STATE OF MAINE

123$^{\text{RD}}$ LEGISLATURE

SECOND REGULAR AND FIRST SPECIAL SESSIONS

Summaries of bills, adopted amendments and laws enacted or finally passed during the Second Regular or First Special Sessions of the 123$^{\text{rd}}$ Maine Legislature coming from the

JOINT STANDING COMMITTEE ON INSURANCE AND FINANCIAL SERVICES

May 2008

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123RD LEGISLATURE

SECOND REGULAR & FIRST SPECIAL SESSIONS

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 Second Regular or First Special Sessions of the 123rd Maine Legislature.

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; bill died*
ONTP (or Accepted ONTP report)	*Ought Not To Pass report accepted; bill died*
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*

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.[1] The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

[1] The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

to the Legislature on health insurance claims for the treatment Lyme disease and other tick-borne illnesses, including information on the number of approved claims, claim denials and the outcome of both internal and external appeals processes.

LD 2162 **Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation** **RESOLVE 160 EMERGENCY**

Sponsor(s)	Committee Report	Amendments Adopted
	OTP	

LD 2162 provides for legislative review of portions of Chapter 850: Health Plan Accountability, a major substantive rule of the Department of Professional and Financial Regulation.

Enacted Law Summary

Resolve 2007, chapter 160 authorizes final adoption of portions of Chapter 850: Health Plan Accountability, a major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance.

Resolve 2007, chapter 160 was enacted as an emergency measure effective March 21, 2008.

LD 2189 **An Act To Protect Homeowners from Equity Stripping during Foreclosure** **PUBLIC 596**

Sponsor(s)	Committee Report	Amendments Adopted
PRIEST SULLIVAN	OTP-AM	H-892

LD 2189 enacts measures designed to protect homeowners from equity stripping during foreclosures. Equity stripping, also known as equity skimming or foreclosure rescue, is often considered a predatory lending practice because the transactions involve companies that take title to or other mortgage interest in foreclosed properties in exchange for allowing the homeowners to remain in the properties as tenants as long as payments are made. If payments are not made, foreclosed homeowners can lose their homes and are also stripped of any equity held in the home prior to the foreclosure. This bill requires a business that engages in these transactions as a foreclosure purchaser to be licensed as a supervised lender before conducting business in this State and to meet other statutory requirements.

The bill requires that a foreclosure purchaser must ensure that title is transferred back to the homeowner or that the foreclosure purchaser make a payment to the homeowner of at least 82% of the fair market value of the property within 150 days of when the homeowner is evicted or voluntarily gives back possession of the home. The bill requires that foreclosure purchasers verify that a foreclosed homeowner has a reasonable ability to make the payments needed to take back title to the home. The bill provides that there is a rebuttable presumption of a reasonable ability to pay if a homeowner's monthly payments for housing expenses and principal and interest payments do not exceed 60% of the owner's monthly gross income. The bill requires that the foreclosed homeowner receive counseling on the advisability of the transaction.

The bill also requires that the foreclosure purchaser provide a written contract and certain notices and disclosures to the homeowner. The bill gives a homeowner the right to cancel the transaction within 5 business days. The bill prohibits a foreclosure purchaser from making false, deceptive or misleading statements to homeowners and from using unfair or commercially unreasonable terms as part of foreclosure purchase transactions.

The bill gives administrative enforcement authority to the Bureau of Consumer Credit Protection within the

Department of Professional and Financial Regulation and imposes civil and criminal penalties for violations of the bill's provisions. The bill also gives a foreclosed homeowner the right to bring a private cause of action against a foreclosure purchaser for violations.

Committee Amendment "A" (H-892)

This amendment makes the following changes to the bill.

1. It removes the requirement in the bill that foreclosure purchasers be licensed as supervised lenders. Under the amendment, foreclosure purchasers must be licensed and those licensing requirements must be substantially similar to the requirements for supervised lenders.

2. It clarifies that the Superintendent of Financial Institutions is responsible for regulating banks and credit unions to the extent that they engage in the business of foreclosure purchasing.

3. It adds a definition of "bona fide purchaser."

4. It adds references to land installment contracts and bonds for deeds in those instances where the bill refers to contracts for deeds.

5. It removes cross-references to federal law and instead cross-references state law related to mortgage lending.

6. It requires that foreclosed homeowners be provided with a copy of the foreclosure reconveyance contract at least 3 business days prior to execution and requires that a memorandum of the contract be filed with the registry of deeds in the county in which the property is located.

7. It requires that the notice of cancellation be provided in 12-point type rather than 10-point type.

8. It corrects a spelling error.

9. It prohibits door-to-door solicitation by foreclosure purchasers.

10. It makes a violation of the provisions of the Foreclosure Purchasers Act, enacted in the bill, subject to enforcement as a violation of the Maine Unfair Trade Practices Act and incorporates a cross-reference to the improvident transfer laws.

11. It clarifies that a foreclosed homeowner may be awarded actual and consequential damages and costs, including reasonable attorney's fees, in a private action brought for a violation of the Foreclosure Purchasers Act.

12. It extends rule-making authority to the Superintendent of Consumer Credit Protection and the Superintendent of Financial Institutions.

13. It also requires that the Superintendent of Consumer Credit Protection, in consultation with the Superintendent of Financial Institutions, review the laws regulating foreclosure purchasers and make recommendations by March 1, 2009 as to whether changes are needed.

Enacted Law Summary

Public Law 2007, chapter 596 enacts measures designed to protect homeowners from equity stripping during foreclosures. Equity stripping, also known as equity skimming or foreclosure rescue, describes certain lending transactions when a company takes title to or another mortgage interest in foreclosed properties in exchange for allowing the homeowners to remain in the properties as tenants as long as payments are made. Public Law 2007, chapter 596 requires a business that engages in these transactions as a foreclosure purchaser to be licensed before conducting business in this State and to meet other statutory requirements.

The law requires that a foreclosure purchaser must ensure that title is transferred back to the homeowner or that the foreclosure purchaser make a payment to the homeowner of at least 82% of the fair market value of the property within 150 days of when the homeowner is evicted or voluntarily gives back possession of the home. The law requires that foreclosure purchasers verify that a foreclosed homeowner has a reasonable ability to make the payments needed to take back title to the home. The law provides that there is a rebuttable presumption of a reasonable ability to pay if a homeowner's monthly payments for housing expenses and principal and interest payments do not exceed 60% of the owner's monthly gross income. The law requires that the foreclosed homeowner receive counseling on the advisability of the transaction.

The law also requires that the foreclosure purchaser provide a written contract and certain notices and disclosures to the homeowner. The law requires that foreclosed homeowners be provided with a copy of the foreclosure reconveyance contract at least 3 business days prior to execution and requires that a memorandum of the contract be filed with the registry of deeds in the county in which the property is located. The law gives a homeowner the right to cancel the transaction within 5 business days.

The law prohibits a foreclosure purchaser from making false, deceptive or misleading statements to homeowners; from using unfair or commercially unreasonable terms as part of foreclosure purchase transactions; and from using door-to-door solicitation.

The law gives regulatory authority to the Bureau of Consumer Credit Regulation except with regard to banks and credit unions which are regulated by the Bureau of Financial Institutions. The law imposes civil and criminal penalties for violations and also authorizes the Attorney General to bring an action under the Maine Unfair Trade Practices Act for violations. The law also gives a foreclosed homeowner the right to bring a private cause of action against a foreclosure purchaser for violations.

Public Law 2007, chapter 596 also requires that the Superintendent of Consumer Credit Protection, in consultation with the Superintendent of Financial Institutions, review the laws regulating foreclosure purchasers and make recommendations by March 1, 2009 to the Joint Standing Committee on Insurance and Financial Services as to whether changes are needed.

LD 2200 An Act To Ensure Full Payment of Annuity Death Benefits PUBLIC 544

Sponsor(s)	Committee Report	Amendments Adopted
MCKANE SULLIVAN	OTP-AM	H-772

LD 2200 requires, for variable annuity contracts, that the death benefit be calculated the day the benefit request, including appropriate proof of death, is received and be paid within one business day of that date. Current law allows an insurer to calculate the benefit as of the date of death of the insured, but not pay the benefit until much later, a delay that could result in a loss of value to the annuity during the period the benefit is calculated and paid. The intent of this bill is to reduce the loss in value to the beneficiary of the variable annuity policy by reducing the time period between calculation and payment of the benefit.

Committee Amendment "A" (H-772)

This amendment replaces the bill. The amendment permits a variable annuity contract to include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to the greater of the sum of the premiums or stipulated payments paid under the contract and the value of the contract at the time of death. The amendment prohibits the payment of any other amount to the beneficiary. The amendment also requires that the payment on death must be made in accordance with the prompt pay law. The provision applies to variable annuity contracts delivered or issued for delivery on or after January 1, 2009.