

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1258

H.P. 901

House of Representatives, April 20, 1989

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

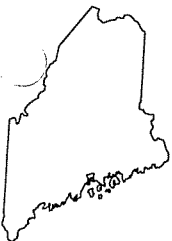
Presented by Representative CONLEY of Portland.

Cosponsored by Senator HOBBS of York, Representative MARSANO of Belfast and Senator COLLINS of Aroostook.

STATE OF MAINE

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

An Act to Amend the Standard Fire Insurance Policy.



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

3 24-A MRSA §3002, sub-§1, in that part captioned "Consideration and
5 Insuring Clause", as amended by PL 1969, c. 177, §56, is further
amended to read:

7
9 Consideration and Insuring Clause

11 In Consideration of the Provisions and Stipulations herein
or added hereto and of the premium above specified, this Company,
13 for the term of from at noon (Standard
Time) to at noon (Standard Time) at location of
15 property involved, to an amount not exceeding the amount(s) above
specified, does insure and legal representatives, to
17 the extent of the actual cash value of the property at the time
of loss, but not exceeding the amount which it would cost to
19 repair or replace the property with material of like kind and
quality within a reasonable time after such loss, without
21 allowance for any increased cost of repair or reconstruction by
reason of any ordinance or law regulating construction or repair,
23 and without compensation for loss resulting from interruption of
business or manufacture, nor in any event for more than the
25 interest of the insured, against all DIRECT LOSS BY FIRE,
LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS
27 INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED,
to the property described herein while located or contained as
29 described in this policy, or pro rata for five days at each
proper place to which any of the property shall necessarily be
31 removed for preservation from the perils insured against in this
policy, but not elsewhere. For purposes of this policy, actual
33 cash value of the property means the replacement cost of the
property less depreciation.

35

37 STATEMENT OF FACT

39 Under Maine's standard fire insurance policy, an insurance
carrier is liable to the insured for "the actual cash value of
41 the property at the time of the loss." In 2 decisions, Forer v.
Quincy Mutual Fire, 295 A.2d 247, Me. 1972, partial loss, and
43 Gendron v. Pawtucket Mutual Insurance Company, 384 A.2d 694, Me.
1978, total loss, the Law Court defined actual cash value as the
45 fair market value at the time the property is destroyed. Prior
to those decisions, actual cash value had been interpreted by
47 insurance companies to mean replacement cost less depreciation.

49 Those 2 Law Court decisions created some inequities. For
example, if a new home costs \$150,000, the home will be insured
51 for \$150,000 as that is the cost associated with replacing it in
the event of total destruction. If, however, because of
53 circumstances unrelated to the cost of construction, such as the
location of the home, the home has a market value of only

1 \$100,000 and the home is destroyed by fire, the insurer is liable
only for \$100,000.

3

5 This bill addresses that issue by amending the standard fire
insurance policy to hold the insurer liable for the replacement
7 cost of the house, less depreciation, up to the total amount of
the policy.