

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 309

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H.P. 245

House of Representatives, January 23, 1997

**An Act to Amend the Laws Governing Medical Payments Coverage  
Limits on Priority Liens.**

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Reference to the Committee on Banking and Insurance suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 24-A MRS §2910-A is enacted to read:

6 §2910-A. Medical payments coverage limitation

8 A medical payments provision in a casualty insurance  
10 contract may not provide for reimbursement of any sum paid out on  
12 behalf of the insured if the insured is entitled to receive  
14 payment from any other person as a result of a legal action or  
16 claim, except as provided in this section.

18 A policy may contain a provision that allows such  
20 reimbursement if that provision is approved by the  
22 superintendent, requires the prior written approval of the  
24 insured and allows such payments only on a just and equitable  
26 basis and not on the basis of a priority lien. "A just and  
28 equitable basis" means that any factors that diminish the  
30 potential value of the insured's legal action or claim likewise  
32 reduce the share in the claim for the issuer of the casualty  
34 insurance contract claiming reimbursement. These factors  
36 include, but are not limited to:

38 1. Legal defenses. Questions of liability and comparative  
40 negligence or other legal defenses;

42 2. Exigencies of trial. Exigencies of trial that reduce a  
44 settlement or award in order to resolve the claim; and

46 3. Limits of coverage. Limits on the amount of applicable  
48 insurance coverage that reduce the claim to an amount recoverable  
50 by the insured member.

In the event of a dispute as to the application of any such  
provision or the amount available for payment to the issuer of  
the casualty insurance contract claiming reimbursement, the  
dispute must be determined, if the action is pending, before the  
court in which it is pending or, if no action is pending, by  
filing an action in any court for determination of that dispute.  
In no case may the 3rd-party liability carrier withhold or escrow  
funds on behalf of or directly reimburse the insured's medical  
payments carrier for disbursements made on behalf of the insured  
without the insured's consent.

46 SUMMARY

48 This bill prohibits an insurer from reimbursing an insured  
50 for any medical payments that may be recovered from a 3rd party  
as a result of a legal action unless specified conditions are met.