

# MAINE STATE LEGISLATURE

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*State Of Maine  
121st Legislature*

*Second Regular Session and  
Second Special Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Insurance and Financial Services*

*May 2004*

**Members:**

*Sen. Lloyd P. LaFountain III, Chair*

*Sen. Neria R. Douglass*

*Sen. Arthur F. Mayo III*

*Rep. Christopher P. O'Neil, Chair*

*Rep. Marilyn E. Canavan*

*Rep. Joseph C. Perry*

*Rep. Bonita J. Breault*

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*Rep. Kevin J. Glynn*

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*Rep. Lois A. Snowe-Mello*

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*Rep. Richard G. Woodbury*

**Staff:**

*Colleen McCarthy Reid, Legislative Analyst*

*Office of Policy and Legal Analysis*

*13 State House Station*

*Augusta, ME 04333*

*(207) 287-1670*

*Maine State Legislature*



*Office Of Policy And Legal Analysis  
Office Of Fiscal And Program Review*

*121st Maine Legislature  
Second Regular Session and  
Second Special Session*

*Summary Of Legislation Before The Joint Standing Committees*

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint 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 committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name 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/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

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*
- 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*
- P&S XXX..... Chapter # of enacted Private & Special Law*
- PASSED..... Joint Order passed in both bodies*
- 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 that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

*David C. Elliott, Director*  
**Offices located in Room 215 of the Cross Office Building**

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must be kept secure and may not be published or reproduced. House Amendment "B" to Committee Amendment "A" was not adopted.

**House Amendment "C" to Committee Amendment "A" (H-736)** proposed to provide that a person who makes a photocopy of a driver's license without the written consent of the Secretary of State does not commit a crime. The amendment also requires that, beginning in 2006, all driver's licenses must contain a warning related to disclosure of personal information displayed on a license. House Amendment "C" to Committee Amendment "A" was not adopted.

**House Amendment "D" to Committee Amendment "A" (H-747)** proposed to limit the exemption of the requirement that the Secretary of State consent in writing to the photocopying of a driver's license to instances when the photocopy is being made solely for identification purposes to consummate a financial transaction with a financial services entity or its subsidiary regulated pursuant to the Maine Revised Statutes, Title 9-A, the Maine Consumer Credit Code, or Title 9-B, which concerns financial institutions. This amendment also proposed to clarify that any reproduction of a driver's license or certificate of registration permitted under that subsection of law must be kept secure and may not be published or reproduced. House Amendment "D" to Committee Amendment "A" was not adopted.

### *Enacted Law Summary*

Public Law 2003, chapter 568 authorizes a person to make a photocopy of a driver's license without the written consent of the Secretary of State if the photocopy is made solely for identification purposes to consummate a financial transaction, for verification that a commercial driver's license has been issued or for motor vehicle loaner and demonstration purposes. The law also restricts the further disclosure of the photocopy unless permitted by another applicable law.

Public Law 2003, chapter 568 was enacted as an emergency measure effective March 24, 2004.

**LD 1853**

### **An Act To Amend the Laws Relating to Property and Casualty Insurance and To Authorize the Superintendent of Insurance To Establish a Mandatory Market Assistance Program**

**PUBLIC 671**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT PERRY A	OTP-AM	H-908 O'NEIL S-489

LD 1853 proposed to prohibit an insurer from canceling or refusing to issue or renew a property insurance policy subject to the Maine Revised Statutes, Title 24-A, chapter 41, subchapter 5, the so-called "Maine Property Insurance Cancellation Control Act," solely on the basis of the age of the dwelling. The bill proposed to prohibit an insurer from declining to insure a property subject to the Maine Property Insurance Cancellation Control Act on the basis that a previous owner of the property submitted claims for losses to the property. The bill proposed to prohibit insurers from increasing the stated value of a property insured under a policy governed by the Maine Property Insurance Cancellation Control Act at any time other than at renewal. The bill also proposed to require insurers to provide notice to the named insured explaining the reason for any increase in premium associated with an increase in stated value and disclose how an insured may obtain additional information that led to the increase in value. The bill would require an insurer to provide advance notice of needed property repairs to a policyholder and

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to allow for a reasonable time for the policyholder to complete the repairs before issuing a nonrenewal notice based on lack of necessary repairs for a property insurance policy subject to the Maine Property Insurance Cancellation Control Act. Finally, the bill proposed to amend the hearing section of the Maine Property Insurance Cancellation Control Act to clarify the proof required by an insurer to establish that its reason to nonrenew a policy is a good faith reason and rationally related to the insurability of the property.

**Committee Amendment "A" (S-489)** replaced the bill and changed the title.

Part A of the amendment proposed to do the following.

1. It removes the authority for the Superintendent of Insurance to delay the effective date of property and casualty insurance rate filings made electronically and requires the superintendent to approve or disapprove policy form filings made electronically for lines of insurance other than life, health and annuity.
2. It clarifies the current law that permits the cancellation of homeowner's insurance on the basis of fraud or material misrepresentation by the named insured or the insured's representative.
3. It adds new grounds for the cancellation of property insurance subject to the "Maine Property Insurance Cancellation Control Act," the Maine Revised Statutes, Title 24-A, chapter 41, subchapter 5, including the presence of a trampoline, the presence of a swimming pool not properly fenced in, a loss occasioned by a dog bite and the fact that a property is vacant without adequate custodial care.
4. It requires insurers to provide at least 90 days' notice to the named insured to comply with reasonable loss control recommendations before a cancellation notice or notice of nonrenewal may be issued.
5. It amends the hearing section of the Maine Property Insurance Cancellation Control Act to clarify that an insurer must provide proof or evidence that its reason for nonrenewal of a policy is a good faith reason and rationally related to the insurability of the property if the reason for nonrenewal is not based on a statutorily permissible ground for cancellation. The amendment also clarifies that a statement from the insurer that a risk does not meet the insurer's underwriting guidelines alone is not considered sufficient proof or evidence of its reason for nonrenewal in a hearing before the Superintendent of Insurance.
6. It prohibits an insurer from canceling or refusing to issue or renew a property insurance policy solely on the basis of the age of the dwelling.
7. It prohibits an insurer from declining to insure a property on the basis that a previous owner of the property submitted claims for losses to the property.
8. It prohibits insurers from increasing the stated value of a property insured under a policy governed by the Maine Property Insurance Cancellation Control Act at any time other than at renewal. The amendment also requires insurers to provide notice to the named insured explaining the reason for any increase in premium associated with an increase in stated value and disclosing how an insured may obtain additional information concerning the reasons for the increase in the stated value. The amendment also clarifies that this provision does not apply to routinely scheduled increases in valuation or to increases in stated value agreed to by the insured.
9. It makes technical changes to the laws governing workers' compensation group self-insurance reinsurance accounts related to the legal and tax status of the account.

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Part B of the amendment proposed to authorize the Superintendent of Insurance to establish a mandatory property and casualty insurance market assistance program to provide basic property and casualty insurance to underserved areas or risk types in Maine. Prior to establishing the program, the superintendent must establish a voluntary market assistance plan pursuant to the Maine Revised Statutes, Title 24-A, section 2325-A and find that either the number of insurers participating in the voluntary market assistance plan is insufficient or that a sufficient number of risks has not been written through the voluntary market assistance plan. If a mandatory program is established, any insurer authorized to write basic property and casualty insurance and actually writing such insurance in Maine must cooperate in organizing the program and remain a member of the program as long as that insurer has net direct premiums on basic property and casualty insurance in Maine. The amendment authorizes the superintendent to appoint a governing committee to oversee the program and to develop a plan of operation subject to the approval of the superintendent. It also authorizes the superintendent to adopt rules to implement the requirements of the program, including the designation of underserved areas or risk types, the creation of reasonable limitations on underwriting guidelines and rates for insurance written through the program and provisions to govern the suspension or termination of the program.

House Amendment "A" to Committee Amendment "A" (H-908) proposed to clarify legislative intent in response to a decision of the Law Court, York Ins. Co. of Maine, Inc. v. Supt. of Ins., 2004 ME 45, April 7, 2004. Under the provisions of the Maine Property Insurance Cancellation Control Act, current law, as reflected in Committee Amendment "A," requires that an insurer base its decision to nonrenew an insurance policy subject to the Act on one or more good faith reasons "rationally related" to the insurability of the property. In the recent decision, York Ins. Co. of Maine, Inc. v. Supt. of Ins., 2004 ME 45, April 7, 2004, the Law Court interpreted the term "rationally related" in discussing what standard should be applied to determine whether an insurance company has met its burden of proof to establish that its decision to nonrenew a homeowner's insurance policy was rationally related to the insurability of the property. In the York decision, the Law Court concluded that the Legislature intended "rationally related" to mean that the insurance company need only prove "a reasonably conceivable state of facts that could provide a rational basis" for the company's nonrenewal decision.

**House Amendment "A" to Committee Amendment "A" (H-908)** proposed to strike the word "rationally" to clarify legislative intent that a reason for nonrenewal must be related to the insurability of the property. The purpose of this amendment is to clarify the appropriate standard to apply in determining whether an insurance company's decision to nonrenew a homeowner's insurance policy complies with the law. The change in language is intended to maintain the Bureau of Insurance's ability to exercise its statutory authority in hearings to determine when an insurance company has established the existence of proof or evidence for its reason for nonrenewal. Without the amendment, the recent York decision may be construed to provide insurers with a lower standard upon which to establish their burden of proof for nonrenewal decisions.

The amendment is not intended to affect the application of the remainder of the Law Court's analysis in York, including its conclusion that an insurance company's decision not to renew a homeowner's insurance policy is not per se irrational because it was not supported by empirical data.

### ***Enacted Law Summary***

Public Law 2003, chapter 671 amends the laws relating to property and casualty insurance.

Part A of the law does the following.

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1. It requires the Superintendent of Insurance to act on property and casualty insurance rate filings made electronically within 30 days and to approve or disapprove policy form filings made electronically within 30 days for lines of insurance other than life or health insurance or annuity products.
2. It clarifies the current law that permits the cancellation of homeowner's insurance on the basis of fraud or material misrepresentation by the named insured or the insured's representative.
3. It adds new grounds for the cancellation of homeowner's insurance, including the presence of a trampoline, the presence of a swimming pool not properly fenced in, a loss occasioned by a dog bite and the fact that a property is vacant without adequate custodial care.
4. It requires insurers to provide at least 90 days' notice to the named insured to comply with reasonable loss control recommendations before a cancellation notice or notice of nonremoval may be issued.
5. It amends the hearing section of the Maine Property Insurance Cancellation and Control Act to clarify legislative intent that a reason for nonrenewal must be related to the insurability of the property. The law strikes the word "rationally" in response to a recent Law Court decision, *York Ins. Co. of Maine, Inc. v. Supt. of Ins.*, 2004 ME 45 (April 7, 2004) to clarify the appropriate standard to apply in determining whether an insurance company's decision to nonrenew a homeowners insurance is a good faith reason and related to the insurability of the property if the reason for nonrenewal is not a statutorily permissible ground for cancellation. The law also clarifies that a statement from the insurer that a risk does not meet the insurer's underwriting guidelines alone is not considered proof or evidence of its reason for nonrenewal in a hearing before the Superintendent of Insurance.
6. It prohibits an insurer from canceling or refusing to issue or renew a property insurance policy solely on the basis of the age of a dwelling.
7. It prohibits an insurer from declining to insure a property on the basis that a previous owner of the property submitted claims for losses to the property.
8. It prohibits insurers from increasing the stated value of a property at any time other than renewal. At least 30 days before the renewal date of the policy, the law requires that insurers provide notice to the insured explaining the reason for any increase in premium associated with an increase in stated value and disclose how an insured may obtain additional information concerning the reasons for the increase in stated value.
9. It makes technical changes to the laws governing worker's compensation group self-insurance reinsurance accounts related to the legal and tax status of the account.

Part B of Public Law 2003, chapter 671 authorizes the Superintendent of Insurance to establish a mandatory property and casualty insurance market assistance program to provide basic property and casualty insurance to underserved areas or risk types in the State. Prior to establishing the program, the Superintendent must establish a voluntary market assistance plan pursuant to law and find that either the number of insurers participating in the voluntary market assistance plan is insufficient or that a sufficient number of risks has not been written through the voluntary market assistance plan. If a mandatory program is established, any insurer authorized and actually writing basic property and casualty insurance in the State must participate as a member of the program.