



Janet T. Mills  
GOVERNOR

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
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AUGUSTA, MAINE  
04333-0001

June 25, 2021

The 130th Legislature of the State of Maine  
State House  
Augusta, Maine

Dear Honorable Members of the 130th Legislature:

By the authority conferred by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing L.D. 1160, *An Act to Reduce the Burden on Courts and Promote the Resolution of Civil Cases*.

L.D. 1160 proposes to increase pre-judgment and post-judgment interest paid by a losing party. Currently, the rate paid on pre-judgment interest is an amount equal to 3 percent plus the one-year U.S. Treasury bill rate (currently less than 0.09 percent) and the post-judgment rate is 6 percent plus the one-year U.S. Treasury bill rate. L.D. 1160 proposes to increase both of these rates to 10 percent. L.D. 1160 also proposes to establish a \$20,000 threshold before a casualty insurer may subrogate, or have priority over, a payout for its insured member's medical costs that the insurer has already paid for their insured member. These provisions will penalize a party who wants to take a case to court, rather than settle, would allow someone to receive effectively double payment and will likely combine to increase insurance premiums.

The first provision of the bill will increase – potentially dramatically – the interest a losing party will have to pay on an award if they choose to take a case to trial and lose. People have a right to their day in court and that may not always come quickly. And layering costs on to taking a case to trial against a party with insurance will only make insurance more expensive for everyone. While, it may make sense to revisit this interest rate, 10 percent across the board is too high.

The Legislature has enacted (in 2009) and repealed (in 2011) this exact provision in L.D. 1160 regarding subrogation of medical payments less for than \$20,000. Generally, subrogation is a positive thing for not-at-fault insureds, as it assesses the costs of the loss to the responsible party or that person's insurer. For decades Maine allowed an insurer to recoup from a court award or settlement the cost of medical care payments the insurer made on behalf of their insured member. This makes sense and avoids a windfall to the insured. Insurance companies use subrogation to recoup costs they have incurred in compensating their insured which, in turn, keeps premiums lower for everyone else.

An example illustrates the point. Assume a policy holder with \$20,000 in medical payment coverage is involved in an accident that is not their fault, and their insurer covers medical treatments costing \$20,000. Under current law if the policy holder settles a case against the at-fault



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driver for \$40,000, the insurance company that paid the medical bills would recoup the \$20,000 they paid out, and the rest would be divided by the driver and their attorney. But if this bill were to become law, the entire \$40,000 (plus interest) would be divided by the driver and their attorney, and the insurance company that paid medical bills that were not the fault of their insured member would be left to absorb that cost. Those costs will inevitably be passed onto every other policy holder.

For these reasons I return LD 1160 unsigned and vetoed and urge the Legislature to sustain this veto.

Sincerely,



Janet T. Mills  
Governor



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