

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 927

S. P. 301

In Senate, March 16, 1977

Referred to Committee on Judiciary. Sent down for concurrence and 2,000 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Mangan of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Concerning the Small Claims Laws.

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

Sec. 1. 14 MRSA § 7451, as last amended by PL 1975, c. 171, is repealed and the following enacted in its place:

§ 7451. Definitions

A small claim is any right of action cognizable by a court of law in which the debt claimed does not exceed the sum of \$500. A debt is defined as an amount alleged to be due on a contract and small claim actions shall be limited thereto. Actions of law involving title to real estate or personal property, bailments, replevin or any action wherein damages claimed due to negligence are excluded from the definition of small claim.

Sec. 2. 14 MRSA § 7455, as last amended by PL 1971, c. 206, § 4, is repealed and the following enacted in its place:

§ 7455. Hearing and judgment

A brief statement of the claim alleging the facts upon which the action is based shall be made in the small claim application and an itemized statement, if any, shall be attached to the application.

At the hearing, the technical rules of evidence shall not apply and the judge may admit any evidence he deems material and proper to adjudicate the claim. He may preclude recovery if an affirmative defense under the Rules of the Maine Civil Procedure would bar recovery, whether or not that bar is plead by the defendant. Judgment shall be entered for the prevailing party, and in the event the judgment is for the plaintiff, costs of court shall be added to the judgment.

On the return day, the judge shall enter judgment by default for the plaintiff for the amount claimed together with his costs in the event that the defendant fails to appear. If the plaintiff fails to appear and the defendant appears, judgment by default shall be entered for the defendant, if neither party appears, the judge shall dismiss the action with prejudice.

Sec. 3. 14 MRSA § 7457, as enacted by PL 1969, c. 367, § 2, is repealed and the following enacted in its place :

§ 7457. Effect of judgment

A judgment or dismissal with prejudice as is set forth in section 7455, shall be res adjudicata as to that claim and no further action upon it shall be had. However, a judge of that court may continue any action or vacate any judgment by default, by agreement of the parties or on its own motion for cause within 10 days of the entry of judgment.

Sec. 4. 14 MRSA § 7458 is enacted to read :

§ 7458. Appeal

Either party may appeal to the Superior Court from a judgment entered in the court after hearing on the action, this appeal shall be taken within 10 days of the entry of judgment and the Superior Court shall review the matter solely on issues of law.

Sec. 5. 14 MRSA § 7459 is enacted to read :

§ 7459. Jury trial

A plaintiff beginning a cause under this chapter waives a jury trial. The defendant may have a hearing before the court under the established procedures provided in this chapter. He may, however, prior to 3 days upon which he is notified to appear, file with the court where the action is pending, a request for a trial by jury together with an affidavit that there are questions of fact in the cause which he desires to be determined by a jury, together with an affidavit, that the request is filed in good faith. In such instance, the action shall on return day forthwith be transferred to the Superior Court in the county where the small claim action was pending for trial by jury. In the event the Superior Court Judge finds that the request was not filed in good faith, the court may impose costs against that defendant.

Sec. 6. 14 MRSA § 7460 is enacted to read :

§ 7460. Action against minor

No action under this chapter shall be brought against a minor.

STATEMENT OF FACT

This bill clarifies many of the procedures for small claims, provides for transfer of small claims to the Superior Court for jury trial upon proper request of the defendant, and prohibits the bringing of a small claim against a minor.