

§5-1111. Remedies

(1). If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the claimant's election, recover an amount equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation, the claimant need not present any document.

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(2). If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(3). If an adviser or nominated person other than a confirmer breaches an obligation under this Article or an issuer breaches an obligation not covered in subsection (1) or (2), a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an issuer specified in this subsection and subsections (1) and (2).

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(4). An issuer, nominated person or adviser who is found liable under subsection (1), (2) or (3) shall pay interest on the amount owed from the date of wrongful dishonor or other appropriate date.

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(5). Reasonable attorney's fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this Article.

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(6). Damages that would otherwise be payable by a party for breach of an obligation under this Article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

SECTION HISTORY

PL 1997, c. 429, §A2 (NEW). PL 1997, c. 429, §A4 (AFF).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.