

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1518

H.P. 1065

House of Representatives, March 30, 2005

An Act To Increase Access to Justice in Maine's Court System

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Speaker RICHARDSON of Brunswick.

Cosponsored by President EDMONDS of Cumberland and

Representatives: BARSTOW of Gorham, BISHOP of Boothbay, BLANCHETTE of Bangor, BLISS of South Portland, BOWEN of Rockport, BOWLES of Sanford, BRAUTIGAM of Falmouth, BURNS of Berwick, CAIN of Orono, CLARK of Millinocket, CROSBY of Topsham, CUMMINGS of Portland, CURLEY of Scarborough, DUCHESNE of Hudson, DUDLEY of Portland, DUGAY of Cherryfield, DUPLESSIE of Westbrook, EBERLE of South Portland, FAIRCLOTH of Bangor, FISCHER of Presque Isle, GERZOFKY of Brunswick, HOGAN of Old Orchard Beach, MARLEY of Portland, NORTON of Bangor, NUTTING of Oakland, PATRICK of Rumford, PELLETIER-SIMPSON of Auburn, PERCY of Phippsburg, PERRY of Calais, PINGREE of North Haven, PIOTTI of Unity, SAMPSON of Auburn, SMITH of Monmouth, TARDY of Newport, TUTTLE of Sanford, WATSON of Bath, WHEELER of Kittery, WOODBURY of Yarmouth, Senators: BRENNAN of Cumberland, GAGNON of Kennebec, HOBBS of York, ROTUNDO of Androscoggin.

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

PART A

Sec. A-1. 4 MRSA §122 is enacted to read:

§122. Consumer and Commercial Division; pilot project

1. Establishment; jurisdiction. Beginning January 1, 2006, there is established within the Superior Court a Consumer and Commercial Division pilot project to administer business and technology disputes in a coordinated, efficient and responsive manner and to afford convenient access for consumers, entrepreneurs, attorneys, litigants and any person involved in business activities. The Consumer and Commercial Division pilot project, referred to in this section as "the division," has jurisdiction over:

A. Notwithstanding section 152, subsection 4 and any other provision of law to the contrary, all small claims proceedings pursuant to Title 14, chapter 738; and

B. If at least one party is a business entity organized under the laws of this State or is a business entity with its principal place of business in this State, actions relating to, but not limited to:

(1) The rights, duties and liabilities of equity owners, managers, officers, trustees and partners of a business entity;

(2) The formation, sale or purchase or merger or conversion of a business entity;

(3) Conduct invoking antitrust laws or laws governing unfair competition or interference with business or contractual relations, or agreements or arrangements among businesses or between businesses and their agents or employees restraining competition;

(4) Commercial transactions of all kinds, including those between businesses and consumers;

(5) Environmental claims that involve a business entity;

(6) All matters regarding state regulatory issues of business and industry brought by any party, including consumers;

2 (7) Claims involving mergers, consolidations, sales of
4 assets, issuance of debt, equity and other like
 interests of business enterprise and not-for-profit
 institutions;

6 (8) Claims under the Uniform Commercial Code, if the
8 claims involve complex factual or legal issues or are
 likely to require complex case management;

10 (9) Claims arising from transactions with banks,
12 investment bankers, financial advisors, brokerage firms
14 and mutual and money funds of all kinds, if the claims
 involve complex factual or legal issues or are likely
 to require complex case management;

16 (10) Commercial, technological or consumer issues of
18 such a complex or novel nature that the Chief Justice
20 of the Superior Court determines that assignment to the
 division is likely to improve the administration of
 justice; and

22 (11) Claims in other ares of jurisdiction adopted by
24 administrative order or rule by the Supreme Judicial
 Court.

26 2. Exclusions from jurisdiction. The division does not
28 have jurisdiction over the following matters unless the case
30 arises within the jurisdiction of small claims proceedings
 pursuant to Title 14, chapter 738:

32 A. Matters subject to compulsory arbitration or to the
 exclusive jurisdiction of the District Court;

34 B. Personal injury or wrongful death matters;

36 C. Professional malpractice claims;

38 D. Employment disputes other than those involving written
40 contracts; and

42 E. Employment discrimination.

44 3. Administration of division. The Supreme Judicial Court
46 may adopt administrative orders and court rules governing the
48 practice, procedure and administration of the division. These
 practices and procedures may include, but are not limited to,
 education for the parties, case management and referral services
 to mediation and other alternate dispute resolution techniques.

2 **4. Business entity.** For purposes of this section,
"business entity" means a corporation, statutory trust, business
4 trust or association, a real estate investment trust, a common
law trust or any other unincorporated business, including a
6 partnership in any form or a limited liability company; or any
other statutory business form.

8 **5. Repeal.** This section is repealed July 1, 2008.

10 **PART B**

12 **Sec. B-1. Consumer and Commercial Division Steering Committee**
established. The Consumer and Commercial Division Steering
14 Committee, referred to in this Part as "the steering committee,"
is established to implement the Consumer and Commercial Division
16 pilot project established in the Maine Revised Statutes, Title 4,
section 122.

18 **1. Membership; vacancies; chair.** Members of the steering
20 committee, appointed to reflect the spectrum of stakeholders and
to represent the full range of interests in the development of
22 and success of the Consumer and Commercial Division pilot
project, remain members of the steering committee for the
24 duration of the pilot project unless they become unable to
serve. In the event of a vacancy, the original appointing
26 authority shall appoint a replacement. The steering committee
consists of the following 15 members:

28 A. The Chief Justice of the Supreme Judicial Court, or a
30 designee, who serves as the chair;

32 B. The Chief Justice of the Superior Court, or a designee;

34 C. The Chief Judge of the District Court, or a designee;

36 D. The State Court Administrator, or a designee;

38 E. The Attorney General, or a designee;

40 F. One member of the Senate, appointed by the President of
the Senate;

42 G. One member of the House of Representatives, appointed by
44 the Speaker of the House of Representatives;

46 H. Two members of the Maine State Bar Association,
appointed by the President of the Maine State Bar
48 Association, representing the interests of attorneys whose
practice involves issues associated with business
50 development;

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I. Three members of the public who have expertise in, and represent the interests of, Maine businesses, one of whom is appointed by the President of the Senate and 2 of whom are appointed by the Speaker of the House of Representatives; and

J. Three members of the public who represent the interest of consumer litigants before the courts on issues, including, but not limited to, environmental regulation, consumer advocacy and access to justice for low-income and indigent citizens, 2 of whom are appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives.

2. Appointments; convening of steering committee. All appointments must be made no later than 30 days following the effective date of this Part. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chair shall call and convene the first meeting of the steering committee.

3. Duties; reporting. The steering committee shall:

A. Develop a plan to implement the Consumer and Commercial Division pilot project beginning January 1, 2006 in accordance with the Maine Revised Statutes, Title 4, section 122. As part of its duties, the steering committee shall develop proposed rules governing the practice, procedure and administration of the division. The steering committee shall submit its proposed rules to the Supreme Judicial Court for its consideration;

B. Develop methodologies for measuring outcomes for the success of the Consumer and Commercial Division pilot project. In January 2007 and January 2008, the steering committee shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters on the progress of the pilot project and its measurable outcomes; and

C. After January 1, 2006, study available methods of increasing efficiency through implementation and usage of technology by the courts and by litigants throughout the state court system. The steering committee shall submit its report on this issue to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2007.

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SUMMARY

4 Part A of this bill establishes the Consumer and Commercial
6 Division pilot project within the Maine court system beginning
8 January 1, 2006. The purpose of this division is to administer
10 and resolve disputes regarding issues related to business
12 activity in a coordinated, responsive and speedy manner and to
14 afford convenient and timely access for consumers, entrepreneurs,
 attorneys and any other party involved with business activity.
 Under the pilot project, the small claims division will be under
 the jurisdiction of the Consumer and Commercial Division in an
 attempt to streamline resolution of matters currently heard by it.

 Part B of the bill establishes the Consumer and Commercial
16 Division Steering Committee. The steering committee is designed
18 to function as a partnership between the legislative and judicial
20 branches of government. The steering committee, with membership
22 reflecting a spectrum of interests, will work to develop
 proposals to implement this new project, determine relevant
 measurable outcomes and determine other areas of technology or
 infrastructure that could add additional efficiencies throughout
 Maine courts.