

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

**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).

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
-----------------------------	-----------------------------------	------------------------------------

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
---	---	------------------------------------

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

requirements to include the format and content of trust agreements and service contracts, the establishment of reasonable transfer, revocation and account administration fees and inspection of trust agreements.

This bill was submitted on behalf of the Department of Professional and Financial Regulation.

Committee Amendment "A" (H-342) is the majority report of the committee. The amendment proposed to qualify the type of insurance that may be purchased with money in a mortuary trust account. The amendment also proposed to replace board members with a designee of the Commissioner of Professional and Financial Regulation on the list of persons authorized to inspect prearranged funeral account records.

The amendment also proposed to add an allocation section and a fiscal note to the bill.

Committee Amendment "B" (H-343) was the minority report of the committee. It differed from the majority report because it allowed fees to be charged against mortuary trusts for the administration of the mortuary trust account. The bill proposed to limit the fees to be charged to only those fees for the actual financial and tax administration of the trust account. Like the majority report, the amendment proposed to qualify the type of insurance that may be purchased with money in a mortuary trust account and proposed to replace board members with a designee of the Commissioner of Professional and Financial Regulation on the list of persons authorized to inspect prearranged funeral account records. Committee Amendment "B" was not adopted.

The amendment also proposed to add an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1999, chapter 258 updates the prearranged funeral service law and reflects the recommendations of the Funeral Act Review Group assembled by the Department of Professional and Financial Regulation to update the provisions regarding prearranged funeral arrangements.

Public Law 1999, chapter 258 clarifies that insurers may not contract with funeral service providers to solicit or sell policies; updates terminology regarding financial institutions and credit unions and specified the permissible low-risk investments for mortuary trust funds, including the types of insurance that may be purchased with money in a mortuary trust account. The law limits the fees that may be charged against mortuary trust accounts to fees for the actual financial and tax administration of the account. It also requires the Board of Funeral Service to conduct rulemaking governing the format and content of trust agreements and service contracts, the establishment of reasonable transfer, revocation and account administration fees and inspection of trust agreement.

LD 1778

An Act to Make Corrections in the Mental Health Insurance Laws

ONTP

Sponsor(s)
SAXL M

Committee Report
ONTP

Amendments Adopted

LD 1778 proposed to amend the health insurance laws regarding mental health services coverage. Part A of the bill proposed to remove the provisions that exempt employers with 20 or fewer employees insured under a group contract or policy from the coverage requirements and adds anorexia and bulimia to the lists of biological mental illnesses to which the coverage or offer of coverage provisions apply. Part B of the bill proposed to require health insurance policies and contracts to provide coverage for children's mental health disorders under terms and conditions no less extensive than benefits provided for medical treatment for physical illnesses.