

# 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

### Committee Amendment "A" (H-257)

This amendment replaces the bill but still requires proof of the owner of the mortgage note to be included in the foreclosure complaint.

The Maine Rules of Civil Procedure, Rule 12(b)(6) provides that a complaint must be dismissed if it fails to state a claim upon which relief can be granted. This amendment makes a foreclosure case subject to dismissal if it does not include a certification of proof of the owner of the mortgage note. The purpose of this amendment is to remove the ambiguity left by the Law Court in *Bank of America v. Cloutier*, 2013 ME 17, 61 A.3d. 1242, in which it held that the plaintiffs must identify the owner of a loan but did not say when and how that identification must occur. This amendment requires the identification at the beginning of the lawsuit when the parties most need that information as they engage in mediation and loan modification efforts.

#### Enacted Law Summary

Public Law 2013, chapter 229 makes a foreclosure case subject to dismissal if it does not include a certification of proof of the owner of the mortgage note. Chapter 229 removes the ambiguity left by the Maine Law Court in *Bank of America v. Cloutier*, 2013 ME 17, 61 A.3d. 1242, in which the Law Court held that the plaintiffs must identify the owner of a loan but did not say when and how that identification must occur. The identification must be made at the beginning of the lawsuit when the parties most need that information as they engage in mediation and loan modification efforts.

**LD 416**      **An Act To Provide for Direct Appeals under the Maine Juvenile Code to the Supreme Judicial Court**      **PUBLIC 100**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION	OTP-AM	H-92

The purpose of this bill is to eliminate duplicative appeals from the juvenile court. Under current law, all appeals from adjudications in juvenile court go first to the Superior Court, with a second appeal available at the Supreme Judicial Court. This bill provides instead that appeals are brought directly to the Supreme Judicial Court.

### Committee Amendment "A" (H-92)

This amendment lengthens the amount of time for an appeal from the juvenile court from 7 days to 21 days from the date of the entry of an order of disposition or other appealed order. The Supreme Judicial Court retains its authority to expand the time limit pursuant to a rule of the court.

#### Enacted Law Summary

Public Law 2015, chapter 100 provides that all appeals from adjudications in juvenile court go directly to the Supreme Judicial Court. The appeal must be filed within 21 days from the date of the entry of an order of disposition or other appealed order. The Supreme Judicial Court retains its authority to expand the time limit pursuant to a rule of the court.

**LD 434**      **An Act To Promote Equity in the Joint and Several Liability Law in Maine**      **Accepted Majority (ONTP) Report**

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

## *Joint Standing Committee on Judiciary*

Under current Maine law, if two or more defendants are found to be liable to a plaintiff for the same injury, the defendants are jointly and severally liable for the full amount of the plaintiff's damages.

This bill provides that, if a defendant is less than 50% at fault for the plaintiff's injury, that defendant's liability for damages is equal to the percentage attributable to that defendant. This limitation also applies to claims for contribution and actions brought by another defendant.

### **Committee Amendment "A" (S-125)**

This amendment, which is the minority report of the committee, replaces the bill, and provides that, if two or more defendants are found to be liable for a plaintiff's injury, then the defendants are jointly and severally liable for the plaintiff's pecuniary damages, but each defendant is only severally liable for nonpecuniary damages proportionate to the percentage of fault attributable to that defendant. If the defendants acted in concert, they are jointly and severally liable for the nonpecuniary damages as well.

<b>LD 448</b>	<b>An Act Regarding the Use of Remote-access Technology at Public Meetings of the Public Utilities Commission</b>	<b>ONTP</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WOODSOME DION	ONTP	

This bill specifically authorizes the commissioners of the Public Utilities Commission to participate in proceedings of the commission through telephonic, video, electronic or similar means of communication.

See also LD 1241.

<b>LD 451</b>	<b>An Act To Improve Disclosure Procedures</b>	<b>PUBLIC 275</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ	OTP-AM	S-259

This bill provides for the removal of the sunset provisions contained in Public Law 2013, chapter 150. It clarifies that the amendments made by Public Law 2013, chapter 150 apply to small claims court disclosure proceedings and allows the judgment creditor to obtain Department of Labor wage information when the judgment debtor has not conformed to the requirements of an installment payment order.

### **Committee Amendment "A" (S-259)**

This amendment provides that the court shall order the Department of Labor to provide employment information about a judgment debtor after the judgment debtor has failed to make two or more payments required by an installment payment order in response to an ex parte motion and affidavit filed by the judgment creditor. The amendment requires the affidavit to describe how payments made by the judgment debtor, including those received late, have been applied to support the judgment creditor's motion based on there being at least two unpaid installment payments.

This amendment adds language consistent with current law that provides that the judgment creditor may serve the order on the Department of Labor by ordinary mail and that the order must be accompanied by a reasonable fee set by the Department of Labor to cover the costs of processing the request and providing the employment information. The Department of Labor must provide the employment information to the judgment creditor within 20 days after receiving the court order. The fee the Department of Labor may require to respond to a court order for employment