

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
125<sup>TH</sup> 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  
125<sup>TH</sup> LEGISLATURE  
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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 125<sup>th</sup> 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 125<sup>th</sup> 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*

This amendment was not adopted.

### **Committee Amendment "B" (H-454)**

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment deletes the proposed priority lien for condominium assessments that would take priority over a first mortgage.

This amendment provides that assessments for common expenses accrue, free from the lien of a foreclosing first mortgagee, from and after the date of sale of the condominium unit. The bill states the starting time is the initial date set for public sale.

### **Enacted Law Summary**

Public Law 2011, chapter 368 amends the Maine Condominium Act.

Chapter 368 allows the condominium owners' association to assign its right to future income, including the right to receive assessments, but only if a majority of the unit owners have approved.

Chapter 368 revises the law governing the record requirements of condominium owners' associations to list specific records that must be retained. The records must be available for examination and copying by a unit owner or the owner's authorized agent, with certain exceptions.

Chapter 368 provides that assessments for common expenses accrue, free from a lien of a foreclosing first mortgagee, from and after the date of sale of the condominium unit.

Chapter 368 gives an association the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but the association may not deny access or withhold services if it would endanger the health, safety or property of any person.

Chapter 368 amends the law concerning the executive board to require the board to provide notice of meetings. Unit owners have the right to attend meetings, subject to reasonable rules. The board may prohibit attendance by unit owners and others during executive session, which may be held for only specific reasons.

**LD 1349**

### **An Act To Amend the Laws Governing the Handling of Medical Examiner Cases**

**PUBLIC 182**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS HASTINGS	OTP	

Current law requires that the medical examiner or the person expressly authorized by the Chief Medical Examiner conduct a thorough examination of a body in a medical examiner case. This bill provides an exception for a case in which the Chief Medical Examiner or the Deputy Chief Medical Examiner determines, after review of available records and known circumstances, that the report of the death of the decedent may be certified and completed without examining the body.

### **Enacted Law Summary**

Current law requires that the medical examiner or the person expressly authorized by the Chief Medical Examiner conduct a thorough examination of a body in a medical examiner case. Public Law 2011, chapter 182 provides an

## *Joint Standing Committee on Judiciary*

exception for a case in which the Chief Medical Examiner or the Deputy Chief Medical Examiner determines, after review of available records and known circumstances, that the report of the death of the decedent may be certified and completed without examining the body.

### **LD 1353     An Act To Amend the Discovery Rule Laws**

**ONTP**

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

This bill codifies the discovery rule for product liability cases to specify that the cause of action, for statute of limitation purposes, accrues when a person suffers a personal injury due to a defective product or good or, if the defect was not reasonably discoverable, when the person knew or should have known of the defective good or product.

### **LD 1360     An Act To Provide Prevailing Mortgagors Attorney's Fees in the Foreclosure Process**

**PUBLIC 269**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT HILL	OTP-AM	H-373

This bill allows a mortgagor to recover court costs and attorney's fees if the mortgagor prevails in a foreclosure action.

#### **Committee Amendment "A" (H-373)**

This amendment carries out the intent of the bill and clarifies when the court may award reasonable costs and attorney's fees in a foreclosure action.

The court may award reasonable costs and attorney's fees to the mortgagor in a foreclosure action if the mortgagee does not prevail or if the court finds evidence that the mortgagee did not bring the action in good faith. In either case, the court may deny in full or in part the award of costs and attorney's fees to the mortgagee. This amendment provides that the term "does not prevail" does not include a stipulation of dismissal entered into by the parties, an agreed-upon motion to dismiss the action without prejudice to facilitate settlement or successful mediation of the foreclosure action.

#### **Enacted Law Summary**

Public Law 2011, chapter 269 allows the court to award reasonable costs and attorney's fees in a foreclosure action. The court may award reasonable costs and attorney's fees to the mortgagor in a foreclosure action if the mortgagee does not prevail or if the court finds evidence that the mortgagee did not bring the action in good faith. In either case, the court may deny in full or in part the award of costs and attorney's fees to the mortgagee. Chapter 269 provides that the term "does not prevail" does not include a stipulation of dismissal entered into by the parties, an agreed-upon motion to dismiss the action without prejudice to facilitate settlement or successful mediation of the foreclosure action.