

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 941

H.P. 662

House of Representatives, March 6, 1991

Received by the Clerk of the House on March 4, 1991. Referred to the Committee on Judiciary and 1400 ordered printed pursuant to Joint Rule 14.

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

EDWIN H. PERT, Clerk

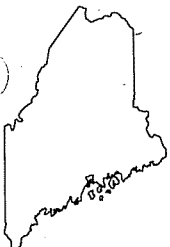
Presented by Representative PARADIS of Augusta.

Cosponsored by Representative HASTINGS of Fryeburg and Representative FARNSWORTH of Hallowell.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the State's Statute of Frauds.



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

2
33 MRSA §51 is repealed and the following enacted in its
4 place:

6 §51. Writing required; cases; consideration need not be expressed

8 1. Writing required. An action may not be maintained in
9 any of the cases listed in subsection 2 unless the promise,
10 contract or agreement on which the action is brought, or some
11 memorandum or note of the promise, contract or agreement, is:

12 A. In writing; and

14 B. Signed by the party to be charged with the promise,
16 contract or agreement, or by some person lawfully authorized
17 to sign for the party to be charged.

18 2. Cases. The requirements of subsection 1 apply to the
20 following cases:

22 A. Upon any special promise made by an executor or
23 administrator to answer damages out of the executor's or
24 administrator's own estate;

26 B. Upon any special promise made by any person to answer
27 for the debt, default or misdoings of another;

28 C. Upon an agreement made in consideration of marriage;

30 D. Upon any contract for the sale of lands, tenements or
32 hereditaments or of any interest in or concerning them;

34 E. Upon any agreement that is not to be performed within
35 one year from the making of the agreement;

36 F. Upon any contract to pay a debt after a discharge of
38 that debt under federal bankruptcy laws or state assignment
39 or insolvency laws;

40 G. Upon any agreement to give, bequeath or devise by will
42 to another any real, personal or mixed property;

44 H. Upon any agreement to refrain from carrying on or
45 engaging in any trade, business, occupation or profession
46 for any term of years or within any defined territory or
47 both. This paragraph does not apply to any agreement made
48 prior to August 13, 1947; and

2 I. Upon any agreement to lend money, extend credit, forbear
4 repayment or make any other financial accommodation for more
6 than \$25,000.

8 3. Consideration. The consideration for the promise,
10 contract or agreement need not be expressed in the writing
12 required under subsection 1 and may be proved otherwise.

STATEMENT OF FACT

14 As of November 1990, 33 states have enacted statute of fraud
16 requirements that require large dollar loan agreements to be in
18 writing. These laws protect both parties by requiring the terms
20 of the loan arrangement to be reduced to writing. It is
22 important that all parties negotiating a credit agreement for
24 funds exceeding \$25,000 understand that a final written agreement
is necessary to establish a binding contract. In jurisdictions
where vague oral discussions, often of a preliminary nature, may
be used to claim that a binding promise to lend money exists,
prudent lenders may withdraw from the market, thereby reducing
the availability of credit.

26 The Maine Revised Statutes, Title 33, section 51 is repealed
28 and replaced to make technical corrections. The new language is
contained in subsection 2, paragraph I.