

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
119TH LEGISLATURE**

**FIRST REGULAR SESSION**

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

**JULY 1999**

**MEMBERS:**

*Sen. Lloyd P. LaFountain III, Chair*

*Sen. Neria R. Douglass.*

*Sen. I. Joel Abromson*

*Rep. Jane W. Saxl, Chair*

*Rep. Christopher P. O'Neil*

*Rep. Joseph C. Perry*

*Rep. Benjamin F. Dudley*

*Rep. John G. Richardson, Jr.*

*Rep. Nancy B. Sullivan.*

*Rep. Arthur F. Mayo III*

*Rep. Sumner A. Jones, Jr.*

*Rep. Kevin J. Glynn*

*Rep. Robert W. Nutting*

**Staff:**

*Colleen McCarthy Reid, Legislative Analyst*

*Office of Policy and Legal Analysis*

*Room 101/107/135, 13 State House Station*

*Augusta, ME 04333*

*(207)287-1670*



**Maine State Legislature**  
**OFFICE OF POLICY AND LEGAL ANALYSIS**

13 State House Station, Augusta, Maine 04333-0013  
Telephone: (207) 287-1670  
Fax: (207) 287-1275

**ONE HUNDRED NINETEENTH LEGISLATURE**  
**FIRST REGULAR SESSION**

**Summary Of Legislation Before The Joint Standing and Select Committees**  
**August 1999**

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. 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 and select committees.

The document is organized for convenient reference to information on bills considered by the 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](http://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:

*CARRIED OVER*.....Bill carried over to Second Regular Session  
*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  
*ENACTMENT FAILED*..... Bill failed to get vote required for enactment or final passage  
*NOT PROPERLY BEFORE THE BODY*..... Ruled out of order by the presiding officers; bill died  
*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 First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

<u>Sponsor(s)</u> SAXL J	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-246
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LD 1762 proposed to clarify that the Maine Revised Statutes, Title 24-A, section 2411 should be read in the disjunctive, which is 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 Court read the statute in the conjunctive, in effect, overriding the Legislature's plain use of disjunctive construction in the section. The Ingeneri decision has had the unintended consequence of requiring the Federal Court in Maine to find that another portion of the Insurance Code, which requires an "incontestability clause" to be included in every health insurance contract delivered in this State, to be rendered null and void. Incontestability clauses are a consumer protection, preventing insurers from contesting representations made on insurance applications after three years, unless the insurer can prove fraud. Maine thus became the only state without an "incontestability" provision. This bill proposed to overrule Ingeneri and restore the original intent of the statute.

**Committee Amendment "A" (H-246)** proposed to replace the bill. It proposed to clarify that misrepresentations and incorrect statements in insurance applications may not prevent recovery under the policy unless the misrepresentations are fraudulent or material to the acceptance of the risk or the hazard to be assumed by the insurer.

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

#### *Enacted law summary*

Public Law 1999, chapter 223 provides that misrepresentations and incorrect statements in insurance applications may not prevent recovery under the policy or contract unless the misrepresentations are fraudulent or material to the acceptance of the risk or the hazard to be assumed by the insurer. The law clarifies that Maine Revised Statutes, Title 24-A, section 2411 should be construed in the disjunctive so that a fraudulent or material misrepresentation on an application for life, credit life, disability, long-term care, accidental injury, specified disease, hospital indemnity or credit or accident insurance may prevent a recovery by an insured during the first three years of a policy or contract.

<u>Sponsor(s)</u> SAXL J ABROMSON	<u>Committee Report</u> OTP-AM MAJ OTP-AM MIN	<u>Amendments Adopted</u> H-342
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LD 1777 proposed to update the prearranged funeral service law originally enacted in 1959. The provisions in this bill reflect the recommendations of the Funeral Act Review Group, which was assembled by the Department of Professional and Financial Regulation to update the laws regarding prearranged funeral arrangements.

The bill proposed to change one provision in the insurance laws to clarify that insurers may not contract with funeral service providers to solicit or sell policies. The bill proposed to update terminology regarding financial institutions and credit unions and specifies permissible low-risk investments. The bill also proposed to enumerate board rulemaking