

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

SECOND REGULAR SESSION
AND
SECOND SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BANKING AND INSURANCE

MAY 1998

MEMBERS:

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**ONE HUNDRED EIGHTEENTH LEGISLATURE
SECOND REGULAR AND SECOND SPECIAL SESSIONS**

**Summary Of Legislation Before The Joint Standing Committees
May 1998**

We are pleased to provide this summary of bills that were considered by the Joint Standing Committees of the Maine Legislature. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....House & Senate disagree; bill died
DIED IN CONCURRENCE.....One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....Action incomplete when session ended; bill died
EMERGENCY.....Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....Bill imposing local mandate failed to get 2/3 vote
INDEF PP.....Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED.....Bill held by Governor
VETO SUSTAINED.....Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is June 30, 1998 and July 9, 1998 for the Second Special Session. Second Special Session laws include Public Laws beginning with Chapter 718, Private and Special Laws beginning with Chapter 82 and Resolves beginning with Chapter 117.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VIGUE JENKINS	OTP-AM	H-873

LD 1783 was carried over from the First Regular and First Special Session.

Part A of the bill proposed to set forth those practices of insurers that would constitute unfair claims practices under the Maine Insurance Code. Part A is based in part on the 1990 Unfair Claims Settlement Practices Model Act of the National Association of Insurance Commissioners. The intent of the law is to provide a regulatory framework for the Bureau of Insurance to act in those cases where unfair claim practices arise. The law does not create a private right of action nor is it intended to create an alternate mechanism to adjudicate disputed claims. Under Part A, the Superintendent of Insurance is required to adopt rules. Penalties, notice and hearing provisions of current law remain in effect.

Part B proposed to authorize the Superintendent of Insurance to make public aggregate ratios of substantiated consumer complaints against insurance companies. Only those complaints determined by the Bureau of Insurance to be valid are included in the development of these ratios. Part B of the bill was enacted in the First Special Session in Public Law 1997, chapter 314.

Part C proposed to clarify the jurisdictional and penalty provisions of the enforcement section of the Maine Insurance Code and give the superintendent concurrent disciplinary jurisdiction when insurers or insurance professionals violate laws outside the Maine Insurance Code, such as workers' compensation or general criminal laws, in the course of their insurance business.

Committee Amendment "A" (H-873) proposed to clarify language related to "unfair claims practices" and remove language making it an unfair claims practice for insurers to settle or attempt to settle claims for less than represented to an insured in advertising material.

The amendment also removes Part B and adds a fiscal note to the bill. The amendment removes language giving the superintendent concurrent disciplinary jurisdiction over violations of laws outside the Maine Insurance Code by persons and entities licensed by the Bureau of Insurance.

The amendment allows an exception for the failure of insurers to provide forms necessary to present claims within 15 days of a request when there is an extraordinary loss or series of losses as determined by the Superintendent of Insurance. It makes it an unfair claims practice for insurers to fail to deal with insureds in good faith to resolve claims. It requires the Superintendent of Insurance to ensure that the unfair claims practices provisions are enforced consistent with the Maine Revised Statutes, Title 24-A, chapter 56-A. It removes from unfair claims practices the exemption for life and health insurers.

Enacted law summary

Public Law 1997, chapter 634 provides a more expansive regulatory framework for the Bureau of Insurance to address unfair claims settlement practices by insurers and licensed insurance professionals. The law gives the Bureau recourse in instances where first-party insureds are subjected to unfair claims practices and also in certain specified instances where third-party claimants are subjected to unfair claims practices.

The law prohibits “unfair claims practices” by insurers and others engaged in the business of insurance when the acts are committed in conscious disregard of the law’s provisions or are committed with such frequency as to indicate a general business practice. Unfair claims practices against insureds and claimants include: knowingly misrepresenting to claimants and insureds relevant facts or policy provisions related to coverages at issue; failing to acknowledge with reasonable promptness pertinent written communications with respect to claims arising under its policies; failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies; failing to develop and maintain documented claim files supporting decisions made regarding liability; refusing to pay claims without conducting a reasonable investigation; failing to affirm coverage or deny coverage, reserving any appropriate defenses, within a reasonable time after having completed its investigation related to a claim; and failing in the case of claims denials or offers of compromise settlement to promptly provide an accurate written explanation of the basis for those actions.

Public Law 1997, chapter 634 also makes it an unfair claims practices for insurers to compel insureds to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them with such frequency as to constitute a general business practice, except that it is not an unfair practice when the insurer has a reasonable basis to contest the insurer’s liability, the amount of any damages or the extent of any injuries claimed.

The law makes it an unfair claims practice for an insurer to fail to deal with insureds in good faith to resolve claims made against policies of insureds without just cause and with such frequency as to indicate a general business practice.

The law removes the exemption for life and health insurers and requires the Superintendent of Insurance to ensure that the unfair claims practices provisions are enforced consistent with Maine Revised Statutes, Title 24-A, chapter 56-A.

Public Law 1997, chapter 634 also clarifies the jurisdictional and penalty provisions of the enforcement section of the Maine Insurance Code.

LD 1848

An Act to Create the Consumer Health Care Division within the Bureau of Insurance

PUBLIC 792

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL J	OTP-AM MAJ ONTP MIN	H-820 H-886 SAXL J

LD 1848, originally titled “An Act to Create the Managed Care Ombudsman Program,” was carried over from the First Regular and First Special Session and proposed to create the Managed Care Ombudsman Program within the Office of the Public Advocate. The program proposed to educate and assist consumers with managed care plan selection, assist enrollees in understanding their rights and responsibilities under managed care plans, advocate for policies and programs that protect consumer rights and interests and handle complaints and appeals and provide individual case representation. The bill establishes the Managed Care Ombudsman Program Fund, a dedicated fund to receive income from nonprofit hospital and medical service organizations, insurers and health maintenance organizations.