apart from the lease, be set forth in a clear and conspicuous format, readable in plain English and in at least 12-point type, and be signed by both parties to the agreement;
- B. State the agreement is revocable by either party upon reasonable notice under the circumstances;
- C. Specifically set a minimum temperature for heat, which may not be less than 62 degrees Fahrenheit; and
- D. Set forth a stated reduction in rent that must be fair and reasonable under the circumstances.

An agreement under this subsection may not be entered into or maintained if a person over 65 years of age or under 5 years of age resides on the premises. A landlord is not responsible if a tenant who controls the temperature on the premises reduces the heat to an amount less than 68 degrees Fahrenheit as long as the landlord complies with subsection 6, paragraph B or if the tenant fails to inform the landlord that a person over 65 years of age or under 5 years of age resides on the premises. “