

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1436

H.P. 1030

House of Representatives, May 3, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HANLEY of Paris.

Cosponsored by Representative MARSANO of Belfast, Senator HOBBS of York and Representative STEVENS of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Amend the Laws Relating to Offers of Judgment.



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

3 **14 MRSA §103** is enacted to read:

5 **§103. Offers for a specified judgment**

7 In any civil action at any time more than 10 days before the
9 trial begins or within such shorter time as the court may
11 approve, any party may serve upon any adverse party an offer to
13 enter a specified judgment for the money, property or other
15 relief specified in the offer, along with a statement of the
17 costs then accrued. If within 10 days after the service of the
19 offer, or within such shorter time as the court may order, the
21 adverse party serves written notice that the offer is accepted,
23 either party may then file the offer and notice of acceptance
25 together with proof of service of the notice and the clerk shall
27 then enter judgment. An offer not accepted shall be deemed
29 withdrawn and evidence of the offer is not admissible except in a
31 proceeding to determine costs. If the judgment, excluding costs,
33 finally obtained by the offeree is not more favorable than the
35 offer, excluding costs, the offeree must pay the costs and
37 reasonable attorney's fees incurred by the offeror after the
39 offer is made. The fact that an offer is made but not accepted
41 does not preclude a subsequent offer. When the liability of one
43 party to another has been determined by verdict, order or
45 judgment, but the amount or extent of the liability remains to be
47 determined by further proceedings, the party adjudged liable may
49 make an offer of judgment, which shall have the same effect as an
51 offer made before trial if it is served within a reasonable time,
not less than 10 days, or such shorter time as the court may
approve, prior to the commencement of hearings to determine the
amount or extent of liability.

35 **STATEMENT OF FACT**

37 This bill gives all parties in civil lawsuits the right to
39 offer to terminate litigation by offering a specified judgment
41 for money, property or injunctive relief. The bill is patterned
43 after the Maine Rules of Civil Procedure, Rule 68, but differs
45 from the existing rule in that either a plaintiff or a defendant
47 may offer judgment. The bill also clarifies how a comparison of
49 the offer to the verdict is to be made; that is by comparing each
51 sum without court costs. Finally, the bill mandates that if one
party rejects an offer and the other party ultimately obtains the
relief offered, the rejector will bear the costs incurred by the
offering party, including reasonable attorney's fees. The
purpose of the bill is to encourage reasonable settlements of
litigation, and to deter frivolous lawsuits and frivolous
defenses.