

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

June 2012

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STATE OF MAINE

125TH LEGISLATURE
SECOND REGULAR SESSION



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 Second 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.

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

The effective date for non-emergency legislation enacted in the Second Regular Session of the 125th Legislature is Thursday, August 30, 2012. 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

Chapter 613 adopts a definition of "alteration" to provide guidance as to what forms of normal maintenance, decorating and upgrades do not fall under the updated standards.

Chapter 613 revises the definition of "standards of construction" to ensure that the appropriate standard is applied to multifamily dwellings and public housing.

Chapter 613 provides that a design professional's statement that the plans of the facility meet the required standards of construction is based on professional judgment and that the statement is based on the plans as they exist at the time the statement is made.

Chapter 613 authorizes punitive damages for unlawful housing discrimination to be consistent with federal law, except that punitive damages are not available against a governmental entity or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of the employee's employment.

Chapter 613 takes effect September 1, 2012.

LD 1546

An Act To Amend the Laws Governing the Deference Afforded to Agency Decisions

**MINORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLOWMAN	OTP-AM MAJ ONTP MIN	

This bill was carried over from the First Regular Session of the 125th Legislature.

This bill requires a court, in an appeal of an agency's interpretation of the statutes in making or administering rules under the Maine Administrative Procedure Act, to conduct a de novo review. The bill also clarifies that, on questions of fact, the court is required to defer to the agency unless the court finds that the agency's findings of fact are unsupported by substantial evidence.

Committee Amendment "A" (S-394)

This is the majority report of the Joint Standing Committee on Judiciary.

This amendment replaces the proposed language concerning the court's review of agency rulemaking to provide that the court, in conducting its review of a rule, is not required to give deference to the agency's interpretation of the statutes applicable to the rulemaking.

This amendment deletes the bill's proposed changes to the Maine Revised Statutes, Title 5, section 9061 and addresses judicial review of adjudicatory decisions under the Maine Administrative Procedure Act by amending Title 5, section 11007, subsection 3.

This amendment revises the provisions concerning the manner and scope of judicial review of final agency action contained in Title 5, section 11007. Current law provides that the court may not substitute its judgment for that of the agency on questions of fact. This amendment does not change that standard. This amendment establishes that the court is not required to give deference to the agency's interpretation of statutes and rules.

This amendment was not adopted.

Joint Standing Committee on Judiciary

Senate Amendment "A" To Committee Amendment "A" (S-424)

This amendment amends the committee amendment to remove the language that stipulates that the court is not required to give deference to the agency's interpretation of rules.

This amendment was not adopted.

LD 1594 An Act To Clarify the Requirements of Income Withholding Orders

PUBLIC 528

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS	OTP-AM	H-746

This bill amends the laws pertaining to the requirements of income withholding orders. It adds the requirement that the court notify any individual or department implementing a withholding order of the requirement to serve the obligor's payor of income with both the income withholding order and the payor notice required under the Maine Revised Statutes, Title 19-A, section 2655. It eliminates the need for the court to issue an income withholding order that conforms with standard formats prescribed by the federal Secretary of Health and Human Services and instead requires the court to instruct an obligee or an obligor seeking to implement a withholding order on where to obtain the payor notice. The bill also requires the Department of Health and Human Services to make available to the public a payor notice that conforms to the standard formats prescribed by the federal Secretary of Health and Human Services and to notify the courts as to where an obligee or an obligor seeking to implement a withholding order can obtain the payor notice.

Committee Amendment "A" (H-746)

This amendment replaces the bill. It amends the laws pertaining to the requirements of income withholding orders. It eliminates the need for the court to issue an income withholding order that conforms with standard formats prescribed by the federal Secretary of Health and Human Services.

Enacted Law Summary

Public Law 2011, chapter 528 amends the laws pertaining to the requirements of income withholding orders. It requires the court to notify any individual or department implementing an income withholding order of the requirement to serve the obligor's payor of income with both the support order that is subject to immediate income withholding and the payor notice required under the Maine Revised Statutes, Title 19-A, section 2655. It eliminates the need for the court to issue an income withholding order that conforms with standard formats prescribed by the federal Secretary of Health and Human Services and instead requires the court to instruct an obligee or an obligor seeking to implement a withholding order on where to obtain the payor notice. Chapter 528 also requires the Department of Health and Human Services to make available to the public a payor notice that conforms to the standard formats prescribed by the federal Secretary of Health and Human Services and to notify the courts as to where an obligee or an obligor seeking to implement a withholding order can obtain the payor notice.