

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

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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.

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 HOUSES..... House & 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
EMERGENCY..... enacted 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 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

This is a periodic update of the Maine Business Corporations Act to reflect recently adopted changes to the Model Business Corporations Act.

Committee Amendment "A" (S-233)

This amendment makes no substantive change to the bill but adjusts language in the section of the bill relating to grounds for judicial dissolution of a corporation to fit that language into the structure of the current law.

Enacted Law Summary

Public Law 2015, chapter 259 is a periodic update of the Maine Business Corporations Act to reflect recently adopted changes to the Model Business Corporations Act. It makes the following changes.

1. It extends the existing ability of a corporation to reduce or eliminate certain fiduciary duties owed by directors to Maine corporations and their shareholders by means of provisions in the corporation's articles of incorporation to situations involving business opportunities that could be of interest to the corporation.
2. It makes minor clarifying changes to existing provisions relating to the signatures on share certificates, the right of shareholders to call special shareholders' meetings and the permitted duration of voting trusts, prospectively eliminating a restriction limiting such trusts to 21 years.
3. It clarifies existing provisions relating to the duration of proxies to vote shares in Maine corporations and the effectiveness of irrevocable proxies.
4. It clarifies and expands upon existing provisions relating to inspectors of elections, including provisions regarding the appointment, roles, duties and procedures of inspectors and judicial review of their actions and decisions.
5. It contains detailed provisions relating to judicial review of disputes concerning elections and appointments of directors and officers of Maine corporations, including the matters as to which the judiciary may issue rulings, the persons who may commence such proceedings, the persons who must be named as defendants in such proceedings, service of process and the scope and types of remedies that may be granted in such actions.
6. It clarifies when and in what manner qualifications for service as a director of a Maine corporation, or to be nominated as such, may become applicable relative to the time of nomination or time of election or during such person's tenure as a director.
7. It provides that Maine's existing statutory provision allowing judicially mandated dissolution of a Maine corporation in cases involving "oppression" of one or more shareholders is applicable to corporations whose securities are publicly traded.

LD 1145

An Act To Improve Maine's Involuntary Commitment Processes

**PUBLIC 309
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY	OTP-AM	H-464 H-471 MALABY

This bill is based on certain recommendations in the report "Recommendations for Improving the Involuntary Commitment Process," by the Judicial Branch Mental Health Working Group dated December 15, 2014. It amends the laws governing involuntary hospitalization by:

1. Authorizing a health care practitioner to administer involuntary treatment to a person being involuntarily held or

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detained if the person's condition poses a serious, imminent risk to the person's physical or mental health and other conditions are met;

2. Specifying that family members may be the source of history and information that forms the basis of an opinion of a medical practitioner regarding a person for whom an emergency application for admittance to a psychiatric hospital has been filed;
3. Creating exceptions to the 24-hour hospital emergency hold period to authorize a hospital to involuntarily detain a mentally ill person meeting certain criteria for emergency psychiatric hospitalization for two additional 48-hour periods;
4. Limiting the State's costs related to transporting certain patients to reasonable costs;
5. Allowing for the discharge of an involuntary petition if the patient subsequently agrees to voluntary commitment;
6. Clarifying that orders of involuntary commitment and treatment also transfer with a patient that is transferred from one hospital to another; and
7. Permitting medical examinations and consultations required or permitted under involuntary hospitalization laws to be conducted using telemedicine technologies.

Committee Amendment "A" (H-464)

This amendment clarifies the terminology used to describe the emergency treatment to be involuntarily provided to reflect that the treatment must be a currently recognized standard of treatment.

This amendment clarifies that the sources of available history and other information may include family members without implying family members are always a reliable source.

This amendment requires that when a physician or clinical psychologist has evaluated a person for the purpose of providing a second opinion on whether the person meets the criteria for emergency admission to a psychiatric hospital and determines that the person does not meet the criteria, the physician or clinical psychologist must record the discharge upon the written application for emergency admission. The application must contain a statement that the person does not satisfy the criteria for emergency admission.

This amendment clarifies the standard for a person's consent to informal voluntary admission once the involuntary commitment process has started.

House Amendment "A" (H-471)

This amendment adds an emergency preamble and emergency clause to the bill.

Enacted Law Summary

Public Law 2015, chapter 309 is based on certain recommendations in the report "Recommendations for Improving the Involuntary Commitment Process," by the Judicial Branch Mental Health Working Group dated December 15, 2014. It amends the laws governing involuntary hospitalization by:

1. Authorizing a health care practitioner to administer involuntary treatment to a person being involuntarily held or detained if the person's condition poses a serious, imminent risk to the person's physical or mental health and other conditions are met;
2. Specifying that family members may be the source of history and information that forms the basis of an opinion of a medical practitioner regarding a person for whom an emergency application for admittance to a psychiatric hospital has been filed;

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3. Creating exceptions to the 24-hour hospital emergency hold period to authorize a hospital to involuntarily detain a mentally ill person meeting certain criteria for emergency psychiatric hospitalization for two additional 48-hour periods;
4. Limiting the State's costs related to transporting certain patients to reasonable costs;
5. Allowing for the discharge of an involuntary petition if the patient subsequently agrees to voluntary commitment;
6. Clarifying that orders of involuntary commitment and treatment also transfer with a patient that is transferred from one hospital to another;
7. Permitting medical examinations and consultations required or permitted under involuntary hospitalization laws to be conducted using telemedicine technologies; and
8. Providing that when a physician or clinical psychologist has evaluated a person for the purpose of providing a second opinion on whether the person meets the criteria for emergency admission to a psychiatric hospital and determines that the person does not meet the criteria, the physician or clinical psychologist must record the discharge upon the written application for emergency admission. The application must contain a statement that the person does not satisfy the criteria for emergency admission.

Public Law 2015, chapter 309 was enacted as an emergency measure effective July 2, 2015.

LD 1147 An Act To Clarify the Mortgage Foreclosure Sale Process

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COOPER GRATWICK	OTP-AM	H-258

This bill clarifies certain aspects of the post-foreclosure sale process.

The bill imposes upon the mortgage holder who starts the foreclosure the burden of being treated as the owner of the property, and thus the party with the burden of maintaining it. With this responsibility, foreclosing parties may be more likely to complete the foreclosure process and proceed to foreclosure sales.

The bill imposes a deadline of 45 days after the completion of the foreclosure sale for the filing of the report of sale, so that, in those instances where a deficiency judgment is being sought, the homeowner will be put on notice of that fact shortly after the sale process is completed.

Committee Amendment "A" (H-258)

This amendment deletes section 1 from the bill.

The amendment amends section 2 of the bill to require that the report of the sale of the foreclosed property must be filed with the court within 180 days of the conveyance of the title of the property after the public sale instead of 45 days from the date of the sale, as the bill requires.