

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1210

S. P. 405

In Senate, March 10, 1981

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Devoe of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Small Claims Law and Conform Related Laws.

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

Sec. 1. 4 MRSA § 807, 3rd sentence, as amended by PL 1979, c. 700, § 2, is further amended to read:

This section shall not be construed to apply to practice before any Federal Court by any person duly admitted to practice therein; nor to a person pleading or managing his own cause in court; nor to the officer or employee of a corporation, partnership or business, professional or governmental entity, who is not an attorney, but is appearing for that organization in an action cognizable as a small claim under Title 14, chapter 738.

Sec. 2. 14 MRSA § 7463, sub-§ 2, as enacted by PL 1979, c. 700, § 4, is amended to read:

2. Corporation, partnership or other entity. A corporation, partnership or business, professional or governmental entity may be represented by ~~a person~~ an officer or employee other than an attorney in a small claim proceeding, as provided in Title 4, section 807.

Sec. 3. 14 MRSA § 7464, sub-§§ 1, 4 and 6, as enacted by PL 1979, c. 700, § 4, are amended to read:

1. Venue. A small claim shall be brought in the division of the District Court

~~where the right of action accrued~~ where the defendant resides, where the defendant has a place of business or, if the defendant is a business entity, where its registered agent resides.

4. Statement of claim. A plaintiff shall provide a brief statement of his claim to the clerk of the District Court on a form supplied by the clerk. The brief statement shall include the last known mailing address of the defendant. The clerk shall briefly record the ~~notice~~ statement of the claim.

6. Fee. At the entry of the statement, a fee of ~~\$5~~ shall be paid. The amount of the fee shall be determined by the Supreme Judicial Court pursuant to Title 4, section 175. The clerk may pay the cost of notices from the fee and the remainder may be retained by the court as costs.

Sec. 4. 14 MRSA § 7465, sub-§ 1, as enacted by PL 1979, c. 700, § 4, is amended to read:

1. Filing. A ~~person~~ plaintiff may, without fee, file an application in the District Court requesting permission to proceed without payment of a filing fee.

Sec. 5. 14 MRSA § 7466, sub-§ 2, first sentence, as enacted by PL 1979, c. 700, § 4, is amended to read:

The clerk shall cause notice and a brief statement of the claim to be given to the defendant by postpaid registered or certified mail, **restricted delivery, return receipt requested**, addressed to ~~his~~ the defendant's last known postoffice address.

Sec. 6. 14 MRSA § 7469, sub-§ 2, as enacted by PL 1979, c. 700, § 4, is amended to read:

2. Use of court. The court may require the parties to meet ~~in the court room~~ at court to attempt to settle their dispute. The meeting may be in private or before a mediator, **if available**, as the parties elect.

Sec. 7. 14 MRSA § 7471, sub-§§ 1 and 3, as enacted by PL 1979, c. 700, § 4, are amended to read:

1. Judgment. A judgment may provide monetary or equitable relief. The court may order payment of a monetary judgment in installments **if both parties are present**.

3. Equitable relief. Equitable relief may be granted only as between the parties. It shall be limited to orders to ~~repair~~ return, ~~replace~~, ~~reform~~ refund or rescind.

Sec. 8. 14 MRSA § 7471, sub-§ 5, ¶¶ C and D, as enacted by PL 1979, c. 700, § 4, are amended to read:

C. The amount of judgment and costs ~~and method of payment~~; and

D. Other court ordered action~~÷~~.

Sec. 9. 14 MRSA § 7471, sub-§ 5, ¶¶ E and F, as enacted by PL 1979, c. 700, § 4, are repealed as follows:

~~E. A statement of the duties and consequences relating to satisfaction and disclosure, including a statement that if the judgment is satisfied, no record of judgment will exist which might adversely affect his credit; and~~

~~F. A disclosure hearing date~~

Sec. 10. 14 MRSA §§ 7472 and 7473, as enacted by PL 1979, c. 700, § 4, are repealed.

STATEMENT OF FACT

The purpose of this bill is to eliminate problems that have become obvious to the personnel of the District Court and to eliminate the automatic disclosure provision.