

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 299

S.P. 124

In Senate, January 27, 1995

**An Act to Repeal the Prohibition on Prejudgment Attachments in
Consumer Credit Cases.**

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

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator ABROMSON of Cumberland.

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

2
4 **Sec. 1. 9-A MRSA §5-104**, as enacted by PL 1973, c. 762, §1,
is repealed.

6 **Sec. 2. 9-A MRSA §5-201, sub-§1**, as amended by PL 1979, c.
660, §9, is further amended to read:

8
10 1. If a creditor has violated the provisions of this Act
12 applying to collection of excess charges or enforcement of
rights, section 1-201, subsection 5, waiver clauses, section
14 1-107, use of multiple agreements, section 3-304, certain
negotiable instruments, section 3-307, assignee subject to
16 defenses, sections 3-403 and 3-404, restrictions on liability in
consumer leases, section 3-401, balloon payment, section 3-308,
18 security in sales or leases, section 3-301, cross-collateral,
sections 3-302 and 3-303, assignments of earnings, section 3-305,
attorney's fees, section 2-507, limitations on default charges,
20 section 3-402, authorizations to confess judgment, section 3-306,
restrictions on interests in land as security, section 2-307,
22 limitations on the schedule of payments or loan term for
regulated loans, section 2-308, for credit insurance, section
24 4-104, separate charges for excess charge for property insurance,
section 4-301, restrictions on deficiency judgments, section
26 5-103, ~~garnishment before judgment, section 5-104~~, or limitations
on garnishment, section 5-105, cure of default, section 5-111,
28 misrepresentation, section 5-115, illegal, fraudulent or
unconscionable conduct in an attempted collection of debts,
section 5-116, any aggrieved consumer has a right to recover
30 actual damages from a person violating this Act, or in lieu
thereof any consumer named as a plaintiff in the complaint as
32 originally filed has a right to recover from a person violating
this Act an amount determined by the court not less than \$250 nor
34 more than \$1,000. With respect to violations from open-end
credit, no action pursuant to this subsection may be brought more
36 than 2 years after the violations occurred. With respect to
violations arising from other consumer credit transactions, no
38 action pursuant to this subsection may be brought more than 2
years after the due date of the last scheduled payment of the
40 agreement.

42 **Sec. 3. 9-A MRSA §11-106, sub-§1, ¶B**, as enacted by PL 1991, c.
787, is amended to read:

44 B. A "consumer credit sale" as defined in section 1-301,
46 subsection 11; except that the following sections of the
Maine Consumer Credit Code apply: section 1-107, waiver,
48 agreement to forego rights, settlement of claims; section
1-111, record retention; section 1-201, territorial
50 application; section 1-202, exclusions; section 1-203,

2 jurisdiction and service of process; section 2-507,
attorney's fees and collection costs; section 3-202, notice
4 to consumer; section 3-203, notice of assignment; section
3-305, no assignment of earnings; section 3-306,
6 authorization to confess judgment prohibited; section 3-307,
certain negotiable instruments prohibited; section 3-309,
referral sales; section 3-403, assignee subject to defenses;
8 ~~section 5-104, no garnishment before judgment;~~ section
5-105, limitation on garnishment; section 5-106, no
10 discharge from employment for garnishment; section 5-112,
creditor's right to take possession after default; section
12 5-113, venue; section 5-114, stay of enforcement of
judgment; section 5-115, misrepresentation; section 5-116,
14 illegal, fraudulent or unconscionable conduct in attempted
collection of debts; section 5-117, prohibited practices;
16 section 5-201, effect of violations on rights of parties;
section 5-202, refunds and penalties as setoff to
18 obligation; section 5-301, violations; Article VI in its
entirety, except that the term "original unpaid balances
20 arising from consumer credit transactions" described in
section 6-203, subsection 2 means "gross rental receipts
22 from rental-purchase agreements" for purposes of
administration of this Article; section 8-104, regulations,
24 model forms; and section 8-402, regulation of credit reports;

26

STATEMENT OF FACT

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This bill repeals the law prohibiting a creditor from
30 obtaining an interest in property of a debtor before entry of
judgment in a consumer credit case. This bill also takes out
32 references to the repealed section that are mentioned in other
parts of the statutes.