

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
128<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON INSURANCE AND  
FINANCIAL SERVICES**

August 2017

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# STATE OF MAINE

128<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 128<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.

*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 128<sup>th</sup> 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 Insurance and Financial Services*

**LD 1540 An Act To Protect Consumers' Freedom of Choice in Auto Collision Repairs**

**Veto Sustained**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMANN S	OTP-AM ONTP	H-278

This bill amends the provisions of law regarding insurers' initial communications with an insured or claimant filing a claim for collision damage to an automobile in the following ways.

1. It clarifies that an insurer may not intimidate, coerce, threaten or provide incentive or inducement to the insured or claimant to use any particular specified place of business to repair the automobile.
2. It requires an insurer to submit to and have approved by the Superintendent of Insurance the script or talking points the insurer requires to be read or told to an insured or claimant upon receiving the claim and to include in the script or talking points an advisory that the insured or claimant has the legal right to choose the motor vehicle repair service to fix the vehicle.
3. It makes a violation of the provisions of this bill and the other provisions regarding free competition in insurance for motor vehicle repairs an unfair trade practice and a civil violation with graduated fines from \$1,000 for a first offense to \$5,000, a requirement for the second and subsequent offense that the insurer provide proof of corrective measures and, for a fourth or subsequent offense within a 12-month period, possible suspension or revocation of the insurer's certificate of authority.
4. It allows the Attorney General to enforce the provisions of this bill and the other provisions regarding free competition in insurance for motor vehicle repairs.

**Committee Amendment "A" (H-278)**

This amendment is the majority report of the committee and replaces the bill. The amendment clarifies the provision of law regarding an insurer's communication with an insured or a claimant filing a claim for collision damage to an automobile by requiring an insurer that recommends a particular motor vehicle repair service or a network of repair services to convey to an insured or a claimant upon receiving the claim that the insured or claimant has the legal right to choose the motor vehicle repair service to fix the vehicle.

**LD 1544 An Act To Update the Maine Insurance Code To Maintain Conformance with Uniform National Standards**

**PUBLIC 169**

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

This bill updates several provisions of the Maine Insurance Code to incorporate recent amendments to model laws adopted by the National Association of Insurance Commissioners, or NAIC, and makes related technical changes. These amendments maintain the State's compliance with uniform financial solvency standards and with the NAIC's accreditation requirements for state insurance regulators.

Part A enhances regulatory oversight and complies with NAIC accreditation requirements by requiring domestic insurance carriers to file corporate governance annual disclosure reports and clarifying the filing requirement for quarterly financial statements. These requirements apply to health maintenance organizations, nonprofit hospital and medical service organizations and fraternal benefit societies as well as to traditional commercial insurance

## *Joint Standing Committee on Insurance and Financial Services*

companies. Part A also updates the procedures for examinations and holding company supervision for health maintenance organizations, updates other financial reporting laws to conform to current requirements and clarifies the applicability of statutory accounting principles to nonprofit hospital and medical service organizations.

Part B facilitates coordinated regulatory action and complies with NAIC accreditation requirements by incorporating a group supervision framework. It amends the law regarding Maine insurance holding companies and examination laws to update obsolete references to the former NAIC Examiners' Handbook. It clarifies the Superintendent of Insurance's ability to hire examiners with any necessary credentials. It resolves inconsistencies in the criminal conviction reporting requirements and clarifies that dividend payments and affiliate transactions are aggregated over any consecutive 12-month period for purposes of applying statutory materiality thresholds.

Part C amends the law regarding credit for reinsurance to allow the Superintendent of Insurance to waive certain requirements and to incorporate the recently developed framework establishing uniform minimum collateral requirements for reserve financing transactions.

Part D corrects a conflict between state and federal insolvency laws and clarifies the priority of secured claims and federal claims.

Part E updates the Maine Business Transacted with Broker-Controlled Insurer Act to conform it to the current NAIC model act and comply with NAIC accreditation requirements. It corrects an inconsistency by clarifying the law's applicability to domestic risk retention groups, and it replaces obsolete references to "brokers" with references to "producers." Part E also clarifies a definition of "licensed insurer," amends the disclosure section to treat the producer rather than the insurer as the controlling party, removes superfluous enforcement language and repeals an obsolete transition clause.

Part F makes technical corrections to the risk-based capital standards laws to address issues identified during the most recent Department of Professional and Financial Regulation, Bureau of Insurance accreditation review. These amendments codify current practice and maintain compliance with NAIC accreditation requirements, clarifying that the solvent run-off exception to mandatory control does not apply to health insurers, clarifying that confidential risk-based capital information may be shared with other public officials and agencies on the same basis as other confidential regulatory information, providing that risk-based capital information may not be used for rate-making purposes except to the extent that ratemaking and related activities are part of a corrective action for a risk-based capital impaired insurer and clarifying that the corrective action plan requirements for foreign insurers apply at all action levels.

Part G updates the captive insurance companies laws to respond to emerging regulatory issues and to make technical corrections. It clarifies the definitions of "controlled unaffiliated business" and "pure nonprofit captive insurance company" and clarifies that a captive insurance company's license application's supporting documents must include a plan of operation and that the additional supporting documents required for sponsored captive insurers are subject to the same confidentiality provisions as the other supporting documents. It corrects obsolete references to manager-managed limited liability companies and updates the reporting provisions for association and industrial captive insurers consistent with Part A of the bill. It provides that statutory rather than generally accepted accounting principles audits are to be filed when the captive insurer uses statutory accounting principles as its general basis of accounting, requires a sponsored captive insurer's plan of operation to specify how assets and liabilities are attributed between the protected cells and the general account and clarifies that a sponsored captive insurer's obligations to reinsurers follow the reinsured participant and not the general account.

### **Enacted Law Summary**

Public Law 2017, chapter 169 updates several provisions of the Maine Insurance Code to incorporate recent amendments to model laws adopted by the National Association of Insurance Commissioners, or NAIC, and makes related technical changes. These amendments maintain the State's compliance with uniform financial solvency standards and with the NAIC's accreditation requirements for state insurance regulators.

## *Joint Standing Committee on Insurance and Financial Services*

Part A enhances regulatory oversight and complies with NAIC accreditation requirements by requiring domestic insurance carriers to file corporate governance annual disclosure reports and clarifying the filing requirement for quarterly financial statements. These requirements apply to health maintenance organizations, nonprofit hospital and medical service organizations and fraternal benefit societies as well as to traditional commercial insurance companies. Part A also updates the procedures for examinations and holding company supervision for health maintenance organizations, updates other financial reporting laws to conform to current requirements and clarifies the applicability of statutory accounting principles to nonprofit hospital and medical service organizations.

Part B facilitates coordinated regulatory action and complies with NAIC accreditation requirements by incorporating a group supervision framework. It amends the law regarding Maine insurance holding companies and examination laws to update obsolete references to the former NAIC Examiners' Handbook. It clarifies the Superintendent of Insurance's ability to hire examiners with any necessary credentials. It resolves inconsistencies in the criminal conviction reporting requirements and clarifies that dividend payments and affiliate transactions are aggregated over any consecutive 12-month period for purposes of applying statutory materiality thresholds.

Part C amends the law regarding credit for reinsurance to allow the Superintendent of Insurance to waive certain requirements and to incorporate the recently developed framework establishing uniform minimum collateral requirements for reserve financing transactions.

Part D corrects a conflict between state and federal insolvency laws and clarifies the priority of secured claims and federal claims.

Part E updates the Maine Business Transacted with Broker-Controlled Insurer Act to conform it to the current NAIC model act and comply with NAIC accreditation requirements. It corrects an inconsistency by clarifying the law's applicability to domestic risk retention groups, and it replaces obsolete references to "brokers" with references to "producers." Part E also clarifies a definition of "licensed insurer," amends the disclosure section to treat the producer rather than the insurer as the controlling party, removes superfluous enforcement language and repeals an obsolete transition clause.

Part F makes technical corrections to the risk-based capital standards laws to address issues identified during the most recent Department of Professional and Financial Regulation, Bureau of Insurance accreditation review. These amendments codify current practice and maintain compliance with NAIC accreditation requirements, clarifying that the solvent run-off exception to mandatory control does not apply to health insurers, clarifying that confidential risk-based capital information may be shared with other public officials and agencies on the same basis as other confidential regulatory information, providing that risk-based capital information may not be used for rate-making purposes except to the extent that ratemaking and related activities are part of a corrective action for a risk-based capital impaired insurer and clarifying that the corrective action plan requirements for foreign insurers apply at all action levels.

Part G updates the captive insurance companies laws to respond to emerging regulatory issues and to make technical corrections. It clarifies the definitions of "controlled unaffiliated business" and "pure nonprofit captive insurance company" and clarifies that a captive insurance company's license application's supporting documents must include a plan of operation and that the additional supporting documents required for sponsored captive insurers are subject to the same confidentiality provisions as the other supporting documents. It corrects obsolete references to manager-managed limited liability companies and updates the reporting provisions for association and industrial captive insurers consistent with Part A of the law. It provides that statutory rather than generally accepted accounting principles audits are to be filed when the captive insurer uses statutory accounting principles as its general basis of accounting, requires a sponsored captive insurer's plan of operation to specify how assets and liabilities are attributed between the protected cells and the general account and clarifies that a sponsored captive insurer's obligations to reinsurers follow the reinsured participant and not the general account.