

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1107

H.P. 762

House of Representatives, March 20, 2009

**An Act To Promote Personal Financial Responsibility by Allowing a
Person To Make Good on Dishonored Checks Prior to the
Imposition of Criminal Penalties**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HAYES of Buckfield.

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

2 **Sec. 1. 17-A MRSA §708, sub-§1, ¶A,** as enacted by PL 2001, c. 383, §77 and
3 affected by §156, is amended to read:

4 A. The person intentionally issues or negotiates a negotiable instrument knowing
5 that it will not be honored by the maker or drawee. Violation of this paragraph is a
6 Class E crime; or

7 **Sec. 2. 17-A MRSA §708, sub-§1, ¶A-1** is enacted to read:

8 A-1. The person issues or negotiates a negotiable instrument that is not honored by
9 the maker or drawee and the person does not pay the intended recipient of the
10 negotiable instrument the full amount of the face value of the negotiable instrument,
11 along with any fees charged because the negotiable instrument was not honored,
12 within 30 days of receiving written notice sent by the intended recipient of the
13 negotiable instrument by certified mail, return receipt requested. Violation of this
14 paragraph is a Class E crime; or

15 **Sec. 3. 17-A MRSA §708, sub-§1, ¶B,** as amended by PL 2007, c. 476, §28, is
16 further amended to read:

17 B. The person violates either paragraph A or paragraph A-1 and:

18 (1) The face value of the written instrument or the aggregate value of the
19 instruments is more than \$10,000. Violation of this subparagraph is a Class B
20 crime;

21 (2) The face value of the written instrument or the aggregate value of the
22 instruments is more than \$1,000 but not more than \$10,000. Violation of this
23 subparagraph is a Class C crime;

24 (3) The face value of the negotiable instrument is more than \$500 but not more
25 than \$1,000. Violation of this subparagraph is a Class D crime; or

26 (4) At the time of negotiating a worthless instrument, the person has 2 or more
27 prior convictions for any combination of the Maine offenses listed in this
28 subparagraph or for engaging in substantially similar conduct to that of the Maine
29 offenses listed in this subparagraph in another jurisdiction. The Maine offenses
30 are: theft; any violation of this section; any violation of section 401 in which the
31 crime intended to be committed inside the structure is theft; any violation of
32 section 405 in which the crime intended to be committed inside the motor vehicle
33 is theft; any violation of section 651; any violation of section 702 or 703; or
34 attempts to commit any of these crimes. Section 9-A governs the use of prior
35 convictions when determining a sentence. Violation of this subparagraph is a
36 Class C crime.

37 **SUMMARY**

38 This bill creates a category of the crime of negotiating a worthless instrument. If a
39 person issues or negotiates a negotiable instrument that is not honored, and the intended

1 recipient sends written notice that the instrument was not honored, the person commits a
2 crime if the person does not pay the intended recipient the full amount of the face value
3 of the negotiable instrument, plus fees, within 30 days of receiving the written notice.
4 The notice must be sent by certified mail, return receipt requested. This eliminates the
5 need to prove that the person knew that the negotiable instrument would not be honored
6 at the time it was written.