

MAINE STATE LEGISLATURE

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**STATE OF MAINE
114TH LEGISLATURE
FIRST REGULAR SESSION**



**BILL SUMMARY
JOINT STANDING COMMITTEE
ON
LEGAL AFFAIRS**

JULY 1989

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* Denotes Chair

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ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE
BILL SUMMARIES
AUGUST 1989

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The summaries are arranged by LD number for each committee.

All Adopted Amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action is listed to the right of the title. If final House and Senate action differ, both are listed. Committee Reports and Floor Action are abbreviated as follows:

OTP	Ought to Pass
OTP-ND	Ought to Pass in New Draft
OTP-ND-NT	Ought to Pass in New Draft, New Title
OTP-A	Ought to Pass as Amended
ONTP	Ought Not to Pass
LVWD	Leave to Withdraw
INDEF PP	Indefinitely Postponed

Each individual summary was prepared by the analyst assigned, as noted for each committee. But, this document was produced by the efforts of all the office staff, including Research Assistant Barbara McGinn, and secretaries: Charlene Brann, and Valarie Parlin, and especially Laurette Knox who coordinated preparation of the overall document.

Please give us your suggestions and comments on these summaries and tell us of any inaccuracies.

Committee Amendment "A" changes the bill to require that a judge, in order to order restitution, must find not only that an incurred funeral expense was "reasonable" but also "customary".

ID 797 An Act to Impose Civil Penalties for Intentional Violations PUBLIC 239
of the Maine Unfair Trade Practices Act

<u>SPONSOR(S)</u>	<u>COMMITTEE REPORT</u>	<u>AMENDMENTS ADOPTED</u>
HOBBINS	OTP-AM	S-129
BRANNIGAN		
PARADIS P		

SUMMARY
This bill provides that a maximum civil penalty of \$10,000 shall be adjudged in cases where the Attorney General demonstrates that an Unfair Trade Practices Act violation was intentional as well as unfair or deceptive.

Committee Amendment "A" provides that the Attorney General has the burden of proving that the conduct was intentional notwithstanding a statute which declares a violation of that statute an unfair trade practice. The amendment also provides that fines collected pursuant to this civil penalty provision shall be used to carry out the purposes of the Unfair Trade Practices Act.

ID 814 An Act to Clarify the Affirmative Defense of Breach of PUBLIC 284
Warranty of Habitability

<u>SPONSOR(S)</u>	<u>COMMITTEE REPORT</u>	<u>AMENDMENTS ADOPTED</u>
MURPHY	OTP-AM	H-304
PLOURDE		
CARPENTER		

SUMMARY
This bill requires that a tenant, in order to raise the landlord's breach of the implied warranty of habitability as a defense in an eviction action for nonpayment of rent, must comply with the procedures established in current law for suing as a plaintiff for breach of the implied warranty of habitability. These requirements include proof of giving the landlord written notice of the condition amounting to a breach, the landlord's subsequent failure to take prompt, corrective action and proof that the tenant was current in rent at the time written notice was given.

Committee Amendment "A" allows a tenant to raise the defense of breach of the implied warranty of habitability in an eviction action for nonpayment of rent only if the landlord had actual or constructive notice of the alleged breach and unreasonably failed to act to correct the problem which was not caused by the tenant or one under the tenant's control. The amendment imposes no other barriers to use of this defense and deletes reference to law regarding an affirmative action for breach of the warranty of habitability.