

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)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 641

S.P. 251

In Senate, March 7, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator WEYMOUTH of Kennebec.

Cosponsored by Representative DELLERT of Gardiner and Representative PARADIS of Augusta.

STATE OF MAINE

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

An Act to Implement Civil Penalties for Passing Worthless Instruments.



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

3 **14 MRSA c. 712 is enacted to read:**

5 **CHAPTER 712**

7 **CIVIL LIABILITY FOR BAD CHECKS**

9 **§6071. Civil penalties for bad checks**

11 1. Recovery of costs. In any action against a person who
13 makes, issues or draws any check, draft or order for the payment
15 of money which has been dishonored for lack of funds or credit
17 to pay the check, draft or order, or because the maker, issuer
19 or drawer has no account with the drawee, the holder may recover
from the maker, issuer or drawer the amount of the check, draft
or order, plus the court costs, service costs and collection
costs incurred by the holder. The amount of the check, draft or
order, plus the enumerated costs, may be recovered only if:

21 A. The holder gives notice pursuant to section 6073 for
23 payment of the check, draft or order; and

25 B. The maker, issuer or drawer fails to tender an amount
27 equal to the amount of the check, draft or order, plus bank
fees and mailing costs within 10 days of receiving the
notice set forth in section 6072.

29 2. Failure to make restitution. If a judgment is made
31 against a maker, issuer or drawer pursuant to subsection 1,
33 paragraphs A and B and that person fails to make restitution on
35 the date of judgment, the maker, insurer or drawer shall pay to
37 the holder interest at the rate of 12% per annum from the date
of dishonor and collection costs not to exceed \$40 or the face
amount of the check whichever is less. In the event of court
action, the court after notice and the expiration of the 10
days, shall award reasonable attorney's fees.

39 **§6072. Satisfaction of claim**

41 1. Satisfaction of claim. Subsequent to the commencement
43 of the action but prior to the hearing, the defendant may tender
45 to the plaintiff, as satisfaction of the claim, an amount of
47 money equal to the amount of the check, draft or order; a
reasonable handling fee; accrued interest; collection costs
equal to the face amount of the check, draft or order not to
exceed \$40; and the incurred court and service costs.

49 2. Small claims action. An action under this section may
51 be brought as a small claims action if the amount claimed does
not exceed the jurisdictional limits for small claims action or
may be brought in any other court that has jurisdiction.

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31

§6073. Notice for nonpayment

The notice shall be in substantially the following form.

"A check, draft or order by you and made payable to
..... in the amount of has not been
accepted for payment by which is the
drawee bank designated on your check. The check is dated
..... and it is numbered"

You are CAUTIONED that unless you pay the amount of this
check within 10 days after the date this letter is postmarked,
you may have to pay the following additional costs:

1. Attorney fees;
2. Services costs; and
3. Interest.

You are advised to make payment to
at the following address"

STATEMENT OF FACT

This bill attempts to make restitution to the individual who has exchanged value for worthless paper, by awarding the successful plaintiff not only the face amount of the obligation, but also those incidents of the action which, if not awarded, would leave the plaintiff with a loss.