## MAINE STATE LEGISLATURE

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	L.D. 1205
2	DATE: $5-5-97$ (Filing No. H-342)
4	DATE: Jed (Filing No. H-372)
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6	CRIMINAL JUSTICE
8	
10	Reproduced and distributed under the direction of the Clerk of the House.
12	STATE OF MAINE
14	HOUSE OF REPRESENTATIVES 118TH LEGISLATURE
16	FIRST SPECIAL SESSION
18	COMMITTEE AMENDMENT "A" to H.P. 888, L.D. 1205, Bill, "A
20	Act to Amend Certain Provisions Regarding the Presumption of Negotiating a Worthless Instrument"
22	
24	Amend the bill by striking out all of section 1 and inserting in its place the following:
26	'Sec. 1. 17-A MRSA §708, sub-§2-A is enacted to read:
28	2-A. The following evidentiary provisions apply.
30	A. It is presumed that the person who issued or negotiated the instrument had no account with the drawee at the time
32	the instrument was issued or negotiated if there is a purported stamp or writing of the drawee, payor bank or
34	presenting bank on or accompanying the instrument that states "no account," "account closed" or some other
3,6	terminology indicating that the instrument was not honored because no account existed.
38	
40	B. It is presumed that the person who issued or negotiated the instrument had insufficient funds with the drawee at the
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B. It is presumed that the person who issued or negotiated the instrument had insufficient funds with the drawee at the time the instrument was issued or negotiated if there is a purported stamp or writing of the drawee, payor bank or presenting bank on or accompanying the instrument that states "insufficient funds," "NSF" or some other terminology indicating that the instrument was not honored due to lack of funds.

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	<u>C. I</u>	he pur	ported	stamp	or w	ritino	g of	the d	rawee	, payor	<u>bank</u>
	or p	present	ing b	ank	on c	or a	CCOMP	anyin	g a	negot	<u>:iable</u>
•	instr	ument	is adm	nissib.	le in	<u>evi</u>	dence	in a	any c	ourt o	f the
	State	, unle	ss the	defen	dant	reque	sts i	n wr	iting	at lea	st 10
	days	before	trial	that	the	prose	cutio	n pro	vide	a qua	ified
	witne	ss to	testify	as to	why	the i	<u>nstru</u>	ment	was n	ot hone	red.

## SUMMARY

This amendment changes the law regarding the crime of negotiating a worthless instrument by creating a presumption that the content of the stamp or writing of the drawee on or accompanying a negotiable instrument is accurate. In other words, if the stamp states that the instrument was not honored because there were insufficient funds, then it is presumed that there were insufficient funds. The language in the amendment is modeled after language in the civil evidentiary provisions regarding negotiable instruments in the Maine Revised Statutes, Title 11, section 3-1505.

The amendment also states that the stamp or writing of the drawee is evidence admissible in any court in the State, unless the defendant requests at least 10 days before trial that the prosecution provide a qualified witness to testify as to why the instrument was not honored.

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