

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 276

H.P. 217

House of Representatives, January 27, 1995

**An Act to Adopt the English Rule with Exceptions and Limitations.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Portland.

Cosponsored by Representatives: CAMPBELL of Holden, POVICH of Ellsworth.

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

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4       **Sec. 1. 14 MRSA §1502-B, sub-§§4 and 5**, as enacted by PL 1985,  
c. 384, §4, are amended to read:

6       **4. Travel expenses.** Reasonable expenses of travel within  
the State to the place of trial for the prevailing party or ~~his~~  
8       the prevailing party's attorney of record, as provided by rule of  
the Supreme Judicial Court, or as directed by court, in the  
10       absence of that rule; and

12       **5. Other costs.** Such other costs as the Supreme Judicial  
Court may direct by rule; ~~and~~

14       **Sec. 2. 14 MRSA §1502-B, sub-§6** is enacted to read:

16       **6. Attorney's fees.** The reasonable attorney's fees  
18       incurred by the prevailing party in prosecuting or defending the  
action.

20       A. This subsection does not apply to the following:

22               (1) Class action cases;

24               (2) Cases seeking redress for violations of  
26       constitutional rights or cases brought under any civil  
rights or human rights law;

28               (3) Tort cases;

30               (4) Cases in which the State or any of its officers or  
32       agencies are parties;

34               (5) Cases where attorney's fees are governed by a  
separate provision of the laws; and

36               (6) Cases in which the party against whom attorney's  
38       fees would be assessed is proceeding in forma pauperis  
pursuant to the Maine Rules of Civil Procedure, Rule  
40       91, or is otherwise indigent.

42       B. A party seeking attorney's fees pursuant to this  
subsection shall file affidavits setting forth the  
44       applicable fee arrangement and itemizing the legal services  
performed by activity, date and number of hours. Upon  
46       motion by the party against whom attorney's fees are to be  
assessed, the court shall determine the amount of attorney's  
48       fees that are reasonable, but in no case may the amount of  
attorney's fees allowed exceed 50% more than the lower of



2           Finally, the bill also preserves and strengthens the offer  
of judgment procedure in the Maine Rules of Civil Procedure, Rule  
4   68, by providing that a party who declines an offer of judgment  
that is equal to or more favorable than the relief actually  
6   obtained has to pay the opposing party's attorney's fees from the  
date of the offer.