

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)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

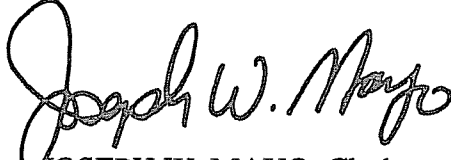
No. 607

H.P. 470

House of Representatives, February 23, 1993

An Act to Clarify the Laws Related to Debt Collectors and Repossession Companies.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.
Reference to the Committee on Business Legislation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative KUTASI of Bridgton.
Cosponsored by Representative: CONSTANTINE of Bar Harbor.

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

2
4 Sec. 1. 32 MRSA §11002, sub-§6, as enacted by PL 1985, c. 702, §2, is amended to read:

6 6. Debt collector. "Debt collector" means any person
8 conducting business in this State, the principal purpose of which
10 is the collection of any debts, or who regularly collects or
12 attempts to collect, directly or indirectly, debts owed or due or
14 asserted to be owed or due another. The term includes persons
16 who furnish collection systems carrying a name which that
18 simulates the name of a debt collector and who supply forms or
20 form letters to be used by the creditor even though the forms
22 direct the debtor to make payments directly to the creditor.
24 Notwithstanding the exclusion provided by section 11004,
26 subsection 7, the term includes any creditor who, in the process
28 of collecting his the creditor's own debts, uses any name other
30 than his-own-which the creditor's that would indicate that a 3rd
32 person is collecting or attempting to collect these debts. For
34 purposes of subchapter II, the term includes any attorney-at-law
36 whose principal activities include collecting debts as an
38 attorney on behalf of and in the name of clients. The term also
40 includes any person in--any-business--the--principal--purpose--of
42 which--is regularly engaged in the enforcement of security
44 interests. The term does not include a common carrier that
46 retrieves collateral when a consumer has voluntarily surrendered
48 possession. A person is regularly engaged in the enforcement of
50 security interests if that person enforced security interests
more than 5 times in the previous calendar year. If a person
does not meet these numerical standards for the previous calendar
year, the numerical standards must be applied to the current
calendar year.

34 Sec. 2. 32 MRSA §11003, sub-§6, as enacted by PL 1985, c. 702,
36 §2, is repealed.

38 Sec. 3. 32 MRSA §11017 is enacted to read:

40 §11017. Repossession activity

42 1. Right to take possession after default. A debt
44 collector acting on behalf of a creditor may take possession of
46 collateral only if possession can be taken without entry into a
48 dwelling, unless that entry has been authorized after default and
50 without the use of force or other breach of the peace.

42 2. Return of private property. A debt collector shall
44 inventory any unsecured property taken with repossessed
46 collateral and immediately notify the consumer that the property
48 will be made available in a manner convenient to the consumer.

2

STATEMENT OF FACT

4

6 This bill amends certain debt collection limitations in the
Maine Fair Debt Collection Practices Act pertaining to attorneys
who engage in collection activities as a principal activity.
8 Congress removed the exemption for attorneys from the federal
Fair Debt Collection Practices Act in 1986. The bill also
10 clarifies that once a person who is regularly engaged in the
enforcement of security interests enforces those interests more
12 than 5 times in one year, that person becomes subject to the debt
collector laws.

14

16 The bill clarifies laws relating to activities of a
repossession company.