

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 191

H. P. 152

House of Representatives, January 25, 1979

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Howe of South Portland.

Cosponsor Mr. Jackson of Yarmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT Concerning Repossession of Consumer Goods from a Consumer in
Default Under a Consumer Credit Transaction.**

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

9-A MRSA § 5-112, as enacted by PL 1973, c. 762, § 1, is repealed and the following enacted in its place:

§ 5-112. Creditor's right to take possession after default

Twenty days after default by a consumer, unless the consumer voluntarily surrenders possession of the collateral to the creditor, the creditor may take possession of the collateral without judicial process only if possession can be taken without entry into a dwelling, unless the entry has been authorized after default, and without the use of force or other breach of the peace.

A creditor otherwise authorized to take possession of collateral under this section may not do so if:

1. The unpaid amount causing the default is not more than one full required payment under the consumer credit transaction; or

2. The cause of the default is nonpayment of delinquency or deferral charges, except that if that delinquency or deferral charges total more than one full required payment in the aggregate, the creditor may take possession of the collateral.

STATEMENT OF FACT

This bill prohibits repossession of collateral under a consumer credit transaction if the cause of the default is nonpayment of delinquency or deferral charges or if the unpaid amount causing the consumer's default is not more than one full required payment under the consumer credit transaction.

Creditors usually wait until several payments have been missed before repossession, but some have repossessed collateral even when all required installment payments were up to date, arguing that nonpayment of penalty charges for late payment authorized default and repossession. While repossession is a legitimate remedy where default on regular installment payments under a consumer credit transaction is substantial, there is no justification for repossession when the amount owed the creditor is only a penalty charge or is not more than a normal payment.