

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

July 2011

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STATE OF MAINE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

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; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Judiciary

LD 138 An Act To Allow a Nonresident To Perform a Single Marriage Ceremony

PUBLIC 111

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRIGGS PATRICK	OTP-AM	H-134

This bill permits a nonresident notary public or justice of the peace to apply for and receive temporary authority to solemnize a particular marriage in this State.

This bill was referred from the Joint Standing Committee on State and Local Government.

Committee Amendment "A" (H-134)

The amendment revises the bill to allow the Department of Health and Human Services, Office of Data, Research and Vital Statistics to issue a temporary registration certificate to solemnize a marriage to an individual who is a nonresident of this State and who is authorized to solemnize marriages in the individual's state of residence. This amendment also updates language concerning marriage licenses.

Enacted Law Summary

Public Law 2011, chapter 111 allows the Department of Health and Human Services, Office of Data, Research and Vital Statistics to issue a temporary registration certificate to solemnize a marriage to an individual who is a nonresident of this State and who is authorized to solemnize marriages in the individual's state of residence. The individual must apply for the temporary registration certificate by providing evidence of that authority, such as a copy of a commission certificate, as well as a copy of the statute that provides the authority. The temporary registration certificate expires 90 days after issuance or upon the individual's signing the marriage license, whichever occurs first.

LD 145 An Act To Protect Homeowners Subject to Foreclosure by Requiring the Foreclosing Entity To Provide the Court with Original Documents

Carried Over

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAVERS		

This bill requires a mortgagee bringing a civil foreclosure action on real property to produce the original mortgage note, signed by the mortgagor, as part of the complaint.

This bill was reported out of the Judiciary Committee with a unanimous Ought to Pass as Amended report, and was subsequently recommitted to the Judiciary Committee.

Committee Amendment "A" (H-425)

This amendment replaces the bill but retains the proposed requirement that a plaintiff seeking to foreclose on a mortgage is required to produce the original mortgage note, evidencing that the plaintiff has the right to foreclose, before a foreclosure action may proceed.

This amendment requires the plaintiff to produce the original note and all the endorsements associated with the note

Joint Standing Committee on Judiciary

within 30 days of the defendant's request for production to allow the defendant to inspect and copy or photograph the original mortgage note. The plaintiff must specify the date, time and place for production of the note. The place may be at the courthouse, in an attorney's office or in a financial institution or any other place to which the plaintiff and defendant agree. The date of production must be within 40 days of the request for production.

If the plaintiff fails to produce the original note, the defendant may ask the court to dismiss the action without prejudice and the court shall award the defendant reasonable attorney's fees. If the defendant chooses not to request the dismissal of the action, the court may not allow the plaintiff to recover any interest or late fees on the mortgage loan between the date required for the note's production and the date when the note is produced.

If the plaintiff is not in possession of the note but the Uniform Commercial Code provisions on lost, stolen or destroyed instruments apply, the plaintiff's provision of a sworn affidavit pursuant to the Maine Revised Statutes, Title 11, section 3-1309 to the defendant constitutes sufficient compliance with the production requirements.

If the plaintiff claims the note is an electronic transferable record, as defined in the Uniform Electronic Transactions Act, the plaintiff's furnishing of a sworn affidavit setting forth the proof required pursuant to Title 10, section 9416, subsection 6 constitutes sufficient compliance with the production requirements.

This amendment was not adopted.

House Amendment "A" To Committee Amendment "A" (H-525)

This amendment changes the provisions of Committee Amendment "A" in the following ways:

1. It allows the plaintiff in a foreclosure action to produce an electronic equivalent of the mortgage note, loan agreement or other evidence of indebtedness;
2. It requires the defendant to send the written request to inspect the original mortgage note prior to judgment being entered;
3. It removes the specific time limit for the plaintiff to respond to the defendant's written request and to produce the note and instead requires the response and production to be in accordance with the Maine Rules of Civil Procedure;
4. It adds, as an acceptable place for inspection, the office of the plaintiff's attorney;
5. It removes the requirement that the court, upon motion of the defendant, dismiss the foreclosure action and award the defendant attorney's fees for failure of the plaintiff to produce the original note. Instead, this amendment requires the plaintiff to provide a valid excuse for failure to provide the note or an electronic equivalent and, in the event that the plaintiff fails to provide either the note or its electronic equivalent or a valid excuse, allows the court to fashion appropriate remedies; and
6. It removes the provision that allows the plaintiff to provide a sworn affidavit in lieu of the original note in the event that the provisions of the Uniform Commercial Code regarding lost, stolen or destroyed instruments apply or the note is an electronic transferable record under the Uniform Electronic Transactions Act.

This amendment was not adopted.

Senate Amendment "A" To Committee Amendment "A" (S-270)

This amendment is the same as House Amendment "A" to Committee Amendment "A."

This amendment was not adopted.

This bill was carried over to any special and/or regular session of the 125th Legislature pursuant to joint order, H.P. 1190.