

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
127<sup>TH</sup> 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

127<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* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 127<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. 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 &amp; 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&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; 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 127<sup>th</sup> 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*

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.

*Joint Standing Committee on Judiciary*

**Enacted Law Summary**

Public Law 2015, chapter 198 allows 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.

**LD 330      An Act To Protect Rights and Privileges Granted under the United States Constitution and the Constitution of Maine      Died Between Houses**

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

This bill is based on Tennessee Public Acts, 2010, Public Chapter Number 983. The bill addresses the application of foreign law in this State.

**Committee Amendment "A" (H-462)**

This amendment is the minority report of the committee, and it replaces the bill. It addresses the application of foreign law in this State with the goal of protecting American citizens' constitutional rights when foreign laws and foreign legal doctrines are applied in judicial and administrative tribunals and mediation. The amendment provides that:

1. A court or administrative ruling violates the public policy of this State and is void and unenforceable if it is based in whole or in part on a foreign law, legal code or legal system that would not grant the same liberties, rights and privileges as are granted under the United States Constitution and the Constitution of Maine;
2. A contract's choice of law provision that chooses such a foreign law, legal code or legal system to govern aspects of the contract is void and unenforceable if the foreign law, legal code or legal system does not protect the same liberties, rights and privileges as are protected under the United States Constitution and the Constitution of Maine;
3. A contract's choice of personal jurisdiction provision that provides jurisdiction over the parties that applies a foreign law, legal code or legal system to govern aspects of the contract is void and unenforceable if the foreign law, legal code or legal system does not protect the same liberties, rights and privileges as are protected under the United States Constitution and the Constitution of Maine;
4. The court must deny a claim of forum non conveniens or related claim if granting the claim would subject the nonclaimant to a foreign forum that applies a foreign law, legal code or legal system that does not protect the same liberties, rights and privileges as are protected under the United States Constitution and the Constitution of Maine;
5. The law does not apply to a corporation, partnership, limited liability company, business association or legal entity that contracts to subject itself to a foreign law, legal code or legal system in a jurisdiction other than this State or the United States;
6. The law does not limit the free exercise of religion or require or authorize a court to adjudicate issues within a religious organization that would violate the First Amendment's establishment clause; and
7. The law may not be interpreted to conflict with any relevant treaty or international agreement.