

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. Robert E. Murray, Jr.

Sen. I. Joel Abromson

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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

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of action nor is it intended to create an alternate mechanism to adjudicate disputed claims. Under Part A, the Superintendent of Insurance is required to adopt rules that are major and substantive in nature to carry out the provisions of this law. Penalties, notice and hearing provisions of current law remain in effect.

Part B authorizes the Superintendent of Insurance to make public aggregate ratios of substantiated consumer complaints against insurance companies. Only those complaints determined by the Bureau of Insurance to be valid are included in the development of these ratios.

Part C clarifies the jurisdictional and penalty provisions of the enforcement section of the Maine Insurance Code and gives the superintendent concurrent disciplinary jurisdiction when insurers or insurance professionals violate laws outside the Maine Insurance Code, such as workers' compensation or general criminal laws, in the course of their insurance business.

LD 1783 was carried over to the Second Regular Session along with a related bill, LD 889. Part B of the bill was reported out by the committee as LD 1879, "An Act Authorizing the Bureau of Insurance to Release Aggregate Ratios of Consumer Complaints to the Public," which was enacted as Public Law 1997, chapter 314.

LD 1787

An Act to Authorize Captive Insurance Companies

PUBLIC 435

<u>Sponsor(s)</u> MAYO MURRAY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-638
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LD 1787 implements the recommendations of the September 3, 1996 Final Report and Recommendations of the Financial Services Economic Development Subgroup.

The bill proposed to authorize the formation of captive insurers that would be able to provide insurance coverage with respect to the exposures of their parent or affiliated companies. Captive insurance companies could be owned and controlled by single corporations, by groups of corporations or by associations. Capital and surplus requirements for captive insurance companies are significantly less than those otherwise applicable to commercial insurers. Captive insurers are regulated by the Department of Professional and Financial Regulation, Bureau of Insurance to the extent provided for in the bill.

The bill also proposed to provide for taxation of captive insurers on a different basis than that applicable to other insurers. Captive insurers domiciled in Maine are taxed on all premiums received with respect to risks in other jurisdictions at rates comparable to those imposed in other jurisdictions with captive insurance laws. Taxation of direct premiums with respect to Maine risks is at the same rate as is applicable to other insurers. Captive insurers also are subject to an alternative minimum tax.

Committee Amendment "A" (H-638) proposed to clarify that captive insurers required to file documents with the Secretary of State's office must transmit the appropriate filing fee to the Secretary of State along with the documents.

The amendment also proposed to correct a numerical error in the taxation provisions of the bill which generally tax captive insurers at a rate of .375 of 1% on the first \$20,000,000 of direct premiums collected or contracted for regardless of where the risk is located. These rates decline incrementally on additional amounts of premium. The taxation rates on reinsurance premiums are lower.

The amendment also adds an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 435 authorizes the establishment of captive insurers. Captive insurance companies are formed for the purpose of providing insurance coverage with respect to the exposures of their parent or affiliated companies. The companies may be owned and controlled by single corporations, by groups of corporations or by associations. While the capital and surplus requirements and taxation of captive insurance companies are different than those otherwise applicable to commercial insurers, captive insurers are subject to regulation by the Bureau of Insurance.

LD 1808

An Act to Make Maine Health Insurance Laws Consistent with Federal Laws

**PUBLIC 445
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E KIEFFER	OTP-AM MAJ OTP-AM MIN	H-610

The Health Insurance Portability and Accountability Act of 1996 was enacted by Congress and signed by the President of the United States on August 21, 1996. Included in that act are health insurance reforms providing for portability of coverage, limits on preexisting condition exclusions, guaranteed renewability and guaranteed issue to small groups and certain individuals.

Although this State has had similar reforms and in many cases stronger reforms, in place for several years, many of the details differ. For this reason, many of the State's reform laws would be preempted by the federal law if not amended to conform to federal standards. LD 1808 proposed to make the necessary changes to avoid preemption and allow the State to continue to enforce its health insurance reform laws.

The bill proposed to eliminate duplicative language by making nonprofit hospital and medical service organizations subject to the continuity laws in the Maine Revised Statutes, Title 24-A rather than including identical language in Title 24.

The bill also proposed to amend the State's individual health insurance reform laws by clarifying residency requirements and waiving some of these requirements for federally eligible individuals. The bill also added provisions allowing managed care plans to deny coverage to individuals not within their service area and provides a mechanism by which those plans may close enrollment if their capacity is exceeded. The bill eliminates language providing guaranteed renewal, which is now addressed in a new section applicable to both individual and group policies.

The bill also proposed to amend the State's small group health insurance reform laws. The most significant change is that this law would apply to groups with up to 50 employees, up from 24 employees in the current law. The rating restrictions for the newly covered groups take effect January 1, 1998, and are phased in over a three-year period. Also, insurance carriers are permitted to establish a minimum group size of 2 employees. The federal law defines small groups as those with two to 50 employees. The bill also amends the rules for counting employees to conform to federal standards. As in the individual reform laws, provisions are added allowing managed care plans to deny coverage to individuals not within their service area and providing a mechanism by which those plans may