

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1405

H.P. 1007

House of Representatives, May 1, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative BAILEY of Farmington.

Cosponsored by Senator WEBSTER of Franklin and Representative HANLEY of Paris.

STATE OF MAINE

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

An Act to Amend the Laws Relating to Small Claims.



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

3 Sec. 1. 14 MRSA §7483, as enacted by PL 1981, c. 667, §2, is
amended to read:

5

7 §7483. Venue

9 A small claim shall be brought in the division of the
District Court where the transaction occurred, where the
11 plaintiff resides, where the defendant resides, where the
defendant has a place of business or, if the defendant is a
corporation or partnership, where its registered agent resides.

13

15 Sec. 2. 14 MRSA §7484, sub-§1, as enacted by PL 1981, c. 667,
§2, is amended to read:

17 1. Notice to defendant. The clerk shall cause all notices
given to the defendant in a small claims action, including, but
19 not limited to, notice of the claim, date, time and place of the
hearing and notice of any disclosure hearing, to be sent by
21 postpaid registered or certified mail, addressed to the last
known post office address of the defendant, or to be delivered in
23 hand by a sheriff or a deputy to the defendant or a person of
suitable age and discretion then residing at the defendant's
25 usual place of abode;

27 Sec. 3. 14 MRSA §7484, sub-§4, as enacted by PL 1981, c. 667,
§2, is amended to read:

29

31 4. Removal. There shall be no removal of small claims
action to Superior Court; and

33 Sec. 4. 14 MRSA §7484, sub-§4-A is enacted to read:

35 4-A. Judgment; entry; notice. Upon completion of the
37 hearing, the court shall promptly enter judgment for the
prevailing party for the relief to which that party is entitled.
39 The clerk shall provide to the parties a copy of the notice of
judgment, which shall require satisfaction of the judgment within
41 30 days, shall schedule a disclosure hearing on a date certain,
to be held if the judgment is not satisfied, and shall notify the
43 judgment debtor that failure to appear at the disclosure hearing
may result in the issue of summary process if requested by the
45 judgment creditor; and

47 Sec. 5. 14 MRSA §7484, sub-§5, as enacted by PL 1981, c. 667,
§2, is amended to read:

49 5. Disclosure. There shall be a simplified enforcement of
money judgment proceeding through which a judgment creditor may
51 obtain the appearance of the judgment debtor at a disclosure
hearing. The Except for the requirements set forth in this

1 subsection, the enforcement of money judgment proceeding shall be
2 consistent with the provisions of chapter 502,--except--that--the
3 subpoena-requirement-may-be-met-by-another-form-of-notice.

5 A. The subpoena requirement shall be met by service of the
6 notice of judgment under subsection 4-A.

7
8 B. If the judgment debtor fails to appear at the disclosure
9 hearing, after being duly served with a notice of judgment
10 under subsection 4-A and the judgment creditor appears at
11 the time and the place named in that notice, the creditor
12 may request that the court issue summary process requiring
13 the judgment debtor to appear for a hearing on a day certain
14 and show cause why the debtor should not be adjudged guilty
15 of contempt and be punished by that reasonable fine or
16 imprisonment which the circumstances warrant. The judgment
17 debtor shall be released only upon payment of cash bail or
18 surety.

19

21

STATEMENT OF FACT

23

24 This bill amends certain laws governing the processing of
25 small claims cases.

27

28 Section 1 of the bill provides that a small claim may be
29 brought in the district where the plaintiff resides.

31

32 Section 2 of the bill provides that a statement of claim may
33 be delivered in hand by a sheriff or a deputy to the defendant or
34 a person of suitable age at the defendant's home.

35

36 Under current law, if a judgment is not satisfied, a
37 disclosure hearing may be held at the request of the prevailing
38 party. Section 4 of this bill requires that a disclosure hearing
39 be scheduled by the court in the notice of judgment, and that the
40 debtor be informed that failure to appear at the disclosure
41 hearing could result in the entry of summary process.

43

44 Section 5 of this bill establishes different procedures for
45 failing to appear than are set forth in chapter 502. Under this
46 bill, if a judgment debtor fails to appear at a disclosure
47 hearing, the court will issue summary process requiring the
48 judgment debtor to appear for a hearing to determine whether the
49 debtor is in contempt of court. The judgment debtor may not be
50 released from custody unless the debtor pays a cash bail or
51 surety.

52