

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1529, L.D. 2164)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2353

7
8 H.P. 1669

House of Representatives, April 8, 1986

9 Reported by Representative Murray from the Committee on Business and
10 Commerce and printed under Joint Rule 2. Original bill sponsored by
11 Representative Stevens of Bangor. Cosponsored by Representative Warren of
Scarborough, Representative Priest of Brunswick and Senator Chalmers of
Knox.

EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Amend the Law Giving Protection to
19 Shareholders in Maine Corporations.
20

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

23 13-A MRSA §910, sub-§9, ¶H, as enacted by PL
24 1985, c. 394, §3, is amended to read:

25 H. The costs and expenses of any such proceeding
26 shall be determined by the court and shall be as-
27 sessed against the controlling person, but all or
28 any part of those costs and expenses may be ap-
29 portioned and assessed as the court may deem eq-
30 uitable against any or all of the demanding
31 shareholders who are parties to the proceeding to
32 whom the controlling person shall have made an
33 offer to pay for the shares, if the court finds
34 that the action of those shareholders in failing
35 to accept that offer was arbitrary or vexatious
36 or not in good faith. Those expenses shall in-

1 clude reasonable compensation for and reasonable
2 expenses of the appraisers, but shall exclude the
3 fees and expenses of counsel for any party and
4 shall exclude the fees and expenses of experts
5 employed by any party, unless the court otherwise
6 orders for good cause. The court shall award
7 each shareholder who is a party to the proceeding
8 reasonable compensation for any expert or experts
9 employed by the shareholder in the proceeding and
10 the shareholder's reasonable attorney's fees and
11 expenses, if:

12 (1) No offer was made; or

13 (2) The fair value of the shares as deter-
14 mined materially exceeds the amount which
15 the controlling person offered to pay there-
16 for; ~~or~~ and

17 (3) The amount which the controlling person
18 offered to pay, on a per share basis, is
19 less than the highest price per share paid
20 by the controlling person in the 2 years im-
21 mediately preceding the date of the com-
22 plaint; and

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STATEMENT OF FACT

2 This new draft would not eliminate all of the
3 Maine Revised Statutes, Title 13-A, section 910, but
4 would only eliminate the requirement that the con-
5 trolling person reimburse the shareholders for the
6 cost of their attorneys and experts if the control-
7 ling person offered the shareholders less than the
8 highest price per share which he paid during the pre-
9 ceding 2 years. The requirement is unreasonable in
10 that it would apply even if the court were to hold
11 that the controlling person offered "fair value" for
12 the shares. Furthermore, the requirement is unneces-
13 sary since the court is already mandated to order re-
14 imbursement if it finds that the fair value of the
15 shares materially exceeds the amount offered.

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