

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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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:

<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

LD 1619

An Act to Require Banks to Have Written or Oral Authority before Funds Are Electronically Removed from Resident Accounts

ONTP

Sponsor(s)
GERRY

Committee Report
ONTP

Amendments Adopted

LD 1619 proposed to prohibit a bank from electronically transferring funds from the account of a state resident without first obtaining written or oral authorization.

LD 1625

An Act to Create an Independent Ombudsman for Consumer Protection in Managed Care

ONTP

Sponsor(s)
MITCHELL J
LAFOUNTAIN

Committee Report
ONTP

Amendments Adopted

LD 1625 proposed to create a Managed Care Ombudsman to investigate consumer experience with health maintenance organizations and report on that investigation to the Legislature each year. Funding for the ombudsman is obtained by the placement of a surcharge, in an amount determined by the Superintendent of Insurance, on the annual net amounts obtained from the issuance of health care policies, contracts or certificates by nonprofit hospital and medical service organization plans, individual or family health insurers, group health insurers, fraternal benefit societies or health maintenance organizations.

See related bill LD 1848 which was carried over to the Second Regular Session.

LD 1640

An Act to Streamline Licensing and Reporting Requirements and Reduce Regulatory Burdens for Licensed Insurance Professionals and Insurers

**PUBLIC 457
EMERGENCY**

Sponsor(s)
ABROMSON

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted
S-313

LD 1640 proposed to remove the appointment of the Superintendent of Insurance by insurers and other nonresident licensees for service of process of legal actions and provides that licensees must appoint an attorney located in the State as agent for service of process. It proposed to allow the superintendent to bill insurers on a periodic basis for filings rather than requiring licensees to pay with each filing, clarify provisions in third-party administrator law related to insurer responsibility, reduce reporting requirements for surplus lines brokers, modify rebating laws to allow the payment of fees for services rather than commissions, modify rebating laws to allow gifts valued at less than \$20 to be given to insured customers, revise the law to allow insurance agents and insurers to arrange financing for insureds, and repeal chapter 63 of the Maine Insurance Code, removing the regulation of road or tourist service companies from the Bureau of Insurance. It also proposed to repeal chapter 17 of the Maine Insurance Code and enact chapter 16 resulting in the following changes in licensing laws.

1. It clarifies that the licensing laws apply to health maintenance organizations, fraternal benefit societies and nonprofit hospital and medical service organizations as well as insurers.
2. It eliminates the need for a license if an adjuster is employed by an insurer, health maintenance organization, nonprofit hospital and medical service organization or fraternal benefit society.
3. It changes the law to allow licensed producers, formerly defined as agents and brokers, to adjust claims for insurers, health maintenance organizations, fraternal benefit societies and nonprofit hospital and medical service organizations up to \$5,000 instead of \$2,500.
4. It strengthens consumer protection in consultant licensing.
5. It eliminates the agent and broker categories of licensure and creates one license category, a "producer."
6. It adopts a definition for limited insurance producer. It extends the definition to require a limited license for a person that enrolls others in most group insurance contracts and a person selling mechanical break-down contracts when an insurer is underwriting the contract and part of the money received for the contract becomes a premium for a policy. This, in combination with the repeal of the controlled business law, allows organizations that are group policyholders to become licensed and share in commissions. It will allow persons enrolling to collect commissions if licensed.
7. It changes the definition of "organization" to the more commonly used term "agency."
8. It changes the definition of "resident" to accommodate residents of other states or provinces who work in Maine full time and to accommodate Maine residents who work in other states or provinces full time.
9. It eliminates the "controlled business" law.
10. It requires that an officer of an agency be licensed and designated as responsible for the agency and that a change in the responsible person be forwarded to the superintendent within 14 days of the change. It also requires that the responsible person will be responsible for all correspondence with the superintendent and must notify the superintendent within 30 days of every change in individuals designated to act in the name of the agency. It further requires that if the responsible person in an agency loses that person's license, the agency license will terminate if a new person is not designated as responsible within 14 days.
11. It requires all branch offices, resident or nonresident, to be registered, but eliminates the need to have a different manager at each location.
12. It clarifies that an agency cannot be licensed with the word "company" in the name.
13. It requires, for residents and nonresidents, that notice of changes in officers, directors, partners and members be sent to the superintendent within 14 days of request from the superintendent and eliminates the need to send changes as they occur.
14. It incorporates the holding from Wood vs. Superintendent. "Voluntary surrender outside context of disciplinary proceeding does not immunize licensee from subsequent disciplinary action." Wood v. Superintendent of Ins. (1994) Me., 638 A.2d 67.
15. It eliminates the need for insurers to file appointments of representatives of insurance companies.

16. It requires notice of material change in the application to be sent to the superintendent within 30 days.
17. It allows a person to retest for the part of the examination failed, rather than the entire examination. Most tests for licensure are two-part. Under current law, if a person fails one part, the person must take the entire exam again.
18. It allows a nonresident to obtain a temporary license after passing the law portion of the exam, eliminating a nonresident being out of work while waiting for a letter of clearance from another state.
19. It clarifies that individuals that have passed examinations to become licensed must become licensed within two years after passing the test.
20. It allows a producer to work for a fee rather than a commission on large commercial accounts, but leaves the standards for this to be established through rulemaking.
21. It allows a licensee to maintain a principal place of business in this State if a resident in another state or country.
22. It retains the requirement that a resident licensee have a place of business accessible to the public, but allows that place of business to be in a contiguous state or province.
23. It provides that return premiums must be forwarded to insureds or credited to outstanding balances of the insured within 10 days from receipt and establishes a definition of receipt.
24. It provides that premiums due the insurer, health maintenance organization, fraternal benefit society and nonprofit hospital and medical service organization be forwarded promptly to the insurer in accordance with the contract between the insurer, health maintenance organization, fraternal benefit society and nonprofit hospital and medical service organization and the licensee.
25. It raises the amount of a consultant bond to \$20,000 from \$10,000.
26. It allows a licensee that has been disciplined for failure to notify the superintendent of address change to remove that action from the licensee's record.

Committee Amendment "A" (S-313) proposed to do the following.

1. It adds a provision to preserve the "broker" concept consistent with current law and rewrites several sections for clarification.
2. It adds additional reasons why advance notice of termination of producer or agency appointment is not required.
3. It preserves the definition of service representative and a licensing exception for salaried employees of life insurers.
4. It allows an agency 90 days within which to get an officer or member licensed and designated as responsible for the agency and allows the Superintendent of Insurance to extend that period for good cause.

5. It provides that when any rebate or discount for a surety bond is approved the economic value of the rebate or discount must be returned to the governmental agency or department of the surety bond covering a project supported with public funds.
6. It adds an effective date of October 1, 1997 for all provisions of the bill pertaining to "single producer licensing", the repeal of Title 24-A, chapter 17 and the enactment of Title 24-A, chapter 16.

The amendment also adds a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 457 repeals chapter 17 of the Maine Insurance Code and enacts a new chapter 16 governing the licensure of insurance professionals. It eliminates the agent and broker categories of licensure and creates one licensure category, "producer".

The law also removes the appointment of the Superintendent of Insurance by insurers and other nonresident licensees for service of process of legal actions and provides that licensees must appoint an attorney located in the State as agent for service of process. It allows the Superintendent to bill insurers on a periodic basis for filings rather than requiring licensees to pay with each filing, clarifies provisions in 3rd-party administrator law related to insurer responsibility, reduces reporting requirements for surplus lines brokers, modifies rebating laws to allow payment of fees for services rather than commissions, modifies rebating laws to allow gifts valued at less than \$20 to be given to insured customers, provides that when any rebate or discount must be returned to the governmental agency or department of the surety bond covering a project supported with public funds, revises the law to allow insurance agents and insurers to arrange financing for insureds and removes the regulation of road or tourist service companies from the Bureau of Insurance.

Public Law 1997, chapter 457 was enacted as an emergency measure effective June 11, 1997. However, the provisions of chapter 457 pertaining to "single producer licensing", the repeal of Title 24-A Maine Revised Statutes chapter 17 and the enactment of Title 24-A Maine Revised Statutes chapter 16 take effect October 1, 1997.

**LD 1642 Resolve, to Require the Superintendent of Insurance to Develop ONTP
Criteria for an Independent Fairness Review Prior to Conversion of
a Non-profit Entity to a For-profit Entity**

<u>Sponsor(s)</u> MITCHELL J	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1642 proposed to require the Superintendent of Insurance to develop criteria to be considered in determining whether a conversion plan of a nonprofit hospital and medical service organization to a for-profit corporation or mutual benefit corporation or entity or engage in for-profit activity is fair and equitable. The superintendent must report back to the Joint Standing Committee on Banking and Insurance of the 118th Legislature no later than February 1, 1998 with the criteria and any legislation recommended by the superintendent to protect the public interest and the subscribers of the nonprofit hospital and medical service organization.