

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

May 2014

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STATE OF MAINE
126TH LEGISLATURE
SECOND REGULAR SESSION
LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

The *Digest* is arranged 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.

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 HOUSESHouse & 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
EMERGENCYenacted 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 Second Regular Session of the 126th Legislature is August 1, 2014. 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 replaces the bill with a resolve directing the Joint Standing Committee on Judiciary to study issues about social media and personal e-mail privacy in school and in the workplace. It requires the committee to meet up to four times and to submit a report by November 5, 2014 for presentation to the First Regular Session of the 127th Legislature. This amendment also adds an emergency preamble and clause.

Senate Amendment "A" To Committee Amendment "A" (S-447)

This amendment amends Committee Amendment "A" by directing the Joint Standing Committee on Judiciary to include in its study concerns about cloud computing services that process and store student data. The amendment also requires the committee to seek funding contributions to fully fund the cost of the study.

Enacted Law Summary

Resolve 2013, chapter 112 directs the Joint Standing Committee on Judiciary to study issues about social media and personal e-mail privacy in school and in the workplace, including concerns about cloud computing services that process and store student data. The committee may meet up to four times and must submit a report by November 5, 2014 for presentation to the First Regular Session of the 127th Legislature. The committee is required to seek funding contributions to fully fund the cost of the study.

Resolve 2013, chapter 112 was finally passed as an emergency measure effective May 1, 2014.

LD 1389

An Act To Expedite the Foreclosure Process

PUBLIC 521

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM	H-734

This bill was carried over from the First Regular Session of the 126th Legislature.

This bill allows an employee of a financial institution or credit union who is not an attorney to appear for that institution in connection with a foreclosure action. The bill also clarifies the standards for foreclosure mediation and allows for an expedited foreclosure of abandoned property.

Committee Amendment "A" (H-734)

This amendment replaces the bill. It is based on the recommendations the Attorney General developed through the Attorney General's working group on residential foreclosures.

Part A amends the laws regarding the real estate transfer tax to ensure that the tax is paid on property transferred when there is a foreclosure sale, regardless of whether the transfer is done by deed, assignment or other method of transfer. Part A specifically includes assignments by the plaintiff in a foreclosure action of the rights as high bidder or the foreclosure judgment itself.

Part B establishes an expedited procedure for properties that are abandoned in uncontested foreclosure cases.

Part C provides that there may be only one adjournment in a foreclosure action if the court determined the property to be abandoned. The court may permit additional adjournments if the bank or servicer can demonstrate good cause for the adjournment or in accordance with regulations concerning loss mitigation procedures in Title 12 of the Code of Federal Regulations, Section 1024.41.

Current law provides that, when property is acquired by a municipality for unpaid taxes, the new owner does not obtain marketable title until 15 years has passed from the time of the foreclosure. Part D shortens the challenge period from the current 15 years to five years for property subject to tax liens recorded after October 13, 2014. For property subject to a tax lien recorded after October 13, 1993 and on or before October 13, 2014, the challenge

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period ends upon the earlier of the expiration of the 15-year period immediately following the expiration of the period of redemption and October 13, 2019.

Part E gives the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection the authority to regulate residential real estate property management providers that enter presumably abandoned residences to winterize those residences, change the door locks or remove items of personal property. Part E further prohibits providers from breaching the peace against any person and requires providers to inventory personal property removed from a residence and immediately notify the appropriate consumer that the personal property will be made available in a manner convenient to the consumer.

Part F adds standards to those required of mediators in the foreclosure mediation program under the Maine Revised Statutes, Title 14, section 6321-A.

Enacted Law Summary

Public Law 2013, chapter 521 amends the foreclosure statutes in the following manner.

Part A amends the laws regarding the real estate transfer tax to ensure that the tax is paid on property transferred when there is a foreclosure sale, regardless of whether the transfer is done by deed, assignment or other method of transfer. Part A specifically includes assignments by the plaintiff in a foreclosure action of the rights as high bidder or the foreclosure judgment itself.

Part B establishes an expedited procedure for properties that are abandoned in uncontested foreclosure cases. If a foreclosure plaintiff produces clear and convincing evidence of abandonment and the case is uncontested, the court may declare the property abandoned, advance the foreclosure on the docket and grant judgment for the plaintiff. In such cases the redemption period is shortened from 90 days to 45 days. Part B suggests indicia of abandonment, but does not direct the court to limit its findings to these factors. Upon the later of the issuance of the order of abandonment or the judgment of foreclosure, if the premises include dwelling units occupied by tenants as their primary residence, the plaintiff must assume the duties of a landlord. In addition, the plaintiff must notify the municipality in which the premises are located and record the order of abandonment in the appropriate registry of deeds within 30 days from the later of the order of abandonment or the foreclosure judgment.

Part C provides that there may be only one adjournment in a foreclosure action if the court determined the property to be abandoned. The court may permit additional adjournments if the bank or servicer can demonstrate good cause for the adjournment or in accordance with regulations concerning loss mitigation procedures in Title 12 of the Code of Federal Regulations, Section 1024.41. Current law requires that the public sale must be held no less than 30 days and no more than 45 days after the first date of publication. Part C adds an exception for requirements included in Title 12 of the Code of Federal Regulations, Section 1024.41.

Current law provides that, when property is acquired by a municipality for unpaid taxes, the new owner does not obtain marketable title until 15 years has passed from the time of the foreclosure. Part D shortens the challenge period from the current 15 years to five years for property subject to tax liens recorded after October 13, 2014. For property subject to a tax lien recorded after October 13, 1993 and on or before October 13, 2014, the challenge period ends upon the earlier of the expiration of the 15-year period immediately following the expiration of the period of redemption and October 13, 2019.

Part E gives the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection the authority to regulate residential real estate property management providers that enter presumably abandoned residences to winterize those residences, change the door locks or remove items of personal property. Part E further prohibits providers from breaching the peace against any person and requires providers to inventory personal property removed from a residence and immediately notify the appropriate consumer that the personal property will be made available in a manner convenient to the consumer. The provider must make a permanent record of all steps taken to preserve and secure the dwelling and must produce that record and the inventory of removed unsecured

Joint Standing Committee on Judiciary

items upon written request of the resident.

Part F adds standards to those required of mediators in the foreclosure mediation program under the Maine Revised Statutes, Title 14, section 6321-A. Part F requires mediators to ensure the parties appropriately determine net present value by using either the Federal Deposit Insurance Corporation Loan Modification Program Guide worksheet or other way of determining net present value that is as reasonable as the worksheet. Part F also requires that the mediator's report contain greater detail regarding the agreements made among the parties and the time frames within which the parties are required to provide information and reach determinations of loss mitigation eligibility.

LD 1428 An Act To Protect Religious Freedom

Accepted Majority (ONTP) Report

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS TIMBERLAKE	ONTP OTP-AM	

This bill was carried over from the First Regular Session of the 126th Legislature.

This bill creates the Preservation of Religious Freedom Act, which allows a person whose right to exercise the person's religion is burdened by a government law or exercise of authority to bring an action in court seeking equitable or monetary damages unless the government remedies the burden or shows that the law or exercise of authority is the least restrictive means of furthering a compelling governmental interest.

Committee Amendment "A" (S-390)

This amendment, which is the minority report of the committee, replaces the bill. This amendment provides that the government may not directly or indirectly burden a person's exercise of religion unless the application of the burden to the person is in furtherance of a compelling governmental interest and is accomplished through the least restrictive means. This amendment allows a person whose exercise of religion has been or is substantially likely to be burdened in violation of this legislation to assert the violation as a claim or defense in a court action.

LD 1601 An Act To Increase the Amount of Funds Available to Counties for Witness Fees, Extradition Expenses and Prosecution Costs

PUBLIC 566

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WILLETTE JACKSON T	OTP-AM	H-648

Current law requires forfeited bail to be paid into an account maintained by each prosecutorial district for the purpose of paying expenses related to the extradition of fugitives from justice. The maximum amount that may be retained in that account is \$20,000. This bill increases the amount that may be retained in that account to \$40,000 and expands the uses of the funds in the account to allow it to be used to pay for fees or expenses, including witness fees, incurred by the district attorney in a criminal prosecution.

Committee Amendment "A" (H-648)

This amendment provides for a \$10,000 increase in the amount that may be retained in a district attorney's Extradition and Prosecution Expenses Account from the current cap of \$20,000 to \$30,000, instead of to \$40,000 as proposed in the bill.

Enacted Law Summary