

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Insurance and Financial Services*

August 2005

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Maine State Legislature

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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 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
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
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 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

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**

Sponsor(s)
MILLS P

Committee Report
OTP-AM

Amendments Adopted
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.

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2. The bill establishes procedures for the appointment of a conservator in the event that a financial institution is operating in an unsafe or unsound or other potentially hazardous condition and needs to reorganize or be put into a sound condition. Conservation is a step that can be taken, specifically in the case of limited purpose financial institutions whose accounts are not insured by a federal insurance agency, before liquidation is ordered by the Superintendent of Financial Institutions.
3. The bill clarifies the superintendent's authority to order an institution closed and the appointment of a receiver and sets forth additional authority and limitation from liability in conservation or liquidation.
4. The bill establishes a notification procedure that must be followed if a state-chartered financial institution makes a fundamental change in asset composition.
5. The bill establishes an asset pledge requirement that the superintendent may enforce in a nondepository trust company, merchant bank or uninsured bank as necessary for the protection of the public.
6. This bill clarifies existing authority of the superintendent to remove an officer or director from office or prohibit further participation by the officer or director in the conduct of the affairs of a financial institution or a financial institution holding company when similar action has been taken by the appropriate federal banking agency or when an officer or director has evidenced dishonesty or unfitness by conduct with respect to another business entity.

Committee Amendment "A" (S-79) proposed to clarify the rule-making authority of the Superintendent of Financial Institutions by making the language in that subsection referring to a change in asset composition of a financial institution consistent with the rest of the section of law. The amendment also added an emergency preamble and emergency clause to the bill.

Enacted law summary

Public Law 2005, chapter 83 makes the following changes to the banking laws.

1. It clarifies certain provisions and provides additional regulatory powers essential to effective regulation of Maine chartered banks and credit unions.
2. It 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.
3. It establishes procedures for the appointment of a conservator in the event that a financial institution is operating in an unsafe or unsound or other potentially hazardous condition and needs to reorganize or be put into a sound condition. Conservation is a step that can be taken, specifically in the case of limited purpose financial institutions whose accounts are not insured by a federal insurance agency, before liquidation is ordered by the Superintendent of Financial Institutions.
4. It clarifies the superintendent's authority to order an institution closed and the appointment of a receiver and sets forth additional authority and limitation from liability in conservation or liquidation.
5. It establishes a notification procedure that must be followed if a state-chartered financial institution makes a fundamental change in asset composition.

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6. It establishes an asset pledge requirement that the superintendent may enforce in a nondepository trust company, merchant bank or uninsured bank as necessary for the protection of the public.
7. It clarifies existing authority of the superintendent to remove an officer or director from office or prohibit further participation by the officer or director in the conduct of the affairs of a financial institution or a financial institution holding company when similar action has been taken by the appropriate federal banking agency or when an officer or director has evidenced dishonesty or unfitness by conduct with respect to another business entity.

Public Law 2005, chapter 83 is an emergency measure effective May 10, 2005.

LD 966 **An Act To Conform the Insurance Information and Privacy Protection Act to Federal Privacy Rules** **PUBLIC 127**

<u>Sponsor(s)</u> FISCHER MAYO	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-210
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LD 966 proposed to amend the Insurance Information and Privacy Protection Act to clarify that it does not apply to self-funded group health plans that comply with the federal privacy rules adopted pursuant to the federal Health Insurance Portability and Accountability Act of 1996.

Committee Amendment "A" (H-210) replaced the bill. It proposed to amend the Insurance Information and Privacy Protection Act to permit certain regulated insurance entities to disclose private health information for the purposes of treatment, payment or health plan operations provided the disclosure complies with federal standards for privacy of individually identifiable health information.

Enacted law summary

Public Law 2005, chapter 127 amends the State's Insurance Information and Privacy Protection Act to permit certain regulated insurance entities to disclose private health information for the purposes of treatment, payment or health plan operations provided the disclosure complies with federal standards for privacy of individually identifiable health information pursuant to the federal Health Insurance Portability and Accountability Act of 1996, known as "HIPAA".

LD 1042 **Resolve, To Ensure Disclosure in Real Estate Transactions** **ONTP**

<u>Sponsor(s)</u> BRYANT B	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1042, a resolve, proposed to require the Department of Professional and Financial Regulation, Bureau of Financial Institutions to develop a fact sheet to provide information to married and unmarried couples on the implications of borrowing money to purchase real estate individually or as a couple and to require financial institutions licensed in the State to provide the fact sheet to couples who wish to borrow money to purchase real estate.