

MAINE STATE LEGISLATURE

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**STATE OF MAINE
118TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BANKING AND INSURANCE**

JULY 1997

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ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
August 1997

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. 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 alphabetically 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:

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

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director
 Offices Located in the State House, Rooms 101/107/135

consideration, to the charitable trust and to subscribers, if applicable, in the amount prescribed under the established formula.

The law authorizes the establishment of for-profit affiliates by nonprofit hospital and medical service organizations with other nonprofit institutions and for-profit health care providers as long as the nonprofit hospital and medical service organization has 50% or more control of the affiliate. The for-profit ownership interests in the affiliate may not exceed 25% if held by individual physicians, individually and aggregate; or 20% if held by nonprofit and non-charitable physician-hospital organizations, individually or in combination with individual physicians. The health insurance affiliate must have corporate purposes that are consistent with and in furtherance of the charitable purposes of the nonprofit hospital and medical service organization.

Public Law 1997, chapter 344 also streamlines the process for review of premium rates for individual and Medicare supplement insurance products for nonprofit hospital and medical service organizations and for-profit insurance companies regulated by the Maine Insurance Code. If a rate filing seeks an increase of less than 1.5 times the rate of inflation for medical costs and the company has a loss ratio of 80% or greater, the burden of proof is shifted from the insurance company to the Bureau of Insurance and any party asserting that the rates are excessive to prove that the rates are excessive. The burden of proving that rates are adequate and not unfairly discriminatory remains with the insurance company or the nonprofit hospital and medical service organization. The provisions governing rate review for individual and Medicare supplement insurance policies are repealed October 1, 2001.

LD 1857

An Act to Protect Patients of Managed Care Plans

CARRIED OVER

| | | | | |
|-----------------------------|--|-------------------------|--|---------------------------|
| <u>Sponsor(s)</u> BROOKS | | <u>Committee Report</u> | | <u>Amendments Adopted</u> |
|-----------------------------|--|-------------------------|--|---------------------------|

LD 1857 proposes to establish a duty and standard of ordinary care that must be provided by an insurance company, health maintenance organization, preferred provider organization or a nonprofit hospital and medical service organization under a managed health care plan. It also would authorize a person enrolled in a managed health care plan to bring a legal action for damages against a carrier if the person is harmed by a carrier's failure to exercise ordinary care.

LD 1857 was carried over to the Second Regular Session.

LD 1869

An Act to Create a Universal Bank Charter

**PUBLIC 398
EMERGENCY**

| | | | | |
|---|--|-----------------------------------|--|--|
| <u>Sponsor(s)</u> CARLETON MURRAY | | <u>Committee Report</u> OTP-AM | | <u>Amendments Adopted</u> H-523 S-284 MURRAY |
|---|--|-----------------------------------|--|--|

In November 1996, the Bureau of Banking formed a study group consisting of bankers, attorneys and bureau staff to study the various bank chartering options under state law. LD 1869 proposed to incorporate the recommendations of that study group in the development of a universal bank charter in the banking laws of this State by making the following changes.

Part A makes the necessary changes to definitions found in the banking laws.

Part B gives a financial institution the sole discretion to establish hours and days of operation, including remaining open for business on weekends and holidays.

Part C permits investor-owned financial institutions to be organized as corporations, limited liability companies, limited partnerships and limited liability partnerships. It also makes other changes to align the banking laws with the Maine Business Corporation Act, the Maine Revised Statutes, Title 13-A, the Maine Limited Liability Company Act and the Maine Revised Uniform Limited Partnership Act, Title 31, with respect to the corporate governance of these types of financial institutions.

Part D revises the banking laws, Title 9-B, chapter 32, to provide a greater distinction between the two types of mutual institutions: mutual savings institutions, historically mutual savings banks; and cooperative institutions, historically savings and loan associations. It expands the current residency requirement for organizers and incorporators to permit appointment of incorporators and directors that reside in the geographic area to be served by the institution and permits proxy voting at an annual meeting in accordance with provisions of the bank's bylaws.

Part E removes the requirement for approval by the Superintendent of the Bureau of Banking for most transactions to establish or relocate a branch and removes all regulatory approvals for establishment, relocation or closing of an automated teller machine. The definition of "branch" is broadened and bank management is given the sole responsibility to determine days and hours of operation and services to be provided at each office.

Parts F and G make the necessary technical changes to conversion and mergers and acquisition laws to encompass different types of investor-owned, mutual or cooperative financial institutions, permit a smooth conversion from a federal to state charter and ease regulatory burden for certain types of corporate reorganizations.

Part H makes technical changes to the laws governing bank liquidations to conform to new definitions and terminology incorporated with the different types of investor-owned and mutual or cooperative financial institutions.

Part I sets forth the powers, privileges, duties and restrictions of state-chartered financial institutions. These provisions establish broad authority for financial institutions in the areas of investment, lending and deposit-taking. It removes outdated provisions of the banking laws and preserves all charters approved under private and special acts of the Legislature or actions by the Bureau of Banking and unites all types of state-chartered financial institutions with the powers and authorities of a universal bank charter. In addition, it broadens the authority for a financial institution to engage, directly or indirectly, in closely related activities.

Part I also places restrictions on transactions between a financial institution and its affiliate that mirror federal laws in this area. In addition, it consolidates all laws governing trust activities of financial institutions into one statutory chapter, making no substantive changes to those provisions of the banking laws.

Part J enacts a new part in the banking laws that addresses specialty or limited purpose financial institutions, incorporating a provision clarifying the general purpose, authority and organization of nondepository trust companies, merchant banks and uninsured banks.

Part K makes miscellaneous changes to the banking laws to conform them to other provisions in the bill. In addition, it sets forth a procedure for preliminary review by the Bureau of Banking of an application and authority for the bureau to assess the prospective applicant a fee for that service that may be applied to the application fee if

and when an application is filed. It makes other technical changes to application processing and holding company laws and establishes an assessment fee on nondepository trust companies chartered by the State but not affiliated with another state-chartered financial institution.

Part K also repeals the outdated provisions of the banking laws that contained the powers and authorities of savings banks, savings and loan associations and trust companies that subsequently will operate with the powers of the universal bank charter.

Part L corrects cross-references.

Committee Amendment "A" (H-523) proposed to add a definition of real-estate related services, an emergency preamble and an emergency clause to the bill.

Senate Amendment "A" (S-284) was presented on behalf of the Committee on Bills in the Second Reading to correct an incorrect history and to prevent a conflict by incorporating changes made to the Maine Revised Statutes, Title 9-B, section 316 in Public Law 997, chapter 182.

Enacted law summary

Public Law 1997, chapter 398 establishes a universal bank charter for state-chartered financial institutions. It repeals provisions in the Maine Banking Code related to the powers and authorities of state-chartered savings banks, savings and loan associations and trust companies and enacts provisions that unite these types of institutions under the powers and authorities of a universal bank charter. The law provides state-chartered financial institutions with broad authority in the areas of investing, lending and deposit-taking and also broadens the authority to engage, directly or indirectly, in closely related activities. It removes the requirement for approval by the Superintendent of Banking for most transactions to establish or relocate a branch and removes all regulatory approvals for the establishment, relocation or closing of an automated teller machine. Financial institutions and bank management are also given sole discretion to establish hours and days of operation, including remaining open for business on weekends and holidays.

Public Law 1997, chapter 398 also enacts provisions clarifying the general purpose, authority and organization of specialty or limited purpose financial institutions, including nondepository trust companies, merchant banks and uninsured banks.

Public Law 1997, chapter 398 was enacted as an emergency measure effective June 5, 1997.

LD 1879 An Act Authorizing the Bureau of Insurance to Release Aggregate PUBLIC 314
Ratios of Consumer Complaints to the Public

Sponsor(s) | Committee Report | Amendments Adopted

LD 1879 was reported out by the Joint Committee on Banking and Insurance pursuant to joint order. The bill proposed to enact a portion of LD 1783, "An Act Clarifying Claims Settlement Practices," which was carried over to the Second Regular Session. This bill authorizes 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. The method for calculating the