

# MAINE STATE LEGISLATURE

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R.S.

L.D. 1762

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BANKING AND INSURANCE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1233, L.D. 1762, Bill, "An Act to Clarify the Law Concerning Representations Made in Insurance Contracts"

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

'Sec. 1. 24-A MRSA §2411, as enacted by PL 1969, c. 132, §1, is amended to read:

§2411. Representations in applications

All statements and descriptions in any application for insurance or for an annuity contract, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall may not prevent a recovery under the policy or contract unless either:

1. Fraudulent; or

2. Material either to the acceptance of the risk, or to the hazard assumed by the insurer, or such that the insurer in good faith would either not have issued the insurance or contract, or would not have issued it at the same premium rate, or would not have issued insurance in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

COMMITTEE AMENDMENT

2           ~~3. -- The insurer in good faith would either not have issued~~  
3           ~~the insurance or contract, or would not have issued it at the~~  
4           ~~same premium rate, or would not have issued insurance in as large~~  
5           ~~an amount, or would not have provided coverage with respect to~~  
6           ~~the hazard resulting in the loss, if the true facts had been made~~  
7           ~~known to the insurer as required either by the application for~~  
8           ~~the policy or contract or otherwise.~~

10           To prevent a recovery under this section for any application  
11           for life, credit life, disability, long-term care, accidental  
12           injury, specified disease, hospital indemnity or credit or  
13           accident insurance, an insurer need only prove one of the acts  
14           described in this section, not an act under subsections 1 and 2.'

### SUMMARY

18           This amendment replaces the bill. It clarifies that  
19           misrepresentations and incorrect statements in insurance  
20           applications may not prevent recovery under the policy unless the  
21           misrepresentations are fraudulent or material to the acceptance  
22           of the risk or the hazard to be assumed by the insurer.

24           The amendment clarifies that Maine Revised Statutes, Title  
25           24-A, section 2411 should be read in the disjunctive, overruling  
26           the Maine Supreme Judicial Court's decision in American Home  
27           Assurance Co. v. Ingeneri, 479 A.2d 897 (Me. 1984). In that  
28           decision, the Law Court read the statute in the conjunctive. The  
29           amendment requires that the statute be construed in the  
30           disjunctive so that a fraudulent or a material misrepresentation  
31           on an application for life, credit life, disability, long-term  
32           care, accidental injury, specified disease, hospital indemnity or  
33           credit or accident insurance may prevent a recovery by an insured  
34           during the first 3 years of a policy or contract.