

# MAINE STATE LEGISLATURE

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**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**

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# 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:

<i>CARRIED OVER</i> .....	<i>Carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i> .....	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i> .....	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i> .....	<i>House &amp; Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i> .....	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i> .....	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i> .....	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i> .....	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i> .....	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i> .....	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; Special Law</i>
<i>PUBLIC XXX</i> .....	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i> .....	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i> .....	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i> .....	<i>Legislature failed to override Governor's Veto</i>

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 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

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

Part A of this bill amends several mortgage lending provisions of the Maine Consumer Credit Code to correct inconsistencies within the law and to conform state law to federal developments that took place during calendar year 2008, including mandatory guidance from federal bank regulators; amendments to the mortgage provisions of federal truth-in-lending laws; and congressional enactment of a federal foreclosure relief law that contained additional changes to federal lending provisions.

Part B of the bill enables the State to participate in the national loan originator registration program that is also required by the recent federal foreclosure relief law.

Part C corrects cross-references.

### **Committee Amendment "A" (S-221)**

This amendment makes clarifying changes in Part A of the bill to retain existing provisions in Maine law not intended to be changed in the bill. The amendment also removes the presumption of compliance provision in the section of the bill relating to a creditor's obligation to verify a consumer's ability to repay a higher-priced mortgage loan.

The amendment makes changes to Part B of the bill to provide for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The amendment clarifies the requirements for licensing related to an applicant's criminal history and credit history. The amendment also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

### **Committee Amendment "B" (S-222)**

This amendment makes clarifying changes in Part A of the bill to retain existing provisions in Maine law not intended to be changed in the bill.

The amendment makes changes to Part B of the bill to provide for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The amendment clarifies the requirements for licensing related to an applicant's criminal history and credit history. The amendment also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

Committee Amendment "B" was not adopted.

### **Committee Amendment "C" (S-223)**

This amendment strikes Part A of the bill and retains only those provisions relating to conforming defined terms in Maine law with federal law.

This amendment makes changes to Part B of the bill to provide for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The amendment clarifies the requirements for licensing related to an applicant's criminal history and credit history. The amendment also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

Committee Amendment "C" was not adopted.

### **Senate Amendment "A" To Committee Amendment "A" (S-251)**

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

Like Committee Amendment "A" this amendment removes the presumption of compliance provision in the section of the bill relating to a creditor's obligation to verify a consumer's ability to repay a higher-priced mortgage loan. This amendment, however, also requires the creditor to evaluate certain information before verifying a consumer's repayment ability.

Senate Amendment "A" to Committee Amendment "A" was not adopted.

### **Senate Amendment "C" To Committee Amendment "A" (S-277)**

This amendment provides a presumption of compliance with laws that require a creditor to take into account a consumer's repayment ability before extending a higher-priced mortgage to a consumer if a creditor takes certain steps to evaluate a consumer's repayment ability.

Senate Amendment "C" to Committee Amendment "A" was not adopted.

### **Senate Amendment "B" To Committee Amendment "A" (S-276)**

Committee Amendment "A" removed the presumption of compliance provision in the section of the bill relating to a creditor's obligation to certify a consumer's ability to repay a higher-priced mortgage loan. This amendment restores the provision that establishes the presumption of compliance.

Senate Amendment "B" to Committee Amendment "A" was not adopted.

### **Senate Amendment "D" To Committee Amendment "A" (S-289)**

This amendment restores the provision that establishes the presumption of compliance if a creditor satisfies certain conditions relating to verification of a consumer's repayment ability that Committee Amendment "A" removed.

Senate Amendment "D" to Committee Amendment "A" was not adopted.

### **House Amendment "A" To Committee Amendment "A" (H-532)**

This amendment incorporates the changes proposed to Committee Amendment "A" made in Senate Amendment "D." The amendment also adds language from current law that describes the permissible 3rd-party documents a creditor may use as reasonably reliable evidence of a consumer's income or assets.

### **Enacted Law Summary**

Public Law 2009, chapter 362 amends several mortgage lending provisions of the Maine Consumer Credit Code to correct inconsistencies within the law and to conform state law to federal developments that took place during calendar year 2008, including mandatory guidance from federal bank regulators; amendments to the mortgage provisions of federal truth-in-lending laws; and congressional enactment of a federal foreclosure relief law that contained additional changes to federal lending provisions. The law includes a provision that establishes a presumption of compliance with the law if a creditor satisfies certain conditions relating to verification of a consumer's repayment ability for a higher-priced mortgage loan.

Public Law 2009, chapter 362 also enables the State to participate in the national loan originator registration program that is also required by the recent federal foreclosure relief law. The law provides for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The law also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

Public Law 2009, chapter 362 was enacted as an emergency measure effective June 11, 2009.