MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1546

H.P. 1057

House of Representatives, April 16, 1991

Reference to the Committee on Business Legislation suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative FARNSWORTH of Hallowell.
Cosponsored by Representative KONTOS of Windham and Representative HOGLUND of Portland.

STATE OF MAINE

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

An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages.



Be it enacted by the People of the State of Maine as follo	Вe	it	enacted	by	the	People	of	the	State	of	Maine	as	follov
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Sec. 1. 5 MRSA §213, sub-§1, as amended by PL 1983, c. 29, §2, is further amended to read:

1. Court action. Any person who purchases or leases goods, services or property, real or personal, primarily for personal, family or household purposes and thereby suffers any loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 207 or by any rule or regulation issued under section 207, subsection 2 may bring an action either in the Superior Court or District Court for actual damages, restitution and for such other equitable relief, including an injunction, as the court may-deem determines to be necessary and proper. There shall-be is a right to trial by jury in any action brought in Superior Court under this section.

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Sec. 2. 5 MRSA §213, sub-§1-A is enacted to read:

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1-A. Settlement offer. At least 30 days prior to the filing of an action for damages, a written demand for relief, identifying the claimant and reasonably describing the unfair and deceptive act or practice relied upon and the injuries suffered, must be mailed or delivered to any prospective respondent at the respondent's last known address. A person that receives a demand for relief who, within 30 days of mailing or delivery of the demand for relief, makes a written tender of settlement that is rejected by the claimant may file the written tender and an affidavit concerning its rejection in any subsequent court action. If the court finds that the relief tendered was reasonable in relation to the injury actually suffered by the claimant, recovery is limited to the amount tendered.

The demand requirement of this subsection does not apply if the claim is asserted by way of counterclaim or cross claim.

If a court finds in any action commenced under section 213 that there has been a violation of section 207. The court shall deny recovery of any attorney's fees and costs that are incurred after the rejection of a reasonable offer of settlement made within 30 days of the mailing or delivery of the written demand for relief required by this section.

STATEMENT OF FACT

This bill allows consumers who have been injured by an illegal or unfair trade practice to seek from the business reimbursement for their damages. In order to be eligible for such damages, the consumer must contact the business before

filing suit and inform the business of the alleged unfair trade
practice and the consumer's claimed damages. The business may
respond by making a settlement offer. If the consumer then
rejects this offer and decides instead to go to trial, the court
may find that the business' settlement offer was reasonable and
thereby limit any damage recovery to the settlement offer
amount. Attorney's fees would also be limited to those incurred
before rejection of the reasonable written offer of settlement.