

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
FIRST REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

August 2015

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STATE OF MAINE

127TH LEGISLATURE

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 127th 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. An appendix provides a summary of relevant session statistics.

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 First Regular Session of the 127th Legislature is October 15, 2015. 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 309 An Act To Connect the Citizens of the State to the State's Natural Resources by Establishing Standards for Relief from Regulatory Burdens

Died Between Houses

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

This bill proposes standards for relief when state regulation imposes an inordinate burden on an individual property owner, as well as efficient mechanisms for pursuit of such relief. The bill provides that, if a property owner's right to use, divide, sell, occupy or possess real property is reduced by the enactment or application of a government regulation, the property owner may seek and obtain relief. Under the provisions of the bill, prior to filing an action, the property owner must pursue relief under a land use mediation program.

Committee Amendment "A" (S-124)

This amendment is the minority report of the committee. It adds a takings variance as an option for the State when a property owner's land is subject to a regulatory taking. A takings variance is a decision by the State to permit departure from the requirements of a regulation. If a fact finder determines that a regulatory taking has occurred, the State must choose between paying damages to the property owner, as provided in the bill, and granting a takings variance. Granting a takings variance means that the regulation causing the regulatory taking will not be applied to the property. The State may also grant a takings variance as a settlement offer as part of the mandatory mediation process.

LD 321 An Act To Protect Consumers against Residential Real Estate Title Defects

PUBLIC 289

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POULIOT HASKELL	OTP-AM	H-425

The purpose of this bill is to protect consumers against defects in titles to real estate in which Mortgage Electronic Registration Systems, Inc., appears in the chain of title. Under current Maine law, according to *Bank of America v. Greenleaf*, 2014 ME 89, 102 A.3d 774, any action by Mortgage Electronic Registration Systems, Inc., other than the recording of a mortgage, is invalid and of no force or effect. A large proportion of Maine residential real estate transactions include Mortgage Electronic Registration Systems, Inc. in the chain of title, putting consumers at risk of a defect in the title to their property.

This bill amends Maine law to eliminate that risk by establishing the presumption that a nominee mortgagee has the authority to assign or otherwise affect the mortgage even if the instrument assigning authority to the nominee mortgagee does not specifically so state. The authority is not presumed if the instrument explicitly negates the authority or if a separate written instrument negates the authority and that instrument is recorded in the appropriate registry of deeds.

Committee Amendment "A" (H-425)

This amendment clarifies that a person or entity may be named as nominee to hold a mortgage. This amendment provides that the provisions of the bill apply to the following:

1. A discharge or partial release issued prior to the effective date of this legislation, whether made by a nominee mortgagee or by a subsequent assignee;

Joint Standing Committee on Judiciary

2. A discharge or partial release issued on or subsequent to the effective date of this legislation, whether made by a nominee mortgagee or by a subsequent assignee; and
3. An assignment or other instrument affecting title to a mortgaged property that is the subject of a foreclosure judgment or other legal judgment affecting title to a mortgaged property for which, as of the effective date of this legislation, either the period for appeal has run with no appeal having been filed or all rights of appeal have been exhausted.

Enacted Law Summary

Public Law 2015, chapter 289's purpose is to protect consumers against defects in titles to real estate in which Mortgage Electronic Registration Systems, Inc. appears in the chain of title. Under current Maine law, according to *Bank of America v. Greenleaf*, 2014 ME 89, 102 A.3d 774, any action by Mortgage Electronic Registration Systems, Inc., other than the recording of a mortgage, is invalid and of no force or effect. A large proportion of Maine residential real estate transactions include Mortgage Electronic Registration Systems, Inc. in the chain of title, putting consumers at risk of a defect in the title to their property.

Chapter 289 amends Maine law to eliminate the risk by establishing the presumption that a nominee mortgagee, which can be a person or entity named as a nominee to hold a mortgage, has the authority to assign or otherwise affect the mortgage even if the instrument assigning authority to the nominee mortgagee does not specifically so state. The authority is not presumed if the instrument explicitly negates the authority or if a separate written instrument negates the authority and that instrument is recorded in the appropriate registry of deeds.

Chapter 289 applies to the following:

1. A discharge or partial release issued prior to the effective date of this legislation, whether made by a nominee mortgagee or by a subsequent assignee;
2. A discharge or partial release issued on or subsequent to the effective date of this legislation, whether made by a nominee mortgagee or by a subsequent assignee; and
3. An assignment or other instrument affecting title to a mortgaged property that is the subject of a foreclosure judgment or other legal judgment affecting title to a mortgaged property for which, as of the effective date of this legislation, either the period for appeal has run with no appeal having been filed or all rights of appeal have been exhausted.

LD 328 An Act To Allow Personal Representatives of Children Access to Certain Documents of the Department of Health and Human Services Regarding Child Protective Activities

PUBLIC 198

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLACK SAVIELLO	OTP-AM	H-202

This bill allows the Department of Health and Human Services to disclose information regarding the abuse and neglect of a child to the personal representative of the child.

Committee Amendment "A" (H-202)

This amendment corrects the terminology in the bill to allow the Department of Health and Human Services to disclose relevant information in child protection records to the personal representative of the estate of a child named in a record who is reported to be abused or neglected.