

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on*

Business, Research and Economic Development

August 2005

Members:

Sen. Lynn Bromley, Chair

Sen. Barry J. Hobbins

Sen. Dana L. Dow

Rep. Nancy E. Smith, Chair

Rep. Lillian LaFontaine O'Brien

Rep. Stephen R. Beaudette

Rep. Charles Earl Crosby, III

Rep. David W. Farrington

Rep. Christopher Rector

Rep. Susan M. Austin

Rep. Robert A. Berube

Rep. Lawrence E. Jacobsen

Rep. John C. Robinson

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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
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
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 June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

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professional of another country as satisfying the required work experience to obtain a certified public accountant license;

5. It amends the definition of "merchandise" in the transient seller registration laws to exclude insurance products from the definition because the insurance industry is already regulated by the Bureau of Insurance; and
6. It clarifies the jurisdiction of state propane and natural gas inspectors.

LD 1525

An Act To Amend the Real Estate Brokerage Laws

PUBLIC 378

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH N DOW	OTP-AM	H-583 H-638 SMITH N

LD 1525 proposed to amend the real estate brokerage license laws as follows:

1. Clarify the definitions of the words "real estate brokerage agency" and "agency";
2. Repeal the current real estate brokerage contract section and enact a section titled "Brokerage agreements." Brokerage agreements between a real estate company providing brokerage services to a client seller or buyer would be required to be in writing, to include 4 specific contract provisions and to terminate a real estate company's rights to enforce an agreement after the expiration date against a client who engages the services of another real estate brokerage agency;
3. Amend the trust account section to permit brokerage trust accounts to be maintained only in a federally insured financial institution authorized to do business in this State, as defined in the Maine Revised Statutes, Title 9-B, section 131, subsection 17-A, or a credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A, and authorize the Real Estate Commission to adopt rules to establish standards by which trust account records are to be maintained;
4. Enact a section that authorizes the Real Estate Commission to adopt rules establishing the requirements for real estate companies to maintain brokerage records, including a retention schedule;
5. Amend the agency relationship subchapter and establish a nonagent presumption standard for real estate brokerage companies called "transaction broker." The roles of the transaction broker, buyer agent, seller agent and disclosed dual agent are clarified and the responsibilities to buyers and sellers are established; and
6. Adopt an effective date of January 1, 2006 for the bill.

Committee Amendment "A" (H-583) proposed to provide for a sunrise review of commercial leasing by the Department of Professional and Financial Regulation. It also proposed to create a private cause of action by which an affected party may seek a court-ordered injunction to prohibit unlicensed activity. The amendment does not affect the authority of the Attorney General's office to investigate and prosecute unlicensed activity. It also proposed to amend the education provisions for real estate brokerage licensees by increasing the continuing education requirement for licensees from 15 hours to 21 hours and makes the commensurate adjustment to the continuing education required for reinstatement. It proposed to remove the requirement that associate real estate

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brokerage license applicants take an examination and require that applicants for a real estate sales agent license both complete a course of study and take an examination.

This amendment also proposed to require that all sellers provide property disclosures containing certain information, whether or not a person licensed to practice real estate brokerage is involved in the transfer. The requirement that persons licensed to practice real estate brokerage provide such disclosures remains unchanged. It also proposed to update the seller's mandatory disclosures involving reference to heating systems and sources rather than insulation. It proposed to change the effective date to July 1, 2006 and include transition language for sales agents and associate brokers.

House Amendment "A" to Committee Amendment "A" (H-638) proposed to add a correction for the session in which the Joint Standing Committee on Business, Research and Economic Development is authorized to introduce a bill and proposed to correct the effective date.

Enacted law summary

Public Law 2005, chapter 378 amends the real estate brokerage license laws as follows:

1. It clarifies the definitions of the words "real estate brokerage agency" and "agency";
2. It repeals the current real estate brokerage contract section and enacts a section titled "Brokerage agreements." Brokerage agreements between a real estate company providing brokerage services to a client seller or buyer are required to be in writing, to include 4 specific contract provisions and to terminate a real estate company's rights to enforce an agreement after the expiration date against a client who engages the services of another real estate brokerage agency;
3. It amends the trust account section to permit brokerage trust accounts to be maintained only in a federally insured financial institution authorized to do business in this State, as defined in the Maine Revised Statutes, Title 9-B, section 131, subsection 17-A, or a credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A, and authorizes the Real Estate Commission to adopt rules to establish standards by which trust account records are to be maintained;
4. It enacts a section that authorizes the Real Estate Commission to adopt rules establishing the requirements for real estate companies to maintain brokerage records, including a retention schedule;
5. It amends the agency relationship subchapter and establishes a nonagent presumption standard for real estate brokerage companies called "transaction broker." The roles of the transaction broker, buyer agent, seller agent and disclosed dual agent are clarified and the responsibilities to buyers and sellers are established;
6. It provides for a sunrise review of commercial leasing by the Department of Professional and Financial Regulation;
7. It creates a private cause of action by which an affected party may seek a court-ordered injunction to prohibit unlicensed activity. The law does not affect the authority of the Attorney General's office to investigate and prosecute unlicensed activity;
8. It amends the education provisions for real estate brokerage licensees by increasing the continuing education requirement for licensees from 15 hours to 21 hours and makes the commensurate adjustment to the continuing education required for reinstatement. It removes the requirement that associate real estate

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brokerage license applicants take an examination and requires that applicants for a real estate sales agent license both complete a course of study and take an examination;

9. It requires that all sellers provide property disclosures containing certain information, whether or not a person licensed to practice real estate brokerage is involved in the transfer. The requirement that persons licensed to practice real estate brokerage provide such disclosures remains unchanged;
10. It updates the seller's mandatory disclosures involving reference to heating systems and sources rather than insulation; and
11. It also adopts an effective date of July 1, 2006 and includes transition language for sales agents and associate brokers.

LD 1548

An Act To Amend the Laws Concerning Registration of Engineers

PUBLIC 315

<u>Sponsor(s)</u> BROMLEY FARRINGTON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-257
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LD 1548 proposed to change the name of the board from "State Board of Registration for Professional Engineers" to "State Board of Licensure for Professional Engineers" and proposed to change all references to "certificate of registration" to "license." It also proposed to codify the practice of having the Chief Engineer of the Department of Transportation serve as an ex officio voting member of the board. It proposed to authorize the board to grant hardship exemptions to licensees who are unable to fulfill continuing education requirements. It proposed to delete outdated provisions no longer in effect. Finally, it proposed to change the title of chairman to chair and vice-chairman to vice-chair.

Committee Amendment "A" (S-257) proposed to delete the provision in the bill that would require a licensed professional engineer to be responsible for the design of marine vessels used for public conveyance and commercial vessels. Under current law, a person who performs work only on vessels under 200 feet long is exempt from the licensure requirements of professional engineers.

Enacted law summary

Public Law 2005, chapter 315 changes the name of the board from "State Board of Registration for Professional Engineers" to "State Board of Licensure for Professional Engineers" and changes all references to "certificate of registration" to "license." It also codifies the practice of having the Chief Engineer of the Department of Transportation serve as an ex officio voting member of the board. The law authorizes the board to grant hardship exemptions to licensees who are unable to fulfill continuing education requirements due to an extenuating situation, hardship or disability. The law also deletes outdated provisions no longer in effect.