

Current state law (MGL 239 §8A) permits a residential tenant to withhold rent that is due by filing a counterclaim(s) in certain summary process actions.

While tenants with defective conditions in their apartments should clearly be permitted to assert counterclaims/defenses against a landlord's claim for rent, it is equally clear that the tenant should be required to demonstrate that their decision not to pay the rent is based on the defective conditions, rather than an inability to pay.

The proposed legislation simply requires the tenant to submit a copy of their bank statement showing that the unpaid rent is being maintained in a bank account. In addition, the bill allows, but does not require, that the court may order those funds to be maintained pending the conclusion of the case.

The law, otherwise, remains unchanged.

Such cases can be both costly and time consuming. This legislation seeks to strike a balance to ensure equity and fairness to all parties.

Status: Before the Joint Committee on Housing. Hearing not yet scheduled. Action Needed: Ask your legislators to urge the Housing Committee to schedule a prompt hearing and to report the Bill "OUGHT to Pass."