

# 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**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON INSURANCE AND  
FINANCIAL SERVICES**

July 2009

**STAFF:**

COLLEEN MCCARTHY REID  
LEGISLATIVE ANALYST  
OFFICE OF POLICY AND LEGAL ANALYSIS  
13 STATE HOUSE STATION  
AUGUSTA, ME 04333  
(207) 287-1670

**MEMBERS:**

SEN. PETER B. BOWMAN, CHAIR  
SEN. JUSTIN L. ALFOND  
SEN. EARLE L. MCCORMICK

REP. SHARON ANGLIN TREAT, CHAIR  
REP. CHARLES R. PRIEST  
REP. PAULETTE G. BEAUDOIN  
REP. HENRY E.M. BECK  
REP. ADAM GOODE  
REP. EDWARD P. LEGG  
REP. TERRY K. MORRISON  
REP. WESLEY E. RICHARDSON  
REP. WINDOL C. WEAVER  
REP. LESLIE T. FOSSEL

# STATE OF MAINE

124<sup>TH</sup> 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 124<sup>th</sup> 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:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
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 First Regular Session of the 124<sup>th</sup> Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## *Joint Standing Committee on Insurance and Financial Services*

The law clarifies that a financial institution that is chartered in another state may convert to become a financial institution chartered in this State.

The law clarifies that 3rd parties may seek judicial review of the activities of a receiver charged with liquidating a financial institution. The proposed amendment creates a review process for receivers that is similar to the review process that currently exists for conservators.

The law clarifies the procedure with respect to the requirement that a credit union having total assets in excess of \$100,000,000 employ an independent public accountant to conduct an annual audit of the credit union.

The law clarifies that a credit union that is chartered in another state or a federally chartered credit union located in another State may convert to become a credit union chartered in this State.

The law replaces outdated terminology, "subsidiary savings institution," with current terminology, "subsidiary universal bank."

**LD 1418**

### **An Act To Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures**

**PUBLIC 402  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT BOWMAN	OTP-AM	H-524 H-547 TREAT

This bill amends the laws pertaining to foreclosures.

1. It establishes the mandatory foreclosure mediation program within the Court Alternative Dispute Resolution Service.
2. It makes violation of provisions of the Maine Consumer Credit Code a violation of the Maine Unfair Trade Practices Act.
3. It requires that the words "judgment of foreclosure and sale," the street address of the real estate involved and the book and page number of the mortgage be on a foreclosure judgment when filed in the registry of deeds.
4. It clarifies that a foreclosure on a rental property does not terminate a tenancy.
5. It describes what a mortgagee must include in a notice of foreclosure to a mortgagor.
6. It requires a mortgagee to provide certain information to the Maine State Housing Authority about foreclosure, which the Maine State Housing Authority shall transmit to the Department of Professional and Financial Regulation.
7. It requires the Maine State Housing Authority to notify a mortgagor who is a party to a foreclosure about the mortgagor's rights and available resources as they relate to the foreclosure as well as the mandatory foreclosure mediation program. It also requires the Maine State Housing Authority to establish a statewide hotline to help mortgagors communicate with housing counselors certified by the United States Department of Housing and Urban Development.
8. It requires the Department of Professional and Financial Regulation to report quarterly on the number of

## *Joint Standing Committee on Insurance and Financial Services*

foreclosure notifications received to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters.

9. It amends the procedure and notice for foreclosures.

10. It amends the procedure for commencement of foreclosure by civil action.

### **Committee Amendment "A" (H-524)**

This amendment retains the emergency preamble and emergency clause, but replaces the substantive provisions of the bill. The amendment does the following.

1. It establishes a court-supervised mediation process in judicial foreclosure proceedings on owner-occupied residential properties of one to 4 units. The mediation process is modeled after the program used in the State of Connecticut. Beginning July 1, 2009, the amendment allows the Supreme Judicial Court to implement the mediation program first in those judicial districts most affected by foreclosure filings, but requires the program to be implemented throughout the State by January 1, 2010. The mediation program applies to judicial foreclosure filings made after January 1, 2010 except in those judicial districts where the mediation program is implemented by the court on July 1, 2009. The court is authorized to establish fees to support the mediation program.

2. It makes violation of provisions of the Maine Consumer Credit Code related to mortgage lending a violation of the Maine Unfair Trade Practices Act.

3. It requires that the words "judgment of foreclosure and sale," the street address of the real estate involved and the book and page number of the mortgage be on a foreclosure judgment when filed in the registry of deeds.

4. It requires notice to municipalities and owners of mobile home parks after foreclosure judgments.

5. It requires at least 90 days' notice to tenants in judicial foreclosure proceedings and at least 21 days' notice to tenants in nonjudicial foreclosure proceedings.

6. It describes what a mortgagee must include in a notice of foreclosure to a mortgagor.

7. It requires a mortgagee to provide certain information to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection about foreclosure and requires reporting on a quarterly basis to the Legislature related to foreclosures.

8. It requires the Bureau of Consumer Credit Protection to notify a mortgagor who is a party to a foreclosure about the mortgagor's rights and available resources as they relate to the foreclosure as well as the foreclosure mediation program. It also requires the Bureau of Consumer Credit Protection to coordinate an outreach program in consultation with the Maine State Housing Authority and to establish a statewide hotline to help mortgagors communicate with housing counselors certified by the United States Department of Housing and Urban Development.

9. It amends the procedure and notice for foreclosures.

10. It amends the procedure for commencement of foreclosure by civil action.

11. It allows a court upon a showing of good cause to extend a deadline for a notice of sale or conducting a public sale in a foreclosure action.

12. It removes the exemption under the real estate transfer tax laws for foreclosure sales and deeds in lieu of foreclosure and directs those tax revenues to the Bureau of Consumer Credit Protection to fund the agency's

## *Joint Standing Committee on Insurance and Financial Services*

additional duties.

13. It adds an appropriations and allocations section.

LD 1418, as amended, was reviewed by the Joint Standing Committee on Judiciary pursuant to Title 1, Maine Revised Statutes, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **House Amendment "A" To Committee Amendment "A" (H-547)**

This amendment makes the following changes to Committee Amendment "A":

1. It corrects a technical error;
2. It clarifies that the foreclosure mediation program applies to owner-occupied residential property with no more than 4 units that is the primary residence of the owner-occupant;
3. It requires the Maine Supreme Judicial Court to submit a report by February 15, 2013 evaluating the foreclosure mediation program. The amendment requires the court to report on the number of foreclosure mediations conducted and the results of foreclosure mediation and make recommendations as to whether the foreclosure mediation program should be modified, continued or repealed. The amendment authorizes the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters to report out a bill based on the report to the First Regular Session of the 126th Legislature; and
4. The amendment also fixes a subsection number to have the subsection numbers read consecutively with existing law.

### **Enacted Law Summary**

Public Law 2009, chapter 402 establishes a court-supervised mediation process in judicial foreclosure proceedings on owner-occupied residential properties of one to 4 units that are the primary residences of the owner-occupants. The mediation process is modeled after the program used in the State of Connecticut. Beginning July 1, 2009, the law allows the Supreme Judicial Court to implement the mediation program first in those judicial districts most affected by foreclosure filings, but requires the program to be implemented throughout the State by January 1, 2010. The mediation program applies to judicial foreclosure filings made after January 1, 2010 except in those judicial districts where the mediation program is implemented by the court on July 1, 2009. The court is authorized to establish fees to support the mediation program. The law also requires the Maine Supreme Judicial Court to submit a report by February 15, 2013 evaluating the foreclosure mediation program and authorizes the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters to report out a bill based on the report to the First Regular Session of the 126th Legislature.

The law makes violation of provisions of the Maine Consumer Credit Code related to mortgage lending a violation of the Maine Unfair Trade Practices Act.

The law requires that the words "judgment of foreclosure and sale," the street address of the real estate involved and the book and page number of the mortgage be on a foreclosure judgment when filed in the registry of deeds.

The law requires notice to municipalities and owners of mobile home parks after foreclosure judgments.

The law requires at least 90 days' notice to tenants in judicial foreclosure proceedings and at least 21 days' notice to tenants in nonjudicial foreclosure proceedings.

The law describes what a mortgagee must include in a notice of foreclosure to a mortgagor.

## *Joint Standing Committee on Insurance and Financial Services*

The law requires a mortgagee to provide certain information to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection about foreclosure and requires reporting on a quarterly basis to the Legislature related to foreclosures. The law requires the Bureau of Consumer Credit Protection to notify a mortgagor who is a party to a foreclosure about the mortgagor's rights and available resources as they relate to the foreclosure as well as the foreclosure mediation program. It also requires the Bureau of Consumer Credit Protection to coordinate an outreach program in consultation with the Maine State Housing Authority and to establish a statewide hotline to help mortgagors communicate with housing counselors certified by the United States Department of Housing and Urban Development.

The law amends the procedure for commencement of foreclosure by civil action and amends the procedure and notice for foreclosures. The law also allows a court upon a showing of good cause to extend a deadline for a notice of sale or conducting a public sale in a foreclosure action.

The law removes the exemption under the real estate transfer tax laws for foreclosure sales and deeds in lieu of foreclosure and directs those tax revenues to the Bureau of Consumer Credit Protection to fund the agency's additional duties.

Public Law 2009, chapter 402 was enacted as an emergency measure effective June 15, 2009.

**LD 1436     An Act To Create Economic Development in the State by Modernizing  
the State's Captive Insurance Laws**

**PUBLIC 335**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ALFOND	OTP-AM	S-220

The bill makes changes to the State's laws regulating captive insurance companies to encourage the formation of new captive insurance companies in the State. The changes in the bill are modeled after laws relating to captive insurance companies in Vermont, which has the highest number of captive insurance companies in the United States.

**Committee Amendment "A" (S-220)**

The amendment makes technical changes to the bill.

**Enacted Law Summary**

Public Law 2009, chapter 335 makes changes to the State's laws regulating captive insurance companies to encourage the formation of new captive insurance companies in the State. The changes in the law are modeled after laws relating to captive insurance companies in Vermont, which has the highest number of captive insurance companies in the United States.

**LD 1439     An Act To Conform State Mortgage Laws with Federal Laws**

**PUBLIC 362  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWMAN	OTP-AM   A OTP-AM   B OTP-AM   C	H-532   PRIEST S-221