

MAINE STATE LEGISLATURE

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**STATE OF MAINE
118TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BANKING AND INSURANCE**

JULY 1997

MEMBERS:

Sen. Lloyd P. LaFountain III, Chair

Sen. Robert E. Murray, Jr.

Sen. I. Joel Abromson

Rep. Jane W. Saxl, Chair

Rep. Julie Winn

Rep. Thomas M. Davidson

Rep. Christopher P. O'Neil

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Rep. Sumner A. Jones, Jr.

Rep. Arthur F. Mayo III

Rep. Joseph Bruno

Staff:

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Maine State Legislature

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**ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS**

**Summary Of Legislation Before The Joint Standing Committees
August 1997**

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CARRIED OVER*.....*Bill carried over to Second Regular Session*
- CON RES XXX*.....*Chapter # of Constitutional Resolution passed by both Houses*
- CONF CMTE UNABLE TO AGREE*.....*Committee of Conference unable to agree; bill died*
- DIED BETWEEN BODIES*.....*House & Senate disagree; bill died*
- DIED IN CONCURRENCE*.....*One body accepts ONTP report; the other indefinitely postpones the bill*
- DIED ON ADJOURNMENT*.....*Action incomplete when session ended; bill died*
- EMERGENCY*.....*Enacted law takes effect sooner than 90 days*
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE*.....*Emergency bill failed to get 2/3 vote*
- FAILED ENACTMENT/FINAL PASSAGE*.....*Bill failed to get majority vote*
- FAILED MANDATE ENACTMENT*.....*Bill imposing local mandate failed to get 2/3 vote*
- INDEF PP*.....*Bill Indefinitely Postponed*
- ONTP*.....*Ought Not To Pass report accepted*
- OTP ND*.....*Committee report Ought To Pass In New Draft*
- OTP ND/NT*.....*Committee report Ought To Pass In New Draft/New Title*
- P&S XXX*.....*Chapter # of enacted Private & Special Law*
- PUBLIC XXX*.....*Chapter # of enacted Public Law*
- RESOLVE XXX*.....*Chapter # of finally passed Resolve*
- UNSIGNED*.....*Bill held by Governor*
- VETO SUSTAINED*.....*Legislature failed to override Governor's Veto*

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director

Offices Located in the State House, Rooms 101/107/135

Enacted law summary

Public Law 1997, chapter 126 does the following.

1. It eliminates the requirement that medical malpractice insurers report claims and information on the disposition of claims to the Attorney General.
2. It reduces the reporting requirements for workers' compensation self-insurers and requires the Bureau of Insurance to report data on the aggregate benefits paid and annual standard premium of individual and group self-insurers to the Department of Labor, Workers' Compensation Board and Maine Self-Insurance Guarantee Association.
3. It clarifies that forms filed with the Bureau of Insurance become public when effective, or if no effective date is provided, the forms become public when approved.
4. It clarifies that notice and mailing time requirements apply to the cancellation of casualty insurance policies that are in effect for 60 days or less.
5. It authorizes the State or the University of Maine System to post bond security at the level of \$50,000 under the public employer provisions of the self-insurance laws.

LD 981

An Act to Amend the Revised Maine Securities Act

PUBLIC 168

<u>Sponsor(s)</u> O'NEIL ABROMSON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-212
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The principal purpose of this bill is to incorporate into the Revised Maine Securities Act, referred to in this summary as the "Act," changes mandated by Congress in the National Securities Markets Improvement Act of 1996, referred to in this summary as "NSMIA." The NSMIA preempts the states from exercising regulatory authority over certain aspects of the securities business, but also enhances the state role in regulating investment advisers. For purposes of promoting uniformity among the states, LD 981, to the extent practical, tracks language recommended by the North American Securities Administrators Association, the organization of state and Canadian provincial securities regulators.

With respect to sales representatives of licensed broker-dealers, NSMIA preempts a state from requiring their licensing when they engage only in transactions for existing customers who are temporarily in Maine or recently moved here. The bill proposed to implement this change at the state level by creating a licensing exemption for these transactions.

In the investment adviser area, the major impact of NSMIA is to give states the exclusive authority to license investment advisers with less than \$25,000,000 under management and to give the United States Securities and Exchange Commission exclusive licensing authority over the larger advisers. To implement that change, the bill proposed to amend the Act to create a licensing exemption for the larger advisers. Consistent with NSMIA, the bill proposed to impose a notice filing and fee requirement on the larger advisers, with the fee being the same as they currently pay for licensing.

While preempting the licensing of larger advisers, NSMIA allows a state to impose qualifications on these advisers' representatives who have a place of business in the State. Accordingly, the bill proposed to amend the Act to allow the securities administrator to continue to impose on these individuals the currently existing examination requirements.

NSMIA limits the authority of the states to impose net capital, record keeping and fidelity bond requirements on broker-dealers and investment advisers, and the bill includes in the Act references to those limits.

Regarding the registration of securities, NSMIA preempts the states from requiring the registration of what it terms "covered securities," the most significant of which are mutual funds. NSMIA allows states to receive notice filings for these offerings, and since NSMIA is designed to be revenue neutral, it also allows for the assessment of filing fees. The bill proposed to conform state law to the dictates of NSMIA by creating the necessary registration exemptions and, where appropriate, replacing the registration requirement with a notice filing requirement. It also replaces the registration fees with notice fees of the same amount so that there should be no financial impact either on securities issuers or on the State.

The bill also proposed to make miscellaneous changes unrelated to the enactment of NSMIA.

First, the Maine Revised Statutes, Title 32, section 10312, subsection 2 is amended to allow the administrator to require a licensee to produce documents, whether or not the request is in connection with an on-site examination.

Second, Title 32, section 10501, subsection 18 is amended by eliminating from the definition of "security," "documents of title to and certificates of interest in the title to or any profits or earnings from land or other property situated outside of the State." Unlike the securities laws of other states, Maine's statute includes title to or profits or earnings from land situated outside of the State in the definition of "security."

Third, Title 32, section 10502, subsection 2, paragraph L is amended by eliminating the filing requirement when no commission is paid to solicit security holders in Maine and extending the exemption to issuers who pay a commission to solicit security holders in Maine. This change conforms Maine's statute to the securities laws of other states.

Fourth, Title 32, section 10502, subsection 2, paragraph N is amended by eliminating the requirement to file a notice with the administrator.

Fifth, the change to Title 32, section 10602, subsection 1, paragraph B allows the administrator to censure a broker dealer, sales representative or investment advisor for a violation of the Act even if that person is not licensed in Maine.

Sixth, Title 32, section 10707, subsection 6 is amended to make clear that the administrator has jurisdiction over securities offered to Maine residents over the Internet, an area of increasing concern in light of the growth of the electronic fraud. This change also conforms Maine law to the law of most other states.

Committee Amendment "A" (H-212) proposed to make technical changes and clarifications and add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 168 amends the Revised Maine Securities Act to incorporate the changes mandated by Congress in the National Securities Markets Improvement Act of 1996. While the federal law preempted states from regulating certain aspects of the security's industry, it also enhanced the state role in regulating investment advisers. Public Law 1997, chapter 168 makes the necessary changes to state law to conform with the changes in federal law. The law also makes other changes to the Revised Maine Securities Act to update the act and conform the act to the securities laws in other states.

LD 1000 An Act to Ensure Choice of Physicians in Managed Care Programs ONTP

<u>Sponsor(s)</u> LEMAIRE		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1000 proposed to require a nonprofit hospital and medical service organization and a nonprofit health care plan to permit any licensed health care provider that agrees to the terms of a managed care plan to become a participating provider in the plan.

LD 1016 An Act to Amend the Laws Pertaining to Infant Formulas ONTP

<u>Sponsor(s)</u> GOLDTHWAIT		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1016 proposed to expand the requirement that all individual and group insurance policies and contracts provide coverage for metabolic formula and medical food for inborn errors of metabolism to include coverage for infant formula prescribed for persons with protein intolerance.

The bill proposed to apply to policies and contracts in effect on or after January 1, 1998.

**LD 1022 An Act to Promote Investments in Maine through the Establishment of Merchant Banking Organizations PUBLIC 66
EMERGENCY**

<u>Sponsor(s)</u> LAWRENCE KONTOS		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-57
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Present law does not allow Maine banks, whether depository or nondepository institutions, to provide merchant banking financing, including capital, to businesses and entrepreneurs. LD 1022 proposed to amend the Maine Banking Code to authorize the establishment of merchant banks, formed as nondepository trust companies with high initial capitalization and high ongoing capitalization requirements to ensure the safety and soundness of the institution. Merchant banks would not be authorized to accept deposits, and therefore would not put depositors'