

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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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

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.