

§11-112. Default; notice of default and right to cure

1. An agreement of the parties to a rental-purchase agreement with respect to default on the part of the consumer is enforceable only to the extent that the consumer fails to renew an agreement and fails to return the rented property or make arrangements for its return as provided for by the agreement. [PL 1991, c. 787 (NEW).]

2. In consumer rental-purchase agreements, after a consumer is in default for 3 business days and does not voluntarily surrender possession of the rented property, a merchant may give the consumer the notice provided in this section. A merchant gives the notice to the consumer under this section when the merchant delivers notice in the same manner as a notice provided under the Maine Consumer Credit Code, section 5-110. [PL 1991, c. 787 (NEW).]

3. The notice must be in writing and conspicuously state the name, address and telephone number of the merchant to whom payment is made, a brief identification of the transaction, the consumer's right to cure the default, the amount of payment and the date the payment must be made to cure the default. A notice in substantially the following form complies with this subsection:

(Name, address and telephone number of merchant)

(Account number, if any)

(Brief identification of transaction)

(Date) is LAST DATE FOR PAYMENT

(Amount) is the AMOUNT NOW DUE

You have failed to renew your rental agreement(s). If you pay the AMOUNT NOW DUE (above) by the LAST DATE FOR PAYMENT (above), you may continue with the contract as though you had renewed on time. If you do not pay by that date, we may exercise our rights under the law. You may be required to pay reasonable costs authorized by law.

PLEASE ALSO NOTE: As of the LAST DATE FOR PAYMENT (above) you will owe the following additional payments:

(date due)

(amount)

In order to cure your account fully, the payment or payments listed above must also be paid in full on or before the LAST DATE FOR PAYMENT.

If you are late again within the next 6 months in making your payments, we may exercise our rights without sending you another notice. If you have questions, promptly write or telephone (name of merchant).

[PL 1991, c. 787 (NEW).]

4. With respect to consumer rental-purchase agreements with payments or options to renew more frequently than monthly, after default consisting of failure to renew or return the property, a merchant may not initiate court action to recover rented property until 3 business days after notice of the consumer's right to cure is given. With respect to all other rental-purchase agreements, after default consisting of failure to renew or return the property, a merchant may not initiate court action to recover rented property until 5 business days after notice of the consumer's right to cure is given. [PL 1991, c. 787 (NEW).]

5. After notice is given and until expiration of the minimum applicable period, a consumer may cure all defaults consisting of failure to renew and failure to return the property by tendering the amount of all unpaid sums due at the same time of the tender.

[PL 1991, c. 787 (NEW).]

6. This section and the provisions on waiver, agreements to forego rights and settlement of claims do not prohibit a consumer from voluntarily surrendering possession of goods that are rented and a merchant from enforcing the security interest in the goods at any time after default. In any enforcement proceeding, a merchant shall affirmatively plead and prove either that the notice to cure is not required or that the merchant has given the required notice. The failure to plead does not invalidate any action taken by the merchant that is otherwise lawful and if the merchant had rightfully repossessed any collateral the repossession does not constitute conversion.

[PL 1991, c. 787 (NEW).]

7. Any repossession of rented property in violation of this section is void and the merchant is liable for conversion.

[PL 1991, c. 787 (NEW).]

SECTION HISTORY

PL 1991, c. 787 (NEW).

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