

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 42

H.P. 48

House of Representatives, January 12, 1995

An Act to Institute Loser-pay Litigation in the State of Maine.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CLUKEY of Houlton.

Cosponsored by Representatives: CAMPBELL of Holden, CROSS of Dover-Foxcroft, JOY of Crystal, KNEELAND of Easton, McELROY of Unity, REED of Dexter, Senator: HARRIMAN of Cumberland.

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. Attorney's fees under this subsection must be paid by
22 the nonprevailing party but may not exceed the amount of the
attorney's fees of the nonprevailing party with regard to
24 that position or claim.

26 B. If the nonprevailing party receives services under a
contingent fee agreement, the amount of attorney's fees
28 under this paragraph may not exceed the reasonable value of
those services.

30 C. In order to receive attorney's fees under this
32 subsection, attorney of record for the prevailing party must
maintain accurate, complete records of hours worked on the
34 matter regardless of the fee arrangement with the prevailing
party.

36 D. As used in this subsection, the term "prevailing party"
38 means a party to an action who obtains a favorable final
judgment, other than by settlement, exclusive of interest,
40 on all or a portion of the claims asserted in the action.

42 E. The court may, in its discretion, limit the fees
44 recovered under this subsection to the extent that the court
finds special circumstances that make payment of those fees
46 unjust.

48 F. This subsection does not apply to any action in which
the State or any of its officers or agencies are parties.

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STATEMENT OF FACT

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6 This bill requires that the losing party in civil litigation
pay the reasonable attorney's fees of the prevailing party.