

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2285

H.P. 1667 House of Representatives, February 17, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Representative PARADIS of Augusta.

STATE OF MAINE

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

1 AN ACT to Revise the Procedures for
2 Enforcing Money Judgments.
3

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

6 Sec. 1. 14 MRSA §3125, sub-§2, as enacted by PL
7 1987, c. 184, §7, is amended to read:

8 2. Agreement. If the creditor or the debtor, at

1 or prior to the disclosure hearing, presents the court
2 with a written agreement for an order pursuant to
3 section 3127 with affidavit signed by the judgment
4 debtor on a form provided by the District Court, the
5 court may enter an order for an installment payment in
6 the amount agreed upon by the parties or a lesser
7 lesser amount without the necessity of appearance by
8 the parties. In determining whether to accept, reject
9 or modify to a lesser lesser amount the agreement
10 of the parties, the court shall apply the factors set
11 forth in section 3128.

12 **Sec. 2. 14 MRSA §3126, as amended by PL 1987,**
13 **c. 184, §8, is further amended to read:**

14 §3126. Fees and costs

15 The disclosure subpoena, return of service and, if
16 judgment was entered in another court, the writ of
17 execution or an attested copy thereof shall be filed
18 with the clerk, together with a filing fee as
19 established by the Supreme Judicial Court pursuant to
20 Title 4, section 175. The fee and actual costs of
21 service shall be added to the judgment, unless the
22 judgment creditor or his attorney fails to appear in
23 accordance with section 3125 or unless the judge
24 orders otherwise. Costs of service incurred by the
25 creditor, in addition to the filing fee and the
26 service of the disclosure subpoena, may be imposed
27 upon the judgment debtor or the 3rd party at the
28 discretion of the court.

29 **Sec. 3. 14 MRSA §3127-B, sub-§1, as enacted by**
30 **PL 1987, c. 184, §11, is amended to read:**

31 1. Order. When it is shown upon ex parte motion
32 and affidavit that the judgment debtor has either
33 failed to timely make 2 or more payments required by
34 an installment order under section 3127 or when the
35 judgment debtor has failed to appear, after having
36 been subpoenaed for a disclosure hearing provided for
37 in this chapter, the court may approve the service of
38 an order to withhold and answer on the judgment
39 debtor's employer or other payor of earnings. The
40 order shall state the amount owed on the judgment

1 debt, interest and costs. If the court has previously
2 determined an installment payment amount under section
3 3127, the order shall state that amount. The order
4 shall demand an answer under oath listing the dollar
5 amounts of all earnings owed or payable to the debtor
6 and the calculation of the judgment debtor's
7 disposable earnings. The order shall be served on the
8 employer or other payor and on the judgment debtor
9 within 60 days of the date of the order. A form
10 answer shall be attached to the order when served on
11 the employer or other payor of earnings.

12 **Sec. 4. 14 MRSA §3134, as repealed and replaced**
13 **by PL 1987, c. 184, §17, is amended to read:**

14 §3134. Failure to appear

15 1. Issuance of civil order of arrest. If the
16 judgment debtor fails to appear after being duly
17 served with a subpoena under section 3123 and the
18 judgment creditor appears at the time and place named
19 in that subpoena, the creditor may request the court
20 to issue a civil order of arrest. The court shall
21 issue a civil order of arrest upon the filing by
22 the request of the creditor of an affidavit
23 stating that he knows of no infirmity, disability or
24 good cause preventing the appearance of the debtor,
25 which affidavit also sets forth. The creditor shall
26 also state the address and telephone number where the
27 creditor or his representative can be reached and the
28 address of the debtor.

29 2. Alternative method. Instead of requesting a
30 civil order of arrest, the creditor may proceed by way
31 of a motion for contempt for failure to appear.
32 This motion shall be under oath or accompanied by an
33 affidavit and The court may issue a contempt subpoena
34 ordering the debtor to appear, which shall be served
35 upon the debtor with a contempt subpoena in the
36 manner set forth in section 3136. If the debtor,
37 after being duly served with a contempt subpoena,
38 fails to appear at the time and place named in the
39 contempt subpoena, the court may find the debtor in
40 civil contempt and shall issue a civil order of arrest
41 under section 3136, subsection 4 or, at the creditor's

1 request, shall issue an order for the debtor to appear
2 in court at a certain date and time for further
3 proceedings, which order shall be served upon the
4 debtor in hand by the sheriff who shall obtain from
5 the debtor his personal recognizance bond to appear in
6 court at the specified date and time.

7
8
9
10
11
12
STATEMENT OF FACT

8 The purpose of these changes in the recently
9 enacted law relating to enforcement of money judgments
10 is to correct errors and remove repetitive proceedings
11 in those enforcement actions.

4058020588