

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
123RD LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

July 2007

MEMBERS:

SEN. BARRY J. HOBBS, CHAIR
SEN. JOHN M. NUTTING
SEN. DAVID R. HASTINGS III

REP. DEBORAH L. SIMPSON, CHAIR
REP. JANET T. MILLS
REP. MARK E. BRYANT
REP. MICHAEL EDWARD DUNN
REP. ALAN M. CASAVANT
REP. CYNTHIA A. DILL
REP. BONNIE S. GOULD*
REP. JOAN M. NASS
REP. ROBERT A. BERUBE
REP. LAWRENCE E. JACOBSEN
REP. DONNA M. LORING

STAFF:

MARGARET J. REINSCH, SENIOR ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

*Representative Bonnie S. Gould replaced former Representative Abigail Holman on the Judiciary Committee.

STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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 (or Accepted ONTP report).....	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 non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Judiciary

Code as an alternative to a real estate mortgage. This amendment limits the exemption from the real estate license law to transactions in HUD-code manufactured housing. This amendment mandates the conveyance by deed of HUD-code manufactured housing to a consumer and incorporates the transformation from personal property to real estate caused by the conveyance into the sales and real estate transfer tax laws. This amendment clarifies that all kinds of deeds are available for transfers of title in HUD-code manufactured housing, adds parentheses to the provisions for spousal joinder in the deed forms to remove any suggestion that spousal rights are created in the forms. It also removes the limitation to transfers occurring prior to installation to the requirement of transfer of HUD-code manufactured housing by deed to a consumer and exempts from the real estate transfer tax original transfers by deed of HUD-code manufactured housing to a consumer that are subject to sales tax. This amendment also repeals the language establishing a titling process in the Maine Revised Statutes, Title 29-A, originally enacted by Public Law 2005, chapter 678. The sections dealing with the titling process are repealed September 30, 2007. The provisions establishing the conveyancing by deed of HUD-code manufactured housing take effect January 1, 2008.

LD 1734 An Act To Provide Adult Adoptees Access to Information

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M	ONTP	

LD 1734 maintains the option of confidential adoption. It applies prospectively to allow birth parents to choose to keep the personally identifying information confidential by so stating at the time of the consent, surrender and release or termination of parental rights. The statement includes an acknowledgment that the birth parent knows that medical and family information can be added to the Probate Court records at any time, and such information will be available to the adoptive parents or the adoptee. The birth parent also acknowledges that the decision to keep the information confidential may be changed and therefore made available. LD 1734 provides that a birth parent may, at any time, provide current medical or other relevant information to the Probate Court to be made available to the adoptee and the adoptee's adoptive parents, descendants or legal guardian. LD 1734 also requires a family history form to be completed before biological parents may surrender and release a child. If the biological parents choose to maintain their records in confidentiality, then they must update the family history form every 10 years, until they reach 40 years of age, and every five years thereafter. Current law provides for the collection of information when an adopted child suffers a serious medical or mental illness. The Department of Health and Human Services, the licensed child-placing agency or other person who assisted in placing the child must attempt to obtain additional information and must provide that information to the adoptive parents. LD 1734 applies that requirement when the adoptee has reached 18 years of age and either the adoptee or the adoptee's descendant suffers a serious medical or mental illness for which the specific medical, psychological or social history of the biological parents or the adoptee may be useful in diagnosis or treatment.

See also LD 1084.

LD 1737 An Act To Amend the Conservation Easement Laws

PUBLIC 412

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PIOTTI	OTP-AM	H-490
		S-270 HOBBS
		S-305 DAMON

LD 1737 enacts changes to the laws governing the creation, alteration and termination of conservation easements. Under the bill, a court must find that a change of circumstances makes the conservation easement no longer in the public interest before the conservation easement may be terminated or amended in a manner that diminishes its

Joint Standing Committee on Judiciary

conservation purposes. LD 1737 also requires that future conservation easements must clearly recite the conservation purposes and public benefits of the easement. LD 1737 further requires that future conservation easements include a statement of the power of the holder to amend the easement and be accompanied by documentation of the condition of the property. As necessary to future enforcement of conservation easements, holders are required to periodically monitor the condition of the property subject to the easement

LD 1737 also allows the Attorney General to be a party in any action affecting a conservation easement, as the Attorney General may with any charitable trust. LD 1737 also provides that conservation easements will not be destroyed by reason of merger of the fee and easement holder's interests nor by tax foreclosure.

Finally, this bill establishes a conservation easement registration system administered by the Secretary of State and Executive Department, State Planning Office with a modest annual filing fee, and requires that the transfer tax form for property subject to a conservation easement disclose that notice of the property's transfer has been given to the holder of the easement.

Committee Amendment "A" (H-490)

This amendment deletes the section of the bill relating to termination and modification of conservation easements, the section of the bill relating to the termination of a conservation easement when it is no longer in the public interest, the section of the bill relating to entering land to ensure compliance with the terms of a conservation easement, the section of the bill relating to new conservation easement standards, and the section of the bill relating to judicial action affecting a conservation easement. This amendment requires the annual filing by conservation easement holders to be made directly to the Executive Department, State Planning Office rather than through the Secretary of State. The filing fee has been changed to \$30 to cover the costs estimated by the State Planning Office for setting up and maintaining the registry. The special reference to filing by government easement holders in the bill is eliminated as unnecessary because the filing is to be made directly to the State Planning Office rather than as part of an annual corporate filing with the Secretary of State. This amendment deletes the requirement in the bill concerning the transfer tax form.

Senate Amendment "A" (S-270)

This amendment provides the correct technical form to insert the allocation.

Senate Amendment "B" (S-305)

This amendment sets certain standards for conservation easements. It provides that a conservation easement executed on or after the effective date of this legislation must include a statement of the conservation purposes and public benefits of the easement. It includes standards for the amendment and termination of a conservation easement. It requires the holder of a conservation easement to monitor the condition of the real property subject to the conservation easement at least every three years and prepare and retain a written monitoring report. The amendment also amends the laws governing judicial actions affecting conservation easements. It provides that an action affecting a conservation easement may be brought or intervened in by the Attorney General and it specifies under what circumstances the Attorney General may initiate action seeking enforcement of a conservation easement. It contains a provision regarding the confidentiality of documents and records obtained by the Attorney General in an action affecting a conservation easement.

Enacted Law Summary

Public Law 2007, chapter 412 sets certain standards for conservation easements. It provides that a conservation easement executed on or after the effective date of this legislation must include a statement of the conservation purposes and public benefits of the easement. It includes standards for the amendment and termination of a conservation easement. It requires the holder of a conservation easement to monitor the condition of the real property subject to the conservation easement at least every three years and prepare and retain a written monitoring report. It also amends the laws governing judicial actions affecting conservation easements. It provides that an action affecting a conservation easement may be brought or intervened in by the Attorney General and it specifies

Joint Standing Committee on Judiciary

under what circumstances the Attorney General may initiate action seeking enforcement of a conservation easement. It contains a provision regarding the confidentiality of documents and records obtained by the Attorney General in an action affecting a conservation easement. Chapter 412 directs the State Planning Office to establish and maintain a registry of conservation easements. It requires an annual filing of information about conservation easements by conservation easement holders to be made directly to the Executive Department, State Planning Office.

LD 1741 An Act To Update the Maine Business Corporation Act

PUBLIC 289

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS	OTP-AM	S-178

LD 1741 amends the Maine Business Corporation Act to reflect changes made by the American Bar Association to the Model Business Corporation Act, on which the Maine Business Corporation Act is based.

LD 1741 also makes other changes to the Maine Business Corporation Act, including:

1. Adding definitions of "expenses," "public corporation" and "qualified director";
2. Allowing the delivery by a corporation of one copy of a notice, the articles of incorporation or bylaws to be delivered to a common address occupied by more than one shareholder and still satisfy the requirements that all shareholders receive the notice, articles or bylaws. A shareholder can opt out of this arrangement by providing written notice to the corporation;
3. Allowing, with the prior consent of shareholders, the inclusion in the articles of incorporation of a provision that allows action to be taken regarding the corporation without a meeting or notice to the shareholders; and
4. Changing the class or series of shares held by a shareholder for the purpose of limiting the appraisal rights of that shareholder.

Committee Amendment "A" (S-178)

This amendment makes a number of technical corrections to the bill as printed. It also puts into one section the various alternatives defining elements of the term "public corporation."

Enacted Law Summary

Public Law 2007, chapter 289 amends the Maine Business Corporation Act to reflect changes made by the American Bar Association to the Model Business Corporation Act, on which the Maine Business Corporation Act is based.

Chapter 289 also makes other changes to the Maine Business Corporation Act, including:

1. Adding definitions of "expenses," "public corporation" and "qualified director";
2. Allowing the delivery by a corporation of one copy of a notice, the articles of incorporation or bylaws to be delivered to a common address occupied by more than one shareholder and still satisfy the requirements that all shareholders receive the notice, articles or bylaws. A shareholder can opt out of this arrangement by providing written notice to the corporation;
3. Allowing, with the prior consent of shareholders, the inclusion in the articles of incorporation of a provision that allows action to be taken regarding the corporation without a meeting or notice to the shareholders; and
4. Changing the class or series of shares held by a shareholder for the purpose of limiting the appraisal rights of that