

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:

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Sen. I. Joel Abromson

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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:

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

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 341 allows the court to award attorney’s fees and costs to an insurer that prevails in a civil action and to award attorney’s fees and costs to the prevailing party in civil actions in which a fraudulent insurance act is not established at trial if the allegation is not supported by a reasonable basis.

LD 1371 An Act Regarding Compensation for Restricting Medical Care ONTP

<u>Sponsor(s)</u> BRENNAN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1371 proposed to prohibit health care practitioners from contracting with nonprofit hospital and medical service organizations, insurers or health maintenance organizations or subcontracting with each other under such contracts to receive any inducement to deny or limit necessary and appropriate health care services or treatment for covered patients.

LD 1374 An Act to Increase Mandatory Auto Insurance Limits ONTP

<u>Sponsor(s)</u> MILLS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1374 proposed to increase mandatory motor vehicle insurance limits for damage to property from \$10,000 to \$25,000, for injury to or death of any one person from \$20,000 to \$50,000 and for one accident resulting in injury to or death of more than one person from \$40,000 to \$100,000. The bill also proposed to increase mandatory uninsured and underinsured motor vehicle coverage by the same amounts. The bill proposed to take effect January 1, 1999.

See related bill LD 668.

**LD 1385 An Act to Promote Parity in the Regulation of Insurance Sales by PUBLIC 315
 Federally and State-chartered Financial Institutions EMERGENCY**

<u>Sponsor(s)</u> CAREY CAMPBELL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-595 SAXL J S-234
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LD 1385 proposed to authorize state-chartered financial institutions to engage in the sale and negotiation of insurance products to the same extent as federally chartered financial institutions by making the following changes.

It authorizes supervised lenders to engage in insurance agency activities, subject to the same restrictions placed on agents affiliated with financial institutions and credit unions. Agents affiliated with supervised lenders are regulated by the Office of Consumer Credit Regulation and the Superintendent of Insurance.

It adds definitions of insurance agent, broker and consultant and product that relate to definitions contained within the Maine Insurance Code. An insurance product does not include the enrollment of consumers into group credit-related insurance policies, the sale of which are regulated elsewhere under state law.

It makes clear that fiduciary institutions may disclose financial records as permitted under Maine's Fair Credit Reporting Act and the federal Fair Credit Reporting Act.

It makes clear that a financial institution, credit union or holding company authorized to do business in this State who sells an insurance product in connection with a loan must provide advance notice to the borrower of the borrower's right to choose the borrower's own agent or insurer. Violation of this section is an anticompetitive practice under the Banking Code for which the Superintendent of Banking may issue cease and desist orders, initiate injunction proceedings in Superior Court or remove an office or director of a financial institution.

It clarifies that financial institutions and credit unions engaged in the sale or negotiation of an insurance product must include in any advertisement of such a product that it is not a federally insured deposit. Violation of this section is considered a deceptive advertising practice under the Banking Code.

It clarifies the anti-tie-in rules regarding financial institutions and credit unions. In particular, the bill clarifies that financial institutions authorized to do business in the State may not provide discounts or otherwise condition the extension of credit or other services on the purchase of an insurance product authorized to be purchased from the institution.

It removes the current prohibition on the sale of insurance products by third-party agents selling annuities under an arrangement with a financial institution or credit union.

It contains the general authority for banks and credit unions to sell insurance on terms similar to those available to federally-chartered financial institutions. This authority carries with it the responsibility to provide posted notification that those insurance products are not a federally guaranteed deposit and the requirement of providing clear visible notice or signs separating insurance products from other financial institution products or services.

It clarifies that the sale of insurance by affiliates of creditors or lenders to debtors of such businesses is not a controlled business arrangement.

It clarifies ambiguities within and initially limits to towns over 5,000, the scope of the so-called "anti-affiliation statute" that currently prevents financial institutions, their affiliates and their subsidiaries from being licensed to sell insurance products under the Maine Insurance Code.

It repeals the prohibition on the ability of an agent affiliated with a financial institution to hold an annuities license and a license to act as agent regarding other lines of insurance.

It expands the current right-to-choose laws to require lenders to give borrowers the right to purchase, from any agent or company, any insurance in connection with the loan. Current law gives borrowers the right to choose an insurer or agent only with respect to insurance directly insuring the secured property.

It prevents creditors from interfering with the free choice of an insurance agent by using unreasonable red tape or delay tactics.

It requires lenders to maintain written criteria for approving an insurer selected by a borrower in connection with a loan, to make this criteria available to consumers and to provide timely notice if a consumer's selected insurer is rejected using this criteria.

It clarifies that a purchaser or borrower may change insurance carriers related to an extension of credit, except when the change violates a condition of the loan or another provision of law.

It limits the ability of lenders to directly solicit or negotiate certain insurance contracts from borrowers until the creditor has notified the borrower of its action on the application for credit.

It requires lenders to notify borrowers of their right to choose any insurance agent or carrier in connection with a loan, not simply with respect to insurance otherwise required on a loan as provided under current law. The current notice is also expanded to make clear to borrowers that selecting a particular agent will not affect credit decisions of the lender, unless the insurance product selected violates the terms of the loan or other statutory provisions. It also provides that a lender may not reject an insurance product selected by the borrower solely because the product was not obtained by or through an agent or broker affiliated with the lender.

It places certain limits on the ability of lenders to use in solicitations any insurance information required to be disclosed by a borrower in connection with a loan.

Finally, the bill authorizes joint rulemaking by the Superintendent of Banking, the Superintendent of Insurance and the Director of the Office of Consumer Credit Regulation to implement this Act.

Committee Amendment "A" (S-234) proposed to clarify that certain statutory provisions relating to the regulation of insurance sales by supervised lenders, financial institutions and credit unions authorized to do business in this State do not apply to group health and group life insurance to the extent authorized by the Maine Revised Statutes, Title 24-A, chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by Title 24-A, chapter 37, credit property insurance, credit involuntary unemployment insurance, forced placed property insurance, a vendor's single interest policy or any insurance product as determined by the Superintendent of Insurance.

The amendment proposed to remove the limit authorizing only supervised lenders, credit unions and financial institutions located in towns with populations of 5,000 or less to sell insurance products and authorize supervised lenders, credit unions, financial institutions and their affiliates and subsidiaries located anywhere in the State to be licensed to sell insurance products under the Maine Insurance Code.

The amendment also makes technical and grammatical changes to the bill and adds a fiscal note.

House Amendment "A" to Committee Amendment "A" (H-595) proposed to add punctuation to clarify a list of exceptions and to make a usage change.

Enacted law summary

Public Law 1997, chapter 315 authorizes state-chartered financial institutions, credit unions, supervised lenders and their affiliates and subsidiaries to be licensed to sell insurance products under the Maine Insurance Code. Generally, the authority granted to state-chartered financial institutions to engage in the sale and negotiation of insurance products is subject to terms and requirements similar to those applicable to federally chartered financial institutions. The law requires state-chartered financial institutions selling insurance to provide posted notification that those insurance products are not federally insured deposits and provide clear visible notice or signs separating

insurance products from other financial institution products and services. The law also requires financial institutions selling insurance products in connection with a loan to provide advance notice to the borrower of the borrower's right to choose and purchase any insurance product from any agent or broker.

Public Law 1997, chapter 315 clarifies that certain statutory provisions relating to the regulation of insurance sales by supervised lenders, financial institutions and credit unions authorized to do business in this State do not apply to group health and group life insurance to the extent authorized by the Maine Revised Statutes, Title 24-A, chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by Title 24-A, chapter 37, credit property insurance, credit involuntary unemployment insurance, forced placed property insurance, a vendor's single interest policy or any insurance product as determined by the Superintendent of Insurance.

The law also authorizes the Superintendent of Banking, Superintendent of Insurance and Director of the Office of Consumer Credit Regulation to conduct joint rulemaking to implement the law's provisions.

Public Law 1997, chapter 315 was enacted as an emergency measure effective May 29, 1997.

LD 1386 **Resolve, to Review Health Insurance Benefits Mandated by the State** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATERHOUSE CAREY	ONTP MAJ OTP MIN	

LD 1386 proposed to require the Bureau of Insurance to review existing mandated health insurance benefits in the same manner as it is currently required to review new proposals for mandated coverage. The bureau must report to the joint standing committee of the Legislature having jurisdiction over insurance matters by January 15, 1998 on the social and financial impacts, the medical efficacy of mandating the benefit and the effects of balancing the social, economic and medical efficacy considerations and determine which of the existing mandates are to be repealed, amended or continued.

LD 1417 **An Act to Prohibit Certain Accidents from Being Used by Insurers to Increase Insurance Premiums** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MICHAUD	ONTP	

LD 1417 proposed to prohibit an insurer from imposing a surcharge or increasing the rate for an insurance policy on a motor vehicle owned for personal use when the insured was involved in an accident while employed as a commercial driver and the accident was determined to be not the fault of that person.