

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-369)
110TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 631, L.D. 712, Bill,
"AN ACT to Provide for the Limitations of Liability in Regard
to Certain Insurance Inspections."

Amend the Bill by striking out everything after
the enacting clause and inserting in its place the following:

'14 MRSA §166 is enacted to read:

§166. Insurance inspections

1. Exemption. Subject to subsection 2, the furnishing of, or failure to furnish, insurance consultation services related to, in connection with or incidental to a policy of property or casualty insurance shall not subject the insurer, its agents, employees or service contractors to liability for damages from injury, death or loss occurring as a result of any act or omission by any person in the course of such services. For purposes of this section, "insurance consultation services" means any survey, consultation, inspection, advisory or related services performed by an insurer, its agent, employees or service contractors incident to an application for insurance, a new policy of insurance or an existing policy of insurance for the purpose of reducing the likelihood of injury, death or loss.

2. Notice required. Subsection 1 shall not apply or be effective unless the insurer notifies the insured in writing of the provisions of this section whenever the policy is issued or renewed. The Superintendent of Insurance

shall adopt a regulation specifying the contents of the notice required by this subsection and the manner in which it shall be given.

3. Exceptions. This section shall not apply:

A. If the injury, loss^{or} death occurred during the actual performance of consultation services and was proximately caused by the negligence of the insurer, its agent, employees or service contractors;

B. To any consultation services required to be performed under the provisions of a written service contract not incidental to a policy of insurance; and

C. In any action against an insurer, its agents, employees or service contractors for damages proximately caused by the act or omission of the insurer, its agents, employees or service contractors in which it is determined that such act or omission constituted a crime, actual malice or gross negligence.'

Statement of Fact

The purpose of this amendment is to limit the liability of insurers and agents who conduct underwriting inspections of insured property. ~~Under~~ this amendment, policyholders would have to be notified of the liability limitation created by this amendment. The limitation would not apply if the injury or loss occurs while the inspection is actually taking place, to inspections which are contracted for by the property owner, or where the acts or omissions causing loss constitute a crime or gross negligence.