

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 681

S.P. 217

In Senate, February 8, 2005

### An Act Regarding the Use of Arbitration in Certain Consumer Cases

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BROMLEY of Cumberland.  
Cosponsored by Representative O'BRIEN of Lewiston and  
Representatives: BEAUDETTE of Biddeford, BERUBE of Lisbon, CROSBY of Topsham,  
RECTOR of Thomaston.

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

4 **Sec. 1. 5 MRSA §213, sub-§1**, as amended by PL 1991, c. 536,  
5 §1, is further amended to read:

6 **1. Arbitration or court action.** Any person who purchases  
7 or leases goods, services or property, real or personal,  
8 primarily for personal, family or household purposes and thereby  
9 suffers any loss of money or property, real or personal, as a  
10 result of the use or employment by another person of a method,  
11 act or practice declared unlawful by section 207 or by any rule  
12 or regulation issued under section 207, subsection 2 may bring an  
13 action either by arbitration, if the contract of purchase or  
14 lease so specifies, or in the Superior Court or District Court  
15 for actual damages, restitution and ~~for~~ such other equitable  
16 relief, including an injunction, as the arbitrator or court  
17 determines to be necessary and proper. There is a right to trial  
18 by jury in any action brought in Superior Court under this  
19 section.

20 **Sec. 2. 5 MRSA §213, sub-§1-A**, as enacted by PL 1991, c. 536,  
21 §2 and affected by §3, is amended to read:

22 **1-A. Settlement offer.** At least 30 days prior to the  
23 filing of an action for damages, a written demand for relief,  
24 identifying the claimant and reasonably describing the unfair and  
25 deceptive act or practice relied upon and the injuries suffered,  
26 must be mailed or delivered to any prospective respondent at the  
27 respondent's last known address. A person receiving a demand for  
28 relief, or otherwise a party to any arbitration or litigation  
29 arising from the claim that is the subject of the arbitration or  
30 court action, may make a written tender of settlement or, if an  
31 arbitration or a court action has been filed, an offer of  
32 judgment. If the judgment obtained in an arbitration proceeding  
33 or court by a claimant is not more favorable than any rejected  
34 tender of settlement or offer of judgment, the claimant may not  
35 recover attorney's fees or costs incurred after the more  
36 favorable tender of settlement or offer of judgment.

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

39 **Sec. 3. 5 MRSA §213, sub-§§2 and 3**, as enacted by PL 1973, c.  
40 251, are amended to read:

41 **2. Fees and costs.** If the arbitrator or court finds, in any  
42 action commenced under this section that there has been a  
43 violation of section 207, the petitioner shall, in addition to  
44 other relief provided for by this section and irrespective of the  
45 amount in controversy, be awarded reasonable attorney's fees and  
46 costs incurred in connection with said action.

2           **3. Notices to Attorney General.** Upon commencement of any  
3 action brought under subsection 1, the arbitrator or clerk of  
4 courts shall mail a copy of the complaint or other initial  
5 pleading to the Attorney General and upon entry of any judgment  
6 or decree in the action, shall mail a copy of such judgment or  
7 decree to the Attorney General.

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### SUMMARY

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This bill expands the ability of parties to use arbitration  
as an alternative dispute resolution mechanism in order to save  
time and expense in the resolution of consumer complaints.

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