

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

August 2017

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STATE OF MAINE

128TH LEGISLATURE
FIRST REGULAR SESSION



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 128th 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 128th Legislature is Wednesday, November 1, 2017. 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 969 An Act Regarding Nonprobate Transfers on Death

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FOLEY R WHITTEMORE R		

This bill enacts as Article 6, Part 4 of the Maine Probate Code the Uniform Real Property Transfer on Death Act, adopted by the Uniform Law Commission in 2009. It amends the Maine Probate Code to provide for the nonprobate transfer of personal property not already covered by Article 6 of the Maine Probate Code by enacting a new Part 5. Part 5 is modeled on Missouri law.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 1043 An Act To Promote Impartiality in the Probate Court

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ R BAILEY D	OTP-AM	S-230 S-254 KEIM L

Beginning January 1, 2019, this bill prohibits probate judges from appearing as counsel in contested probate cases. Beginning January 1, 2021, this bill also prohibits probate judges from engaging in the practice of law while they are serving as probate judges.

Committee Amendment "A" (S-230)

This amendment removes from the bill the prohibition on probate judges engaging in the practice of law while serving as probate judges.

Senate Amendment "A" (S-254)

This amendment prohibits probate judges from appearing as counsel in contested probate proceedings beginning January 1, 2021 rather than January 1, 2019 as in the bill.

LD 1047 An Act To Protect Homeowners from Improper Foreclosure Fees

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BELLOWS S LAWRENCE M	OTP-AM ONTP	S-198

Current law provides that attorney's fees must be paid to mortgagors when the mortgagee does not prevail in a foreclosure action, which creates a loophole that allows the mortgagee to escape the attorney's fees provisions when the plaintiff does not prevail because it is determined that the plaintiff is not the true mortgagee. This bill rectifies that loophole by clarifying that a plaintiff who claims to be a mortgagee who does not prevail in a foreclosure action must still pay attorney's fees to the prevailing mortgagor.

Committee Amendment "A" (S-198)

This amendment is the majority report. It simplifies the language of the bill to make it clear that if the plaintiff in

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the foreclosure action does not prevail or did not bring the action in good faith, the court can order the plaintiff to pay costs and attorney's fees.

LD 1057 An Act To Protect Condominium Owners in the Event of a Power Outage

Accepted Majority (ONTP) Report

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

This bill allows a condominium unit owner to install a backup electricity generator in a common element space as long as the installation does not block or disrupt the use of the common element space.

Committee Amendment "A" (H-291)

This amendment is the minority report. It allows a condominium unit owner to install an electricity generator in a limited common element space associated with the unit instead of in a common element space, which is open to all units.

This amendment was not adopted.

LD 1099 Resolve, To Require the State To Bring Suit against the Federal Government for Failure To Comply with the Federal Refugee Act of 1980

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LOCKMAN L DAVIS P	ONTP	

This resolve directs the Attorney General to initiate or intervene in a civil action against the Federal Government in opposition to the federal Refugee Act of 1980 and the imposition of financial mandates on the State. If the Attorney General sends notice to the Senate and the House of Representatives declining to initiate or intervene in a civil action required by this resolve, this resolve authorizes the President of the Senate and the Speaker of the House of Representatives to employ outside counsel to commence the civil action.

LD 1120 Resolve, Directing the Maine Commission on Domestic and Sexual Abuse To Study Economic Abuse

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAY J	ONTP	

This resolve directs the Maine Commission on Domestic and Sexual Abuse to study the effect of economic abuse and the enforcement of laws to prevent economic abuse and to provide relief to victims of economic abuse, to study the provision of training opportunities for public officials, to study the provision of a media campaign and to study the creation of programs to provide legal remedies, including the reimbursement of attorney's fees.