

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 146

6
7 S.P. 54

In Senate, January 11, 1983

8 Reference to the Committee on Judiciary. Sent down for concurrence and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Perkins of Hancock.

Cosponsors: Representative Livesay of Brunswick, Representative Foster
of Ellsworth and Senator Carpenter of Aroostook.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Allow the District Court to
18 Grant Restitution in Cases of Unfair Trade
19 Practices.
20

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

23 Sec. 1. 4 MRSA §152, first ¶, as amended by PL
24 1981, c. 645, §1, is further amended to read:

25 The District Court shall possess the civil juris-
26 diction exercised by all trial justices and municipal
27 courts in the State on September 16, 1961, and in ad-
28 dition, original jurisdiction, concurrent with that
29 of the Superior Court of all civil actions in which
30 neither damages in excess of \$20,000, nor, except as
31 herein provided, equitable relief is demanded of pro-
32 ceedings under Title 14, sections 6651 to 6658 and of
33 actions for divorce, annulment of marriage or judi-
34 cial separation and of proceedings under Title 19 and

1 original jurisdiction, concurrent with that of the
2 Superior Court, of actions to quiet title to real
3 estate under Title 14, sections 6651 to 6658, and in
4 these actions the District Court may grant equitable
5 relief; and original jurisdiction, concurrent with
6 that of the Superior Court, for restitution under
7 Title 5, section 213, and in these actions the Dis-
8 trict Court may grant equitable relief; and original
9 jurisdiction, concurrent with that of the Superior
10 Court, for breach of implied warranty and covenant of
11 habitability under Title 14, section 6021, and in
12 these actions the District Court may grant equitable
13 relief; and original jurisdiction, concurrent with
14 that of the Superior Court, of actions to quiet title
15 to real estate under Title 36, section 946, and in
16 such actions the District Court may grant equitable
17 relief, of actions to foreclose mortgages under Title
18 14, chapter 713, subchapter VI; and of mental health
19 commitment hearings under Title 34, chapter 191, sub-
20 chapter III, and of mental retardation certification
21 hearings under Title 34, chapter 229; and of small
22 claims actions under Title 14, chapter 738, and in
23 these actions the District Court may grant equitable
24 relief. This limitation as to damages shall not
25 apply in any action of divorce, annulment or separa-
26 tion of marriage or in any action to enforce judgment
27 of support or alimony. Actions for divorce, annul-
28 ment or separation may be remanded, upon agreement of
29 the parties, from the Superior Court to the District
30 Court in accordance with rules promulgated by the
31 Supreme Judicial Court. An action so remanded shall
32 remain in the District Court, which shall have exclu-
33 sive jurisdiction thereafter, subject to the rights
34 of appeal to the Superior Court as to matters of law.

35 Sec. 2. 5 MRSA, §213, sub-§1, as amended by PL
36 1979, c. 451, is further amended to read:

37 1. Court action. Any person who purchases or
38 leases goods, services or property, real or personal,
39 primarily for personal, family or household purposes
40 and thereby suffers any loss of money or property,
41 real or personal, as a result of the use or employ-
42 ment by another person of a method, act or practice
43 declared unlawful by section 207 or by any rule or
44 regulation issued under section 207, subsection 2 may
45 bring an action either in the Superior Court for

1 restitution and for such other equitable relief,
2 including an injunction, as the court may deem to be
3 necessary and proper , or in District Court for
4 restitution and such other equitable relief as the
5 court may deem to be necessary and proper. There
6 shall be a right to trial by jury in any action
7 brought in Superior Court under this section.

8 STATEMENT OF FACT

9 Title 5, section 213 of the so-called Unfair
10 Trade Practices Act allows consumers to seek restitu-
11 tion and other appropriate equitable relief for
12 Unfair Trade Practices they feel have been committed
13 against them. This same section also permits the
14 court to award successful consumer litigants their
15 attorney's fees and costs, which is an important
16 incentive for consumers to go forward with a suit.
17 The major problem with this scheme is that these ac-
18 tions must be brought in Superior Court where a
19 tremendous case backlog exists. It is not uncommon
20 for a consumer to have to wait more than a year to
21 have his case heard. Such delay makes the remedy
22 provided by this Act of questionable practical value.

23 This bill allows unfair trade practice actions
24 to also be brought in the District Court, where cases
25 are customarily heard within a few months. The bill
26 does not grant full equitable jurisdiction to the
27 District Court, however. Actions seeking injunctive
28 relief, or jury trials, must still be brought in
29 Superior Court. Despite this restriction it is
30 expected that the change made by this bill will aid
31 consumers in seeking swifter resolution of their con-
32 sumer complaints.

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