

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Fifth Legislature
State of Maine

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The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, June 10, 2011, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Report "A" (6) **Ought Not to Pass** - Report "B" (6) **Ought to Pass as Amended by Committee Amendment "A" (S-211)** - Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act To Establish an Insurance Fraud Division within the Department of Professional and Financial Regulation, Bureau of Insurance"

(S.P. 280) (L.D. 892)

- In Senate, Report "B" **OUGHT TO PASS AS AMENDED READ AND ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-211)**.

TABLED - June 6, 2011 (Till Later Today) by Representative BECK of Waterville.

PENDING - Motion of Representative RICHARDSON of Warren to **ACCEPT** Report "A" **OUGHT NOT TO PASS**. (Roll Call Ordered)

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Beck.

Representative **BECK**: Thank you, Mr. Speaker Pro Tem. Mr. Speaker Pro Tem, Ladies and Gentlemen of the House. Please oppose the pending motion. An insurance fraud division will address real problems. Forty-two other states have some form of insurance fraud division and fraud is a real problem there and here in Maine. According to a 2009 report from the Bureau of Insurance, there are over 2,000 cases of insurance fraud reported to the bureau, including 35 cases of arson. The same report noted that there are no criminal prosecutors in Maine who focus specifically on fraud and it is unclear if the Attorney General's office has sufficient resources to combat the serious issue of insurance fraud. An insurance fraud division is supported by the insurance community, by insurance companies, but it is also good for consumers because the division will not just combat external fraud, but also fraud perpetrated by insurance companies, insider trading, and scam entities that target seniors and other customers. It's important to note that every dollar saved by fighting any type of fraud helps honest policyholders who pay premiums and make legitimate claims. This bill, this idea is a bipartisan idea. It's important to note that a new insurance fraud division will not be paid for by the General Fund, but by assessments on regulated entities like insurance companies. Please stand up against insurance fraud and against those Mainers that pay premiums and make honest claims and oppose the pending motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Warren, Representative Richardson.

Representative **RICHARDSON**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Again, this is one of these bills that we've had in each of the sessions that I have been here. It's to add on, I'm going to call it, to government. I do not think it is necessary and I would hope that you would vote; follow my light as we vote on this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to add my voice and a vote of many of the members of this committee with my good chair, Representative Richardson, of Warren, and ask that you vote for the Ought Not to Pass Report, which is the

pending motion. This bill is unnecessary. It creates a new bureaucracy, adding seven new positions in the Bureau of Insurance and one new position in the Attorney General's office. It will cost \$647,443 in 2011-2012 and \$860,337 in 2012-2013. While these dollars certainly will come from the industry, I have no doubt that they will be paid by policyholders. Maine's level of fraud can be handled with the staff that we had. There was no crying need that was really demonstrated to the committee. I urge your support of the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Alna, Representative Fossel.

Representative **FOSSEL**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Two years ago, this was my bill and I sponsored it. There is a reason for fraud investigation in the State of Maine, but this bill goes way too far, spends too much money. If you wanted to do a very limited test bill and sunset it, I think that would be appropriate to consider, but not this bill. Please vote against it. Thank you.

The SPEAKER PRO TEM: A roll call having been previously ordered, the pending question before the House is Acceptance of Report "A" Ought Not to Pass. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 172

YEA - Ayotte, Beaudoin, Beaulieu, Bennett, Berry, Bickford, Black, Boland, Briggs, Bryant, Burns DC, Burns DR, Cain, Casavant, Cebra, Celli, Chapman, Chase, Chipman, Clark T, Cornell du Houx, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dion, Dow, Driscoll, Duchesne, Dunphy, Edgecomb, Espling, Eves, Fitts, Fitzpatrick, Flemings, Flood, Fossel, Foster, Fredette, Gifford, Gilbert, Gillway, Goode, Guerin, Hamper, Hanley, Harlow, Harmon, Harvell, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Johnson D, Johnson P, Kent, Keschl, Knapp, Knight, Kruger, Kumiega, Lajoie, Libby, Long, Lovejoy, Luchini, Maker, Malaby, Mazurek, McCabe, McClellan, McFadden, McKane, Morissette, Morrison, Moulton, Nass, Nelson, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peoples, Peterson, Picchiotti, Plummer, Prescott, Priest, Rankin, Richardson D, Richardson W, Rioux, Rochelo, Rosen, Rotundo, Russell, Sanborn, Sarty, Shaw, Sirocki, Stevens, Strang Burgess, Tilton, Timberlake, Treat, Turner, Volk, Wagner R, Waterhouse, Weaver, Webster, Welsh, Willette A, Willette M, Winsor, Wood.

NAY - Beavers, Beck, Beliveau, Blodgett, Clark H, Clarke, Dill J, Eberle, Graham, Longstaff, MacDonald, Maloney, Martin, Pilon, Stuckey, Theriault, Tuttle, Valentino.

ABSENT - Bolduc, Carey, Kaenrath, Sanderson, Wintle, Mr. Speaker.

Yes, 126; No, 18; Absent, 6; Vacant, 1; Excused, 0.

126 having voted in the affirmative and 18 voted in the negative, 1 vacancy with 6 being absent, and accordingly Report "A" **Ought Not to Pass** was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code

(H.P. 1042) (L.D. 1416)
(C. "A" H-553)

TABLED - June 10, 2011 (Till Later Today) by Representative CURTIS of Madison.

PENDING - **PASSAGE TO BE ENACTED**.

Representative HUNT of Buxton **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a

desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Boland.

Representative **BOLAND**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to remind the House that although the original report showed a 10-3 vote on this, it's actually 8-5 due to a couple of us having changed our votes when we discovered how improperly it really was before our committee.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Hunt.

Representative **HUNT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 1416 signifies a major rollback in the direction that codes were going. It makes it so 40 percent of the state is no longer covered, which creates a patchwork system, which we were trying to avoid in the first place. Multiple contractors, bankers, insurance, environmental groups have all come out in opposition to 1416. I don't know how many more people need to come out before we say, wait a second, maybe this isn't the right direction.

In the most recent Maine Municipal Association flyer, they were talking about LD 1416 and LD 1253 and they go on to say presumably further steps will be taken to reconcile the adoption of LD 1253 and LD 1416 whose terms are fundamentally incompatible. Fundamentally incompatible? I go back to LD 1253 where the committee unanimously came together and listened to hours of testimony coming up with the fixes that people wanted. We solicited items that people wanted to fix and we fixed them. I can't stress enough the departure from policy this has been to go back, bipartisan policy, to enact 1416. I think this is a wrong direction for our state, creates a patchwork system. It makes it even more difficult for our contractors who were clamoring for consistency and predictability. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just rise to point out that as a member of the Regulatory Fairness and Reform Committee I sat through, along with my colleagues, I believe, seven public hearings. In those public hearings there was a great deal of testimony that did not support this type of rollback of our building codes. In fact, there was much more support for keeping those codes strong and uniform and since we have just signed and seen the Chief Executive sign LD 1 yesterday, I think that it's appropriate that we don't pick and choose other things that that committee decided not to do and start enacting them, when in fact the vast majority of the opinion that we heard in our committee was not in favor.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative Driscoll.

Representative **DRISCOLL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill, to me, I mean it prevents kind of an underhanded backdoor approach that undermines the collaborative process that we went through in the Labor, Commerce, Research and Economic Development Committee, over a number of meetings, which involved stakeholders within the process that reached a unanimous decision out of committee. I've talked about the process down here previously on other bills and I think this was an underhanded process. This issue should have come back to our committee. We were the committee of reference for a lot of major work on this bill. Why it didn't come to our committee and the stakeholders that have worked hard to come out with the unanimous process, I'm not sure why that happened. Whether

the members were not trustful of the previous report that we generated in a unanimous manner or they felt that this needed to be rushed through before the end of the session, which obviously our committee didn't do with the previous bill which deals with a similar issue. I just am kind of taken aback by the way the process is taking place here and I think it undermines the work of the members of the committee that I serve on and the people that took the time to respond to the process that we had on our committee, which took place over quite a period of time. Thank you very much, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Hinck.

Representative **HINCK**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. Maine should be getting more energy efficient, not less energy efficient. Energy efficiency doesn't just happen. We will be more energy efficient if we take the right steps, if we enact the right policies, if we move in the right direction. This is one of those votes. If you think Maine should be more energy efficient, your vote has to be no.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **McKANE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just to respond to some of the things I've heard this morning and we have already debated this bill, but I guess we're going through it again. Maine is getting more energy efficient. Market forces are requiring that as are banks that are loaning the money. I've been in construction for 30 plus years and certainly over the past 25 I've never seen a building that wasn't built as a home that wasn't extremely energy efficient. Two by six studs, modern windows, modern doors, and frankly, they are over-insulated and too tight in some cases. As far as what I've heard about the unanimous decision of the committee, that committee voted on a code that did not exist yet. Now that we have the code we're finding out that it is much more extreme than anyone had imagined and it is expensive and it is onerous.

In response to the good Representative from Hallowell, I heard the opposite on the seven offsite hearings that I went to. I heard that people were very, very concerned with this code and that it was standing in the way of some small projects, and it was adding to the cost and the bureaucracy. This is not a rollback. The code has barely gone into effect yet. People don't know what's there, but it's going to stay in place. Maine is going to continue to have the Uniform Building and Energy Code. It simply brings up the population, the size of the municipality that's exempt from it. I hope you support this common sense bill. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I recognize we have debated this previously, but I think it's important to make sure that we all understand what happen with this bill. This bill allows municipalities to opt out of the Maine Uniform Building Code. The majority of the testimony that we heard before State and Local Government was from contractors, code enforcement officials, and people who support those who are of low income. They were against this bill. The majority of testimony, they were against this bill. They did not say that this was onerous. They said they recognize this is an important thing for the state to do. I have real problems with the fact that this is inconsistent with the work of the Labor, Commerce, Research and Economic Development Committee. I don't understand why this bill came to State and Local Government. I agree that this was a backdoor way of undoing MUBEC and that's difficult for me and I will not

support this bill. Again, it allows municipalities to opt out. That is not uniform and it will, in the long run, hurt Maine's economy, not help it. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Hunt.

Representative HUNT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This makes it so that 40 percent of the state will no longer have to follow this code. That's what it does. You know, it makes a patchwork system. Think about your own towns. Think about your own districts. One of your towns might be in the Uniform Building Code, one might be able to opt out. What does that do for the contractors in your town? What does that do? Sometimes you've got to follow it, sometimes you don't. It's just confusing. Thanks a lot.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Alfred, Representative Burns.

Representative BURNS: Thank you, Mr. Speaker. As we said before with the previous bills that try to put these strings on municipalities, this would be a high cost for municipalities, another unfunded mandate. I came up to this House to do the work of the people, to protect the people, to do what's right for the State of Maine. I find it kind of ironic that in the last six months that I spent my time protecting the people of Maine, but who am I protecting the people of Maine from? I'm protecting them from us with things like this. Let the people live. Let the municipalities govern themselves. They've been elected to do their jobs. They cannot afford these high priced inspectors. Some of these cities might, but these small rural local municipalities with 2,000 or 3,000 folks that get by day by day on the small amounts of money that they're able to raise through their taxations on properties, this is just a bad unfunded mandate. So please, support the motion, protect the people from us and overregulation. That's what this is. Thank you, Mr. Speaker.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

The SPEAKER: The Chair recognizes the Representative from Searsport, Representative Gillway.

Representative GILLWAY: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to bring a little bit of perspective here. Maine Municipal reports that there are 490 municipalities in the State of Maine. State law already exempts 324 of those municipalities because of its size. We're talking about adding about 65 to 70 more municipalities to that list. So we're already out of whack when it comes to enforcement of this or the enforcement of MUBEC and all we're asking for is a little more time.

I had occasion yesterday to speak to my code enforcement officer back home and he agrees. He covers five different municipalities. Four of the five are not having to comply with MUBEC and ours is the only one that does. This will give him some time. It will give our municipalities some time to get on board and I'm quite sure in the next Legislature it will probably lower the numbers. We're already out of whack and this just gives us a little more time. Thank you.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative MacDONALD: Thank you, Mr. Speaker. I urge standing in opposition to the vote on Enactment to this bill. I would just remind the members that this is as much as the good Representative from Portland, Representative Hinck, said, this is as much an energy-related bill as it is a simple straightforward

construction-related bill. The residential sector of our energy use accounts for 21 percent of all energy use. It produces more CO2 emissions than cars. You wouldn't imagine that, but it's true. That's a national figure. Maine is probably higher because we're so much more dependent upon oil, most of which comes from foreign sources and represents an energy dollar flow out of the state that we simply can't afford. We had testimony in front of BRED that 85 percent of new construction was not energy efficient. Homes last for 50 to 100 years. What an investment that it would be to make sure that every one of these new homes was more energy efficient than they are currently under our current laws and practices. Even if banks are requiring this more and more, why can't the state move it as a policy to help those Mainers who are building new homes save more money on their energy costs over the lifetime of their home? This isn't about small communities necessarily; it's about Mainers as consumers, as homebuilders, as people who live in their homes. They can save money by us adopting a policy which promotes greater energy efficiency in home construction. I urge you to vote against this bill and keep MUBEC in place for a larger majority of Maine communities, so that we can save our taxpayers money on their energy expenditures as we move forward. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 173

YEA - Ayotte, Beaulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dill J, Dion, Dunphy, Edgcomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dow, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Morrison, Nelson, O'Brien, Olsen, Peoples, Peterson, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Beck, Kaenrath, Wintle.

Yes, 76; No, 71; Absent, 3; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 71 voted in the negative, 1 vacancy with 3 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-527)** - Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Legalize and Tax Marijuana"

(H.P. 1067) (L.D. 1453)