

§2-718. Liquidation or limitation of damages; deposits

(1). Damages for breach by either party may be liquidated in the agreement but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.

(2). Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of his payments exceeds

(a). The amount to which the seller is entitled by virtue of terms liquidating the seller's damages in accordance with subsection (1); or

(b). In the absence of such terms, 20% of the value of the total performance for which the buyer is obligated under the contract or \$500, whichever is smaller.

(3). The buyer's right to restitutions under subsection (2) is subject to offset to the extent that the seller establishes

(a). A right to recover damages under the provisions of this article other than subsection (1); and

(b). The amount or value of any benefits received by the buyer directly or indirectly by reason of the contract.

(4). Where a seller has received payment in goods, their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of subsection (2); but if the seller has notice of the buyer's breach before reselling goods received in part performance, his resale is subject to the conditions laid down in this Article on resale by an aggrieved seller (section 2-706).

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 Legislature and is current through October 15, 2024. 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.