



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

---

Legislative Document

No. 330

---

H.P. 224

House of Representatives, February 10, 2015

**An Act To Protect Rights and Privileges Granted under the United States Constitution and the Constitution of Maine**

---

Reference to the Committee on Judiciary suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative McCLELLAN of Raymond.

Cosponsored by Representatives: BICKFORD of Auburn, DUNPHY of Embden, HARLOW of Portland, HAWKE of Boothbay Harbor, NADEAU of Winslow, O'CONNOR of Berwick, PETERSON of Rumford, SHORT of Pittsfield.

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 legal system defined**

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

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

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

23 **§354. Choice of law**

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

33 **2. Voluntary restriction or limitation.** This chapter may not be interpreted to limit  
34 the right of a natural person of this State to voluntarily restrict or limit that person's own  
35 constitutional rights by contract or specific waiver consistent with constitutional  
36 principles; however, the language of any such contract or other waiver must be strictly  
37 construed in favor of preserving the constitutional rights of the natural person in this  
38 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.