

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Insurance and Financial Services*

August 2005

Members:

*Sen. Nancy B. Sullivan, Chair
Sen. Arthur F. Mayo III
Sen. Peter Mills*

Rep. Anne C. Perry, Chair

Rep. Lisa T. Marrache

Rep. John R. Brautigam

Rep. Charles William Harlow

Rep. Donald E. Pilon

Rep. Kevin J. Glynn

Rep. Michael A. Vaughan

Rep. R. Kenneth Lindell

Rep. Jonathan B. McKane

Rep. Wesley E. Richardson

Staff:

*Colleen McCarthy Reid, Legislative Analyst
Lucia A. Nixon, Legislative Analyst*

*Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333
(207) 287-1670*



Maine State Legislature

OFFICE OF POLICY & LEGAL ANALYSIS

13 State House Station, Room 215 Cross State Office Building
Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

122nd Legislature First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. 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 considered by the committees. It is organized 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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 | <i>Bill Carried Over to Second Regular Session</i> |
| CON RES XXX..... | <i>Chapter # of Constitutional Resolution passed by both Houses</i> |
| CONF CMTE UNABLE TO AGREE..... | <i>Committee of Conference unable to agree; bill died</i> |
| DIED BETWEEN BODIES..... | <i>House & Senate disagree; bill died</i> |
| DIED IN CONCURRENCE | <i>One body accepts ONTP report; the other indefinitely postpones the bill</i> |
| DIED ON ADJOURNMENT..... | <i>Action incomplete when session ended; bill died</i> |
| EMERGENCY..... | <i>Enacted law takes effect sooner than 90 days</i> |
| FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... | <i>Emergency bill failed to get 2/3 vote</i> |
| FAILED ENACTMENT/FINAL PASSAGE..... | <i>Bill failed to get majority vote</i> |
| FAILED MANDATE ENACTMENT | <i>Bill imposing local mandate failed to get 2/3 vote</i> |
| NOT PROPERLY BEFORE THE BODY | <i>Ruled out of order by the presiding officers; bill died</i> |
| INDEF PP | <i>Bill Indefinitely Postponed</i> |
| ONTP..... | <i>Ought Not To Pass report accepted</i> |
| OTP ND..... | <i>Committee report Ought To Pass In New Draft</i> |
| OTP ND/NT..... | <i>Committee report Ought To Pass In New Draft/New Title</i> |
| P&S XXX | <i>Chapter # of enacted Private & Special Law</i> |
| PUBLIC XXX | <i>Chapter # of enacted Public Law</i> |
| RESOLVE XXX..... | <i>Chapter # of finally passed Resolve</i> |
| UNSIGNED | <i>Bill held by Governor</i> |
| VETO SUSTAINED | <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 29, 2005**; and for non-emergency legislation enacted in the First Special Session is **September 17, 2005**.

Joint Standing Committee on Insurance and Financial Services

LD 922

**An Act Regarding Insurance Payments When an Automobile Is
Totaled**

ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|----------------------|-------------------------|---------------------------|
| BRYANT- DESCHENES | ONTP | |

LD 922 proposed to require insurers that provide motor vehicle insurance to provide coverage in an amount equal to the suggested retail price of a motor vehicle when a motor vehicle insured by the insurer is declared a total loss. The bill would prohibit insurers from limiting payments to the suggested wholesale price of the motor vehicle.

LD 933

**An Act To Amend the Maine Life and Health Insurance Guaranty
Association Act**

PUBLIC 346

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-----------------------|-------------------------|---------------------------|
| BEAUDETTE SULLIVAN | OTP-AM | H-621 |

LD 933 is a concept draft pursuant to Joint Rule 208. This bill proposed to update the Maine Life and Health Insurance Guaranty Association Act to conform to the Life and Health Insurance Guaranty Association Model Act as developed by the National Association of Insurance Commissioners.

Committee Amendment "A" (H-621) replaced the bill, which is a concept draft pursuant to Joint Rule 208. Under current law, the Maine Life and Health Insurance Guaranty Association Act provides a mechanism to provide payment of benefits and continuation of coverage under an individual life or health insurance policy or annuity contract and under certificates of group coverage when an insurance company doing business in this State becomes financially impaired or insolvent. The amendment proposed to update and revise the current law in conformance with the model act from the National Association of Insurance Commissioners.

The amendment proposed to do the following.

1. It clarifies that the Act provides protection to persons covered under both individual and group life and health policies and annuity contracts.
2. It establishes the conditions under which persons who are payees or beneficiaries under a structured settlement annuity are eligible for coverage.
3. It clarifies that nonresidents may be covered under the Act in certain circumstances.
4. It adds certain exceptions, including policies and contracts issued to a self-insured or uninsured plan, policies and contracts issued by a member insurer at a time when that insurer was not licensed in this State and unallocated annuity contracts.
5. It establishes that the limits for coverage provided by the association may not exceed the lesser of the contractual obligations of the impaired or insolvent insurer under the policy or \$300,000 for life insurance

Joint Standing Committee on Insurance and Financial Services

death benefits, \$300,000 for disability, long-term care insurance or other limited benefit health insurance, \$500,000 for health insurance and \$100,000 in the present value of annuity benefits.

6. It allows meetings and records of the association to be open to the public upon majority vote of the association's board of directors.
7. It establishes the powers of the association to take action following an insolvency of a member insurer to either provide payment of benefits or continue coverage for persons covered under a policy or contract of the insolvent insurer. The amendment also provides the conditions under which substitute coverage through an alternative policy or reissued policy may be extended to covered persons.
8. It permits the association to request policy liens or moratoriums on payments from a court.
9. It gives the Superintendent of Insurance the powers and duties of the association in the event the association fails to take action with respect to an impaired or insolvent insurer in a timely manner.
10. It clarifies the standing of the association to appear before any court or agency in this State in an action relating to an impaired or insolvent insurer or matters germane to the powers and duties of the association.
11. It clarifies the subrogation rights of the association.
12. It permits the association to elect within one year of the date the association becomes responsible for obligations of a member insurer to succeed to the rights and obligations of that impaired or insolvent insurer through reinsurance agreements.
13. It establishes the authority of the association to make 2 classes of assessment: Class A assessments to support the administrative costs of the association and Class B assessments to carry out the powers and duties of the association with regard to a particular impairment or insolvency of a member insurer. The amendment also provides the method for determining the amount of any Class A or Class B assessment.
14. It requires the Superintendent of Insurance to notify other insurance commissioners and the association when the superintendent revokes or suspends the license or authority of a member insurer or makes a formal order relating to that member insurer. The amendment also requires the superintendent to report to the association if an examination of a member insurer results in reasonable cause to believe that a member insurer may be impaired or insolvent.
15. It requires the association, upon a majority vote of the board of directors, to notify the superintendent of any information indicating a member insurer may be impaired or insolvent and to make reports and recommendations to the superintendent upon any matters germane to the solvency of a member insurer.
16. It repeals the requirement that the association make annual reports to the Legislature and removes the requirement that the association notify the Legislature when the association has voted to levy an assessment because of a shortfall in the amount of money needed by the association to meet its payment obligations.
17. It prohibits insurers, insurance agents and other persons from using the existence of the guaranty association in the advertising, sale or solicitation of insurance covered under the chapter.
18. It permits a member insurer to offset against its premium tax liability any Class B assessments paid by the member insurer because of an insolvency. The provision allows a member insurer to offset 20% of the

Joint Standing Committee on Insurance and Financial Services

assessment in each of the 5 years following the assessment. The amendment requires that any refunded assessments that have been offset must be recaptured as required by the State Tax Assessor and also requires the association to notify the Superintendent of Insurance and the State Tax Assessor regarding the issuance of refunds. The premium offset provision applies to assessments paid to the association by a member insurer on or after January 1, 2005.

19. The amendment makes clear the changes to current law do not apply to any insurer that is insolvent or unable to meet its contractual obligations at the time the changes become effective.

Joint Standing Committee on Insurance and Financial Services

Enacted law summary

Under current law, the Maine Life and Health Insurance Guaranty Association Act provides a mechanism to provide payment of benefits and continuation of coverage under an individual life or health insurance policy or annuity contract and under certificates of group coverage when an insurance company doing business in this State becomes financially impaired or insolvent. Public Law 2005, chapter 346 updates and revises the current law in conformance with the model act from the National Association of Insurance Commissioners.

Public Law 2005, chapter 346 does the following.

1. It clarifies that the Act provides protection to persons covered under both individual and group life and health policies and annuity contracts.
2. It establishes the conditions under which persons who are payees or beneficiaries under a structured settlement annuity are eligible for coverage.
3. It clarifies that nonresidents may be covered under the Act in certain circumstances.
4. It adds certain exceptions, including policies and contracts issued to a self-insured or uninsured plan, policies and contracts issued by a member insurer at a time when that insurer was not licensed in this State and unallocated annuity contracts.
5. It establishes that the limits for coverage provided by the association may not exceed the lesser of the contractual obligations of the impaired or insolvent insurer under the policy or \$300,000 for life insurance death benefits, \$300,000 for disability, long-term care insurance or other limited benefit health insurance, \$500,000 for health insurance and \$100,000 in the present value of annuity benefits.
6. It allows meetings and records of the association to be open to the public upon majority vote of the association's board of directors.
7. It establishes the powers of the association to take action following an insolvency of a member insurer to either provide payment of benefits or continue coverage for persons covered under a policy or contract of the insolvent insurer. The law also provides the conditions under which substitute coverage through an alternative policy or reissued policy may be extended to covered persons.
8. It permits the association to request policy liens or moratoriums on payments from a court.
9. It gives the Superintendent of Insurance the powers and duties of the association in the event the association fails to take action with respect to an impaired or insolvent insurer in a timely manner.
10. It clarifies the standing of the association to appear before any court or agency in this State in an action relating to an impaired or insolvent insurer or matters germane to the powers and duties of the association.
11. It clarifies the subrogation rights of the association.
12. It permits the association to elect within one year of the date the association becomes responsible for obligations of a member insurer to succeed to the rights and obligations of that impaired or insolvent insurer through reinsurance agreements.

Joint Standing Committee on Insurance and Financial Services

13. It establishes the authority of the association to make 2 classes of assessment: Class A assessments to support the administrative costs of the association and Class B assessments to carry out the powers and duties of the association with regard to a particular impairment or insolvency of a member insurer. The law also provides the method for determining the amount of any Class A or Class B assessment.
14. It requires the Superintendent of Insurance to notify other insurance commissioners and the association when the superintendent revokes or suspends the license or authority of a member insurer or makes a formal order relating to that member insurer. The law also requires the superintendent to report to the association if an examination of a member insurer results in reasonable cause to believe that a member insurer may be impaired or insolvent.
15. It requires the association, upon a majority vote of the board of directors, to notify the superintendent of any information indicating a member insurer may be impaired or insolvent and to make reports and recommendations to the superintendent upon any matters germane to the solvency of a member insurer.
16. It repeals the requirement that the association make annual reports to the Legislature and removes the requirement that the association notify the Legislature when the association has voted to levy an assessment because of a shortfall in the amount of money needed by the association to meet its payment obligations.
17. It prohibits insurers, insurance agents and other persons from using the existence of the guaranty association in the advertising, sale or solicitation of insurance covered under the chapter.
18. It permits a member insurer to offset against its premium tax liability any Class B assessments paid by the member insurer because of an insolvency. The provision allows a member insurer to offset 20% of the assessment in each of the 5 years following the assessment. The law requires that any refunded assessments that have been offset must be recaptured as required by the State Tax Assessor and also requires the association to notify the Superintendent of Insurance and the State Tax Assessor regarding the issuance of refunds. The premium offset provision applies to assessments paid to the association by a member insurer on or after January 1, 2005.
19. The law makes clear the changes to current law do not apply to any insurer that is insolvent or unable to meet its contractual obligations at the time the changes become effective.

LD 949

An Act To Enhance the Supervisory Powers of the Department of Professional and Financial Regulation, Bureau of Financial Institutions

**PUBLIC 83
EMERGENCY**

| | | |
|------------------------------|-----------------------------------|-----------------------------------|
| <u>Sponsor(s)</u> MILLS P | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> S-79 |
|------------------------------|-----------------------------------|-----------------------------------|

LD 949 proposed to change the banking laws to clarify certain provisions and provide additional regulatory powers essential to effective regulation of Maine chartered banks and credit unions.

1. The bill clarifies the definition of deposit production offices and amends the statutory prohibition for the operation of deposit production offices to more closely align it to federal law.