

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 734

6  
7 S.P. 276

In Senate, February 27, 1985

8 Reference to the Committee on Judiciary suggested and ordered printed.

9 JOY J. O'BRIEN, Secretary of the Senate

10 Presented by Senator Perkins of Hancock.

Cosponsored by Representative Lebowitz of Bangor, Representative  
McSweeney of Old Orchard Beach and Representative Rolde of York.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Alleviate the Excess Work in the  
18 Court System.  
19

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

22 14 MRSA §1522 is enacted to read:

23 §1522. Attorneys' fees; groundless claims

24 1. Attorneys' fees. Subject to the limitations  
25 set forth in this section, in any civil action, which  
26 involves a monetary claim, commenced or appealed in  
27 any court of record in this State, the court shall  
28 award, by way of judgment or separate order, reason-  
29 able attorneys' fees against any attorney or party  
30 who has brought or defended a civil action, either in  
31 whole or in part, that the court determines to have  
32 been substantially groundless.

33 When a court determines that reasonable attorneys'  
34 fees should be assessed, it shall allocate the pay-

1 ment of those fees among the offending attorneys and  
2 parties, jointly or severally, as it deems most just.

3 The court shall assess attorneys' fees, if it finds  
4 that an attorney or party brought or defended an ac-  
5 tion, or any part of an action, that lacked substan-  
6 tial justification or that the action, or any part of  
7 the action, was interposed for delay or harassment,  
8 or if it finds that an attorney or party unnecessari-  
9 ly expanded the proceeding by other improper conduct,  
10 including, but not limited to, abuses of discovery  
11 procedures. As used in this section, "lacked substan-  
12 tial justification" means substantially  
13 groundless or substantially vexatious. It shall be  
14 presumed that an action was "substantially  
15 groundless" if a party fails to obtain judgment in  
16 his favor for at least 60% of the amount of the moneta-  
17 ry damages claimed by the party.

18 The provisions of this section do not apply to mat-  
19 ters involving divorce, marital separation or claims  
20 for workers' compensation under the laws of this  
21 State.

22 2. Stipulation as to fees. With the approval of  
23 the court, 2 or more parties to an action may agree,  
24 by written stipulation filed with the court or by  
25 oral stipulation in open court, to no award of attor-  
26 neys' fees.

27 3. Applicability. this section applies in all  
28 cases unless attorneys' fees are otherwise specifi-  
29 cally provided by the law, in which case the provi-  
30 sion allowing the greater award shall prevail.

31 4. Actions to which section applies. This sec-  
32 tion applies to all civil actions commenced on or af-  
33 ter the effective date of this section. Where a civ-  
34 il action is commenced prior to the effective date of  
35 this section, this section applies to any appeal of  
36 that action, notice of which is filed on or after the  
37 effective date of this section, but only to claims  
38 for attorneys' fees for services rendered for the ap-  
39 peal.

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STATEMENT OF FACT

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Courts of record of this State have become increasingly burdened with unnecessary litigation which is straining the judicial system and interfering with the effective administration of civil justice. This bill sets forth provisions for the recovery of attorneys' fees in courts of record when the bringing or defense of an action, or part of an action, is determined to have been substantially groundless.

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