

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1076

H.P. 811

House of Representatives, March 15, 2011

An Act To Protect Maine Laws under the United States Constitution and the Constitution of Maine

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative WATERHOUSE of Bridgton.
Cosponsored by Representatives: CEBRA of Naples, O'CONNOR of Berwick, SARTY of
Denmark, SIROCKI of Scarborough, Senators: HASTINGS of Oxford, PLOWMAN of
Penobscot.

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

2 **Sec. 1. 14 MRSA c. 14** is enacted to read:

3 **CHAPTER 14**

4 **APPLICATION OF FOREIGN LAW**

5 **§351. Findings**

6 While the Legislature fully recognizes the right to contract freely under the laws of
7 this State, it also recognizes that this right may be reasonably and rationally
8 circumscribed pursuant to the State's interest to protect and promote rights and privileges
9 granted under the United States Constitution and the Constitution of Maine.

10 **§352. Foreign law, legal code or system defined**

11 As used in this chapter, "foreign law, legal code or system" means any law, legal
12 code or legal system of a jurisdiction outside of any state or territory of the United States,
13 including, but not limited to, international organizations and tribunals, that is applied by
14 that jurisdiction's courts, administrative bodies or other formal or informal tribunals.

15 **§353. Comity to foreign decision**

16 The primary factor that a court, administrative agency, arbitrator, mediator or other
17 entity or person acting under the authority of state law must consider in granting comity
18 to a decision rendered under a foreign law, legal code or legal system against a natural
19 person in this State is whether the decision rendered either violated or would violate any
20 right of the natural person in this State guaranteed by the Constitution of Maine or the
21 United States Constitution or any statute or decision under those constitutions.

22 **§354. Choice of law**

23 **1. Preservation of constitutional rights.** If a contract, arbitration agreement or
24 other agreement provides for the choice of a foreign law, legal code or legal system to
25 govern its interpretation or the resolution of any claim or dispute and if the enforcement
26 or interpretation of the contract, arbitration agreement or other agreement applying that
27 choice of law provision either resulted or would result in a violation of any right
28 guaranteed by the Constitution of Maine or the United States Constitution, the primary
29 factor in interpretation, enforcement or application of the contract, arbitration agreement
30 or other agreement is preservation of the constitutional rights of the natural person in this
31 State against whom enforcement is sought, unless otherwise directed by state law.

32 **2. Voluntary restriction or limitation.** This chapter may not be interpreted to limit
33 the right of a natural person of this State to voluntarily restrict or limit that person's own
34 constitutional rights by contract or specific waiver consistent with constitutional
35 principles; however, the language of any such contract or other waiver must be strictly
36 construed in favor of preserving the constitutional rights of the natural person in this
37 State.

1 preserve the constitutional rights of the natural person in this State against whom
2 enforcement is sought. A claim for forum non conveniens or a related claim must be
3 denied if the court determines that granting the claim violates or would likely violate the
4 constitutional rights of the nonclaimant in the foreign forum with respect to the matter in
5 dispute.

6 The bill does not apply to a corporation, partnership or other legal business entity.

7 The bill applies only to actual or to foreseeable violations of the constitutional rights
8 of a natural person in this State from a foreign law, legal code or legal system.