

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1503

H.P. 1030

House of Representatives, April 11, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

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

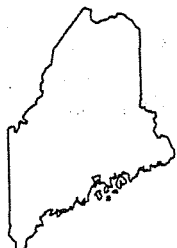
EDWIN H. PERT, Clerk

Presented by Representative RICHARDSON of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Adopt the English Rule, With Exceptions, for Attorney's Fees
in Litigation.**



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

2
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
8 the State to the place of trial for the prevailing party or his
10 the prevailing party's attorney of record, as provided by rule of
the Supreme Judicial Court, or as directed by court, in the
absence of that rule; and

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

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

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

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

26 (1) Class action cases;

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

34 (3) Tort cases;

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

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

44 (6) Cases in which the party against whom attorney's
46 fees would be assessed is proceeding in forma pauperis
48 pursuant to the Maine Rules of Civil Procedure, Rule
50 91, or is otherwise indigent.

52 B. A party seeking attorney's fees pursuant to this
subsubsection shall file affidavits setting forth the
applicable fee arrangement and itemizing the legal services
performed by activity, date and number of hours. Upon
motion by the party against whom attorney's fees are to be
assessed, the court shall determine the amount of attorney's
fees that are reasonable.

54 C. For purposes of this section, if a party obtains less
56 than the full amount of relief sought or prevails on less
58 than all the claims asserted, the court may allocate

2 the major part of the case and could allocate the fee award based
3 on the extent to which each party prevailed. A party who
4 prevailed on only a small part of the case, therefore, could be
5 required in an appropriate case to pay most of the opposing
6 party's attorney's fees.

7 Finally, the bill also preserves and strengthens the offer
8 of judgment procedure in the Maine Rules of Civil Procedure, Rule
9 68, by providing that a party who declines an offer of judgment
10 that is equal to or more favorable than the relief actually
11 obtained has to pay the opposing party's attorney's fees from the
12 date of the offer.