MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1762

H.P. 1233

House of Representatives, March 9, 1999

An Act to Clarify the Law Concerning Representations Made in Insurance Contracts.

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

OSEPH W. MAYO, Clerk

Presented by Representative SAXL of Bangor. Cosponsored by Representatives: MAYO of Bath, RICHARDSON of Brunswick, Senator: LaFOUNTAIN of York.

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

Sec. 1. 24-A MRSA §2411, as enacted by PL 1969, c. 132, §1, is amended by adding a new paragraph at the end to read:

To prevent a recovery under this section for any application for life, credit life, disability, long-term care, accidental injury, specified disease, hospital indemnity or credit or accident insurance, an insurer need only prove one of the acts described in this section, not an act under subsections 1, 2 and 3.

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14 SUMMARY

16 This bill clarifies that the Maine Revised Statutes, Title 24-A, section 2411 should be read in the disjunctive, which is 18 the original intent of the law passed in 1969, but was not so interpreted by the Maine Supreme Judicial Court in American Home Assurance Co. v. Ingeneri, 479 A.2d 897 (Me. 1984). The Law 20 Court read the statute in the conjunctive, in effect, overriding the Legislature's plain use of disjunctive construction in the 22 Ingeneri decision has had the 24 consequence of requiring the Federal Court in Maine to find that another portion of the Insurance Code, which requires 26 "incontestability clause" to be included in every health insurance contract delivered in this State, to be rendered null 28 Incontestability clauses are a consumer protection, and void. preventing insurers from contesting representations made on 30 insurance applications after 3 years, unless the insurer can prove fraud. Maine thus became the only state without an "incontestability" provision. This bill overrules Ingeneri and 32 restores the original intent of the statute.