

**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> Maine Legislature coming from the

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

July 2007

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

**Summary of Committee Actions**

<b>I. BILLS AND PAPERS CONSIDERED</b>	<u>Number</u>	<u>% of Comm Activity</u>	<u>% of All Bills/Papers</u>
<b>A. Bills referred to Committee</b>			
<i>Bills referred and voted out</i>	83	90.2%	4.3%
<u><i>Bills Carried Over</i></u>	<u>8</u>	<u>8.7%</u>	<u>0.4%</u>
<b>Total Bills referred</b>	<b>91</b>	<b>98.9%</b>	<b>4.7%</b>
<b>B. Bills reported out by law or joint order</b>	<b>1</b>	<b>1.1%</b>	<b>0.1%</b>
<b>Total Bills considered by Committee</b>	<b>92</b>	<b>100.0%</b>	<b>4.8%</b>
<b>Orders and Resolutions referred to Committee</b>			
<i>Joint Study Orders referred and voted out</i>	0	0.0%	0.0%
<i>Joint Resolutions referred and voted out</i>	0	0.0%	0.0%
<i>Orders and Resolutions Carried Over</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
<b>Total Orders and Resolutions Referred</b>	<b>0</b>	<b>0.0%</b>	<b>0.0%</b>
<b>II. COMMITTEE REPORTS</b>	<u>Number</u>	<u>% of this Committee's Reports</u>	<u>% of All Committee Reports</u>
<b>A. Unanimous committee reports</b>			
<i>Ought to Pass</i>	9	10.7%	0.5%
<i>Ought to Pass as Amended</i>	23	27.4%	1.3%
<i>Ought to Pass as New Draft</i>	0	0.0%	0.0%
<u><i>Ought Not to Pass</i></u>	<u>36</u>	<u>42.9%</u>	<u>2.1%</u>
<b>Total unanimous reports</b>	<b>68</b>	<b>81.0%</b>	<b>3.9%</b>
<b>B. Divided committee reports</b>			
<i>Two-way reports</i>	15	17.9%	0.9%
<i>Three-way reports</i>	1	1.2%	0.1%
<u><i>Four-way reports</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
<b>Total divided reports</b>	<b>16</b>	<b>19.0%</b>	<b>0.9%</b>
<b>Total committee reports</b>	<b>84</b>	<b>91.3%</b>	<b>4.8%</b>
<b>III. CONFIRMATION HEARINGS</b>	<b>2</b>	<b>N/A</b>	<b>N/A</b>
<b>IV. FINAL DISPOSITION</b>	<u>Number</u>	<u>% of Comm Bills/Papers</u>	<u>% of All Bills/Papers</u>
<b>A. Bills and Papers enacted or finally passed</b>			
<i>Joint Study Orders</i>	0	0.0%	0.0%
<i>Public laws</i>	36	39.1%	1.9%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	3	3.3%	0.2%
<u><i>Constitutional Resolutions</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
<b>Total Enacted or Finally Passed</b>	<b>39</b>	<b>42.4%</b>	<b>2.0%</b>
<b>B. Resolves to authorize major substantive rules</b>			
Rules authorized without legislative changes	0	0.0%	0.0%
Rules authorized with legislative changes	0	0.0%	0.0%
<u>Rules not authorized by the Legislature</u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
<b>Total number of rules reviewed</b>	<b>0</b>	<b>0.0%</b>	<b>0.0%</b>
<b>C. Bills vetoed or held by Governor</b>			
<i>Vetoed over-ridden</i>	0	0.0%	0.0%
<i>Vetoed sustained</i>	0	0.0%	0.0%
<u><i>Held by the Governor</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
<b>Total</b>	<b>0</b>	<b>0.0%</b>	<b>0.0%</b>

Note: A committee vote on a bill is not included here if the bill was subsequently re-referred to another committee or recommitted and carried over.

# *Joint Standing Committee on Insurance and Financial Services*

## **LD 100 An Act To Prohibit Retail Store-operated Banks**

**ONTP**

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

LD 100 prohibits an industrial bank owned directly or indirectly by a commercial entity from establishing or maintaining any branch, agency or other office in this State.

LD 100 and a related bill, LD 635, were voted "Ought Not to Pass" by the committee, but the substantive provisions of these bills were amended and incorporated into a committee bill, LD 1829, An Act to Amend the Banking Laws Regarding the Establishment of Branches by Financial Institutions with Affiliates That Engage in Commercial Activity. See LD 1829, which was enacted as Public Law 2007, chapter 69.

## **LD 101 An Act To Enhance Screening for Breast Cancer**

**PUBLIC 153**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL MITCHELL	OTP-AM	H-181

LD 101 requires health insurance companies and health maintenance organizations to provide coverage for a follow-up mammogram to a screening mammogram when recommended by a physician. Under current law, individual and group health insurance policies must provide coverage for screening mammograms for women age 40 and older. The bill applies to all individual and group policies issued or renewed on or after January 1, 2008.

### **Committee Amendment "A" (H-181)**

This amendment replaces the bill. The amendment clarifies that an additional radiologic procedure recommended by a provider when the results of an initial screening mammogram are not definitive must also be considered a screening mammogram and reimbursed as a screening mammogram under an individual and group health insurance policy.

### **Enacted Law Summary**

Public Law 2007, chapter 153 clarifies that an additional radiologic procedure recommended by a provider when the results of an initial screening mammogram are not definitive must also be considered a screening mammogram and reimbursed as a screening mammogram under an individual and group health insurance policy.

## **LD 135 An Act To Amend the Debt Management Services Laws**

**PUBLIC 36**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROMLEY	OTP-AM	S-20

LD 135 amends the State's debt management services laws by permitting for-profit companies to obtain registrations as debt management service providers. The bill clarifies that a debt management service provider must be registered if it serves consumers in this State or if it is located in this State. This bill establishes caps on fees and charges that may be assessed to consumers for debt management services.

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## **Committee Amendment "A" (S-20)**

This amendment replaces the bill. As in the bill, this amendment amends the State's debt management services laws by permitting for-profit companies to obtain registrations as debt management service providers. The amendment clarifies that debt management service providers include only those companies that process consumer debt, not commercial debts. The amendment clarifies that a debt management service provider must be registered if it serves consumers in this State or if it is located in this State, but it exempts those companies that are located in Maine but that do not serve consumers in this State from the provisions establishing fee caps and requiring consumer education. It requires that debt management service providers who offer services to Maine consumers use certified counselors and provide consumer education programs. The amendment establishes caps on fees and charges that may be assessed to consumers for debt management services.

The amendment also adds an appropriations and allocations section.

## **Enacted Law Summary**

Public Law 2007, chapter 36 amends the State's debt management services laws by permitting for-profit companies to obtain registrations as debt management service providers. The law clarifies that debt management service providers include only those companies that process consumer debt, not commercial debts. The law clarifies that a debt management service provider must be registered if it serves consumers in this State or if it is located in this State, but it exempts those companies that are located in Maine but that do not serve consumers in this State from the provisions establishing fee caps and requiring consumer education. It requires that debt management service providers who offer services to Maine consumers use certified counselors and provide consumer education programs. The law also establishes caps on fees and charges that may be assessed to consumers for debt management services.

## **LD 138 An Act To Require Prior Notice before Cancellation of a Life Insurance Policy for Nonpayment of Premiums**

**PUBLIC 40**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARRACHE	OTP-AM	S-21

LD 138 directs the Superintendent of Insurance to adopt rules that will extend consumer protections currently provided for health insurance to life insurance policies by requiring insurance companies to provide notice prior to cancellation of a policy for nonpayment of premiums to a person other than the policyholder and to allow policyholders to designate a 3rd party to whom such notices must be sent.

## **Committee Amendment "A" (S-21)**

This amendment replaces the bill. The amendment requires that insurance companies provide notice prior to cancellation of a life insurance policy for nonpayment of premiums to the policyholder and a 3rd party that has been designated by the policyholder to receive those notices. It requires the Department of Professional and Financial Regulation, Bureau of Insurance to adopt rules related to the notice provisions. It also directs the Bureau of Insurance to adopt rules to provide restrictions on cancellation, termination or lapse of individual life insurance policies to reduce the danger that life insurance policyholders will lose coverage due to organic brain disease.

## **Enacted Law Summary**

Public Law 2007, chapter 40 requires that insurance companies provide notice prior to cancellation of a life insurance policy for nonpayment of premiums to the policyholder and a 3rd party that has been designated by the policyholder to receive those notices. It requires the Department of Professional and Financial Regulation, Bureau of Insurance to adopt rules related to the notice provisions. It also directs the Bureau of Insurance to adopt rules to provide restrictions on cancellation, termination or lapse of individual life insurance policies to reduce the danger

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that life insurance policyholders will lose coverage due to organic brain disease.

**LD 231      An Act To Modify the Laws Regarding Garnishment of Wages**

**PUBLIC 7**

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

LD 231 revises the Maine Consumer Credit Code so that a garnishment judgment for a consumer credit debt must allow a worker to retain at least the equivalent of the federal or state minimum wage, whichever is higher.

**Enacted Law Summary**

Public Law 2007, chapter 7 revises the Maine Consumer Credit Code so that a garnishment judgment for a consumer credit debt must allow a worker to retain at least the equivalent of the federal or state minimum wage, whichever is higher.

**LD 234      An Act To Amend the Laws Concerning the Assessment of Rates for  
Workers' Compensation**

**ONTP**

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

LD 234 requires worker's compensation insurers to develop rates that reflect the differences in work activities and exposure to risk of injury for certain occupations.

**LD 278      Resolve, To Assess the Feasibility and Efficiency of Combining All  
Health Insurance Funds Supported by the State**

**ONTP**

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

LD 278 is a concept draft pursuant to Joint Rule 208. This resolve proposes to establish a means to assess the feasibility and efficiency of combining all health insurance funds that in full or in part are supported by the State of Maine.

**LD 331      An Act To Incorporate the Federal Real Estate Settlement Procedures  
Act into the Maine Consumer Credit Code**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM BROMLEY	ONTP	

LD 331 incorporates the federal Real Estate Settlement Procedures Act of 1974 and its implementing regulation into state law.

LD 331 was voted "Ought Not to Pass" by the committee, but the substantive provisions in the bill were incorporated into LD 1869, An Act to Protect Maine Homeowners from Predatory Lending, and enacted as Public Law 2007, chapter 273.

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**LD 332      An Act To Update References to Federal Laws in the Maine Uniform Securities Act and To Make Other Technical Corrections to the Act**

**PUBLIC 14  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM BARTLETT	OTP	

LD 332 updates references to federal laws cited in the Maine Uniform Securities Act to conform state law with federal securities law. It also makes technical corrections to the Uniform Securities Act as adopted in Maine.

**Enacted Law Summary**

Public Law 2007, chapter 14 updates references to federal laws cited in the Maine Uniform Securities Act to conform state law with federal securities law and also makes technical corrections to the Maine Uniform Securities Act.

Public Law 2007, chapter 14 was enacted as an emergency measure effective March 20, 2007.

**LD 371      An Act To Protect Young Consumers**

**ONTP**

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

LD 371 prohibits the issuance of a credit card to an individual under 21 years of age without the written consent of the individual's parent or guardian.

**LD 388      An Act Concerning Insurance for Churches and Nonprofit Organizations**

**ONTP**

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

LD 388 allows members of a church or nonprofit organization to qualify as a group for the purposes of purchasing insurance.

**LD 415      An Act To Enhance Consumer Awareness of Insurance Sales Activity**

**PUBLIC 32**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PILON	OTP-AM	H-24

LD 415 requires insurance producers to identify themselves as engaged in insurance sales activities on their business cards, in order to protect the interests of both the consumer and the producer by clearly identifying the producers' business activities.

**Committee Amendment "A" (H-24)**

This amendment replaces the bill. The amendment prohibits a person from making any untrue, deceptive or

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misleading statements on a business card with respect to the business of insurance or the conduct of that person's insurance business.

## Enacted Law Summary

Public Law 2007, chapter 32 prohibits a person from making any untrue, deceptive or misleading statements on a business card with respect to the business of insurance or the conduct of that person's insurance business.

### LD 416 An Act To Protect Seniors and the Public from Unfair Health Insurance Sales Practices

**PUBLIC 53  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM	H-29 S-25 SULLIVAN

LD 416 expressly defines certain marketing practices as unfair trade practices when used to sell, solicit or negotiate the purchase of health insurance products. The bill prohibits the use of "cold lead advertising" which is defined as using a method of marketing that fails to conspicuously disclose that a purpose of the marketing is insurance sales solicitation and that contact will be made by an insurer or insurance producer. The bill also prohibits using an appointment to discuss Medicare products or to solicit Medicare products in order to solicit the sale of other types of insurance products. Medicare products are defined in the bill as Medicare Part A, Medicare Part B, Medicare Part C, Medicare Part D, Medicare Advantage and Medicare supplement insurance plans.

#### Committee Amendment "A" (H-29)

This amendment replaces the bill. The amendment retains the prohibition on cold lead advertising contained in the bill. It clarifies that insurers and producers may not use an appointment to discuss Medicare products to solicit sales of life insurance, health insurance or annuity products unless requested by a consumer and the products to be discussed are clearly identified to a consumer in writing at least 48 hours in advance of the appointment. The amendment also prohibits door-to-door solicitation of Medicare products prior to receiving an invitation from a consumer.

The amendment also adds an emergency preamble and emergency clause. The amendment adds an effective date of June 1, 2007.

#### Senate Amendment "A" (S-25)

This amendment changes the effective date of Committee Amendment "A" from June 1, 2007 to October 1, 2007.

## Enacted Law Summary

Public Law 2007, chapter 53 expressly defines the following solicitation methods used by an insurer or insurance producer as unfair trade practices.

1. The law prohibits the use of cold lead advertising to sell, solicit or negotiate the purchase of health insurance.
2. The law prohibits using an appointment to discuss Medicare products or to solicit Medicare products in order to solicit sales of life insurance, health insurance or annuity products unless the consumer requested the solicitation and the products to be discussed are clearly identified to a consumer in writing at least 48 hours in advance of the appointment.
3. The law prohibits door-to-door solicitation of Medicare products prior to receiving an invitation from a consumer.

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Public Law 2007, chapter 53 was enacted as an emergency measure effective October 1, 2007.

## LD 419 An Act To Restrict the Use of Credit Scoring for Insurance Purposes

DIED BETWEEN  
HOUSES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VALENTINO	OTP-AM MAJ ONTP MIN	H-71

LD 419 prohibits insurers from denying, canceling or refusing to renew personal insurance in whole or in part on the basis of an insured's credit information. The bill also prohibits insurers from considering more than one credit inquiry from mortgage or automobile lenders for inquiries made within 30 days of one another.

The bill requires insurers that use credit reports and credit scores in insurance underwriting to obtain an updated credit report to recalculate an insured's insurance scope and to reunderwrite and rerate the insured. The bill requires insurers to act upon the request of the insured within 30 days of the request, but does not require an insurer to do so more than once every 12 months. The bill provides that any adjustments in the policy premium be made at the time of renewal.

The bill also requires insurers that use credit scores to disclose to insureds that the insured's premium is either higher or lower based upon the insured's credit-based insurance score and notify the insured of that insurance score.

### Committee Amendment "A" (H-71)

This amendment is the majority report of the committee and replaces the bill. The amendment retains the provision in the bill requiring insurers that use credit scores disclose to an insured that the insured's premium is either higher or lower based upon the insured's credit-based insurance score. The amendment removes the other provisions included in the bill.

LD 419 as amended by Committee Amendment "A" was enacted in the House, but failed enactment in the Senate.

## LD 431 An Act To Enable the Dirigo Health Program To Be Self-administered

PUBLIC 447

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CONOVER	OTP-AM MAJ ONTP MIN	H-285 S-309 DIAMOND

LD 431 makes the following changes to the laws governing the Dirigo Health Program.

The bill expands the Dirigo Health Board of Directors from 5 to 9 members and renames it the Board of Trustees of Dirigo Health. The bill requires that 3 voting members of the board have expertise in accounting, banking, securities or insurance and adds the Treasurer of State as an ex officio, nonvoting member. The bill clarifies that 5 members of the board constitute a quorum and that an affirmative vote of 5 members is needed for the board to take action. The bill extends the limitation on personal liability of trustees under the Maine Uniform Trust Code to the trustees of Dirigo Health.

The bill gives authority to Dirigo Health to provide access to health benefits coverage through the Dirigo Health Self-administered Plan after the board evaluates bids for self-administered and fully insured benefits coverage. If the board makes the decision to provide coverage through the self-administered plan, the bill requires the board to report to the joint standing committee of the Legislature having jurisdiction over health insurance matters within 30

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days of the decision. The bill also gives the committee the authority to report out legislation relating to the self-administered plan.

If the Dirigo Health Self-administered Plan is established, the bill requires that the self-administered plan meet the following requirements.

1. The board may enter into voluntary cooperative agreements with a public purchaser for purchasing and administrative functions only, but requires that the risk pools and reserves of the Dirigo Health Self-administered Plan and any public purchaser not be commingled.
2. The duties and responsibilities of the board are expanded with regard to the establishment and ongoing management of the self-administered plan. The board must contract for services from actuaries, investment counsel, financial institutions, 3rd-party administrators and any other organization necessary to administer the plan. The bill requires an actuary under contract to the board to determine the appropriate level of reserves and administrative costs for the plan and the amount of stop loss insurance necessary, provide opinions regarding the actuarial soundness of the plan, develop a rate structure for the plan and report annually to the board.
3. The bill requires the Dirigo Health Self-administered Plan to maintain reserves at least equal to the sum of the amount necessary to pay claims and administrative costs for the assumed risk for 2 1/2 months and the amount determined annually by a qualified actuary to be necessary to fund the unpaid portion of ultimate expected losses and related expenses incurred in the provision of benefits. The bill requires the reserve account to be adjusted on a quarterly basis and to be capitalized from any initial start-up funds transferred into the account by Dirigo Health, monthly enrollee payments, any funds received from any public or private source, legislative appropriations, payments from any state departments or agencies and any other means approved by the Legislature. The bill also authorizes the board to purchase excess or stop loss insurance at attachment limits and levels recommended by a qualified actuary and removes the authority to establish a self-administered plan in the event the board is unable to purchase that insurance.
4. The bill requires any Dirigo Health Self-administered Plan health benefits coverage provided to be comprehensive and include a low deductible plan option for enrollees in the Dirigo Health Program.
5. The bill requires the Dirigo Health Self-administered Plan to meet the same requirements of the Maine Insurance Code that would be required by state law if health benefits coverage were provided by a health insurance carrier for community rating, guaranteed issuance, guaranteed renewal, continuity of coverage and mandated benefits.
6. The bill also requires that the self-administered plan extend the same benefits, rights and protections of the Maine Revised Statutes, Title 24-A, chapter 56-A and Bureau of Insurance Rule Chapter 850, including a limited right to sue the Dirigo Health Self-administered Plan. The bill specifically waives the State's defense of immunity under the Maine Tort Claims Act.

The bill permits licensed insurance producers with health authority to sell the Dirigo Health Program insurance products if the producer meets certain training requirements. Additionally, the bill exempts producers from the appointment requirement solely for purposes of selling the Dirigo Health Program insurance products and holds a carrier underwriting Dirigo Health Program coverage harmless from liability for any actions of such producers.

### **Committee Amendment "A" (H-285)**

This amendment is the majority report of the committee. The amendment clarifies that the Dirigo Health Self-administered Plan must comply with the requirements of the Maine Insurance Code relating to the privacy of insurance information, unfair discrimination against victims of domestic abuse and unfair discrimination on the basis of genetic information or genetic testing in addition to the other requirements included in the bill.

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### **Senate Amendment "A" (S-161)**

This amendment clarifies that the Dirigo Health Self-administered Plan may not expend general funds beyond any general funds appropriated to it by the Legislature. This amendment augments the fiscal protections within the bill, which provides that the plan will purchase excess or stop loss insurance and reinsurance, will be subject to actuarial and Bureau of Insurance review and is subject to an annual audit. In the event costs of the plan exceed the budget, the plan will close enrollment.

Senate Amendment "A" to LD 431 was not adopted.

### **Senate Amendment "B" (S-173)**

This amendment clarifies that the Dirigo Health self-administered plan may not expend general funds beyond any general funds appropriated to it by the Legislature. This amendment augments the fiscal protections within the bill, which provides that the plan will purchase excess or stop loss insurance and reinsurance, will be subject to actuarial and Department of Professional and Financial Regulation, Bureau of Insurance review and is subject to an annual audit. The amendment also provides that the plan is under the jurisdiction of the Bureau of Insurance and must comply with all the provisions of the Maine Insurance Code, which is Title 24-A of the Maine Revised Statutes.

Senate Amendment "B" to LD 431 was not adopted.

### **Senate Amendment "C" (S-241)**

This amendment changes the appointing authority for the members of the Board of Trustees of Dirigo Health. The amendment requires the Superintendent of Insurance to complete a detailed review of the financial and actuarial aspects of the self-administered plan. It requires the superintendent to report any findings and recommendations at a public meeting of the joint standing committee of the Legislature having jurisdiction over insurance matters and to the Board of Trustees of Dirigo Health by March 1st of each year. The amendment also protects the General Fund from any impact of this bill.

Senate Amendment "C" to LD 431 was not adopted.

### **Senate Amendment "D" (S-309)**

This amendment changes the appointing authority for the members of the Board of Trustees of Dirigo Health. The amendment requires the Governor to appoint 4 of the 9 voting members from recommendations made by the President of the Senate, the Speaker of the House, the Minority Leader of the Senate and the Minority Leader of the House.

The amendment requires the Superintendent of Insurance to complete a detailed review of the financial and actuarial aspects of the self-administered plan. It requires the superintendent to report any findings and recommendations at a public meeting of the joint standing committee of the Legislature having jurisdiction over insurance matters and to the Board of Trustees of Dirigo Health by March 1st of each year. The amendment also adds language designed to protect the General Fund from any impact of this bill.

### **Enacted Law Summary**

Public Law 2007, chapter 447 makes the following changes to the laws governing the Dirigo Health Program.

The law expands the Dirigo Health Board of Directors from 5 to 9 members and renames it the Board of Trustees of Dirigo Health. The law changes the appointing authority for the members of the Board of Trustees of Dirigo Health by requiring the Governor to appoint 4 of the 9 voting members from recommendations made by the President of the Senate, the Speaker of the House, the Minority Leader of the Senate and the Minority Leader of the House. The law requires that 3 voting members of the board have expertise in accounting, banking, securities or insurance and adds the Treasurer of State as an ex officio, nonvoting member. The law clarifies that 5 members of the board constitute

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a quorum and that an affirmative vote of 5 members is needed for the board to take action. It also extends the limitation on personal liability of trustees under the Maine Uniform Trust Code to the trustees of Dirigo Health.

The law gives authority to Dirigo Health to provide access to health benefits coverage through the Dirigo Health Self-administered Plan after the board evaluates bids for self-administered and fully insured benefits coverage. If the board makes the decision to provide coverage through the self-administered plan, the law requires the board to report to the joint standing committee of the Legislature having jurisdiction over health insurance matters within 30 days of the decision. The law also gives the committee the authority to report out legislation relating to the self-administered plan.

If the Dirigo Health Self-administered Plan is established, the law requires that the self-administered plan meet the following requirements.

1. The board may enter into voluntary cooperative agreements with a public purchaser for purchasing and administrative functions only, but requires that the risk pools and reserves of the Dirigo Health Self-administered Plan and any public purchaser not be commingled.
2. The duties and responsibilities of the board are expanded with regard to the establishment and ongoing management of the self-administered plan. The board must contract for services from actuaries, investment counsel, financial institutions, 3rd-party administrators and any other organization necessary to administer the plan. The law requires an actuary under contract to the board to determine the appropriate level of reserves and administrative costs for the plan and the amount of stop loss insurance necessary, provide opinions regarding the actuarial soundness of the plan, develop a rate structure for the plan and report annually to the board.
3. The law requires the Dirigo Health Self-administered Plan to maintain reserves at least equal to the sum of the amount necessary to pay claims and administrative costs for the assumed risk for 2 1/2 months and the amount determined annually by a qualified actuary to be necessary to fund the unpaid portion of ultimate expected losses and related expenses incurred in the provision of benefits. The law requires the reserve account to be adjusted on a quarterly basis and to be capitalized from any initial start-up funds transferred into the account by Dirigo Health, monthly enrollee payments, any funds received from any public or private source, legislative appropriations, payments from any state departments or agencies and any other means approved by the Legislature. The law authorizes the board to purchase excess or stop loss insurance at attachment limits and levels recommended by a qualified actuary and removes the authority to establish a self-administered plan in the event the board is unable to purchase that insurance. The law also adds language designed to protect the General Fund from any impact of this law.
4. The law requires the Superintendent of Insurance to complete a detailed review of the financial and actuarial aspects of the self-administered plan. It requires the superintendent to report any findings and recommendations at a public meeting of the joint standing committee of the Legislature having jurisdiction over insurance matters and to the Board of Trustees of Dirigo Health by March 1st of each year.
5. The law requires any Dirigo Health Self-administered Plan health benefits coverage provided to be comprehensive and include a low deductible plan option for enrollees in the Dirigo Health Program.
6. The law requires the Dirigo Health Self-administered Plan to meet the same requirements of the Maine Insurance Code that would be required by state law if health benefits coverage were provided by a health insurance carrier for community rating, guaranteed issuance, guaranteed renewal, continuity of coverage and mandated benefits.
7. The law requires that the self-administered plan extend the same benefits, rights and protections of the Maine Revised Statutes, Title 24-A, chapter 56-A and Bureau of Insurance Rule Chapter 850, including a

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limited right to sue the Dirigo Health Self-administered Plan. The law specifically waives the State's defense of immunity under the Maine Tort Claims Act.

8. The law requires that the self-administered plan meet the requirements of the Maine Insurance Code relating to the privacy of insurance information, unfair discrimination against victims of domestic abuse and unfair discrimination on the basis of genetic information or genetic testing.

Public Law 2007, chapter 447 also permits licensed insurance producers with health authority to sell the Dirigo Health Program insurance products if the producer meets certain training requirements. Additionally, the law exempts producers from the appointment requirement solely for purposes of selling the Dirigo Health Program insurance products and holds a carrier underwriting Dirigo Health Program coverage harmless from liability for any actions of such producers.

### **LD 439      An Act To Reform the Dirigo Health Program**

**ONTP**

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

LD 439 is a concept draft pursuant to Joint Rule 208. This bill proposes to make the following changes to the laws governing health insurance and the Dirigo Health program:

1. It would require that, rather than contracting out for health insurance services, Dirigo Health offer health insurance provided by a private health insurance company that would be modeled on Maine Employers' Mutual Insurance Company;
2. It would require that premiums for health insurance under Dirigo Health be set at 5% of the individual's income;
3. It would repeal guaranteed issue requirements;
4. It would create a high-risk pool;
5. It would establish a schedule of required copayments for health care services;
6. It would repeal all state-mandated health insurance coverage;
7. It would require the Executive Director of Dirigo Health to maximize use of Medicaid funds;
8. It would ensure portability of health insurance policies; and
9. It would provide that payments for health insurance be tax deductible.

### **LD 456      An Act To Protect Holders of Small Bank Accounts**

**ACCEPTED ONTP  
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HINCK	ONTP MAJ OTP-AM MIN	

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LD 456 requires financial institutions to send a registered letter to the last known address of an account holder of an inactive account before disposing of the money in the account pursuant to the Uniform Unclaimed Property Act. If the financial institution does not send a registered letter, the institution is liable to the account holder for the value of the account when the money was disposed.

### **Committee Amendment "A" (H-40)**

This amendment is the minority report of the committee and replaces the bill. The amendment requires financial institutions to send written notice by certified mail with return receipt requested to account holders of unclaimed accounts and wait at least 30 days after sending the notice before disposing of the money in the account according to the Uniform Unclaimed Property Act. The amendment does not require a notice to be sent if the financial institution has a reasonable belief that the last known address of the account holder is not accurate. The amendment also permits the financial institution to recoup the costs associated with mailing a written notice from the money in the unclaimed account.

Committee Amendment "A" was not adopted.

### **LD 476      An Act To Establish a Reinsurance Fund To Expand Health Insurance Coverage for Individuals and Small Groups      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN R	ONTP	

LD 476 establishes the Health Insurance Individual and Small Group Reinsurance Fund to provide reimbursement of certain high-cost claims for persons covered under individual and small group health plans. The fund would reimburse carriers for 90% of claims paid between \$25,000 and \$75,000 for each enrollee covered by the carrier on a calendar year basis.

### **LD 526      An Act To Increase Eligibility for the Dirigo Health Program      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CONOVER STRIMLING	ONTP	

LD 526 reduces the number of hours an employee of an eligible business must work per week from 20 to 10 in order to be eligible to enroll in the Dirigo Health Program. The bill also requires the Board of Directors of Dirigo Health to adopt a rule that allows an eligible business to include employees who work on a temporary, substitute or seasonal basis as eligible to enroll in the Dirigo Health Program so long as inclusion of such employees does not result in the reduction of hours or the reduction or elimination of coverage for eligible employees working more than 10 hours per week.

### **LD 578      An Act To Help Maine People Be Informed Medical Consumers      ONTP**

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

LD 578 requires health insurance carriers to provide coverage for an initial consultation with a primary care provider to assist an enrollee in selecting a primary care provider. The bill requires carriers to provide coverage

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for a maximum of 3 such visits for an enrollee in a 12-month period.

### **LD 589 An Act To Repeal Certain Health Savings Account Provisions**

**ONTP**

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

LD 589 is a concept draft pursuant to Joint Rule 208. This bill proposes to repeal certain state income tax provisions regarding health savings accounts.

### **LD 590 An Act To Amend Certain Requirements Applicable to Insurance Producers**

**PUBLIC 51**

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

LD 590 makes the following changes to the laws applicable to insurance producers to establish consistency with current national uniformity standards:

1. It eliminates the prelicensing requirement under which potential license applicants were required to complete either a course of instruction or comply with an experience requirement before being able to sit for the qualifying license examination;
2. It expands the scope of the limited producer license for certain insurance provided in connection with the short-term rental of motor vehicles; and
3. It clarifies that nonresident producers with surplus lines authority are not required to maintain a physical office within this State.

#### **Enacted Law Summary**

Public Law 2007, chapter 51 makes the following changes to the laws applicable to insurance producers to establish consistency with current national uniformity standards:

1. It eliminates the prelicensing requirement under which potential license applicants were required to complete either a course of instruction or comply with an experience requirement before being able to sit for the qualifying license examination;
2. It expands the scope of the limited producer license for certain insurance provided in connection with the short-term rental of motor vehicles; and
3. It clarifies that nonresident producers with surplus lines authority are not required to maintain a physical office within this State.

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**LD 635      An Act To Amend the Banking Laws Regarding Industrial Loan  
Company Reciprocity across State Lines**

**ONTP**

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

LD 635 defines "commercial activity" in the banking laws and clarifies that out-of-state financial institutions and their affiliates, like Maine financial institutions and their affiliates, are prohibited from conducting any commercial activity at in-state branches and may not conduct any commercial activity within Maine.

LD 635 and a related bill, LD 100, were voted "Ought Not to Pass" by the committee, but the substantive provisions of these bills were amended and incorporated into a committee bill, LD 1829, An Act to Amend the Banking Laws Regarding the Establishment of Branches by Financial Institutions with Affiliates That Engage in Commercial Activity. See LD 1829, which was enacted as Public Law 2007, chapter 69.

**LD 658      An Act To Protect the Health of Infants**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CURTIS		H-598

LD 658 requires health insurance carriers doing business in the State to offer coverage for medically necessary infant formula in individual and group policies, contracts and certificates.

**Committee Amendment "A" (H-598)**

This amendment replaces the bill. While the bill mandates that health insurance carriers offer coverage for medically necessary infant formula, the amendment requires health insurance carriers to provide coverage as a mandated benefit. The amendment requires health insurance policies to cover medically necessary amino acid-based elemental infant formulas, regardless of the delivery method, for the treatment of food protein allergies and intolerances, gastrointestinal disorders and other medically diagnosed conditions in individual and group policies, contracts and certificates. Coverage must be provided for up to \$6,000 per year. The amendment applies to all policies and contracts issued or renewed on or after January 1, 2008.

LD 658 as amended by Committee Amendment "A" was enacted in the House, but placed on the Special Appropriations Table in the Senate. Upon the recommendation of the Joint Standing Committee on Appropriations and Financial Affairs, LD 658 was recommitted to the committee and carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

**LD 675      An Act To Eliminate the Interest on Security Deposits for Mobile  
Homes**

**DIED BETWEEN  
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	ONTP MAJ OTP MIN	

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LD 675 eliminates the requirement that a mobile home park operator pay to a tenant 4% annual interest on the security deposit deposited with the landlord by the tenant.

In the Senate, LD 675 was recommitted to the Joint Standing Committee on Insurance and Financial Services, but, in the House, the majority "Ought Not to Pass" report of the committee was accepted. LD 675 died between the bodies.

### **LD 682      An Act To Allow Schools in the State To Self-insure for Fire, Property and Theft Insurance**

**PUBLIC 84**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM	S-41

LD 682 directs the Department of Administrative and Financial Services, Risk Management Division to develop a program to self-insure elementary and secondary schools in the State for property, fire and theft losses beginning no later than January 1, 2008.

#### **Committee Amendment "A" (S-41)**

This amendment replaces the bill. The amendment authorizes the Director of the Bureau of General Services within the Department of Administrative and Financial Services to provide insurance services to public schools if those schools meet certain criteria under existing law. The criteria include an authorization by law, approval by the Governor, the unavailability or unaffordability of coverage in the commercial insurance market and a strong public need for the services. Notwithstanding those criteria, the amendment authorizes the director to provide insurance advice to public schools.

#### **Enacted Law Summary**

Public Law 2007, chapter 84 authorizes the Director of the Bureau of General Services within the Department of Administrative and Financial Services to provide insurance services to public schools if those schools meet certain criteria under existing law. The criteria include an authorization by law, approval by the Governor, the unavailability or unaffordability of coverage in the commercial insurance market and a strong public need for the services. Notwithstanding those criteria, the law authorizes the director to provide insurance advice to public schools.

### **LD 687      An Act To Clarify That a Financial Institution Must Recognize a Writ of Execution To Satisfy a Creditor's Claims to Business Accounts Held by That Financial Institution**

**PUBLIC 88**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE D	OTP-AM	H-70

LD 687 clarifies that a financial institution must recognize an adverse claim to funds in a business account when served with a writ of execution in accordance with the Maine Revised Statutes, Title 14, section 4751. This bill also adds limited liability companies to the enumeration of entities that may have their credits taken on writ of execution.

#### **Committee Amendment "A" (H-70)**

This amendment changes the title to clarify the bill's intent and makes technical formatting changes to increase the readability of the bill. As in the bill, the amendment clarifies that a financial institution must recognize a writ of execution served on behalf of a creditor with an adverse claim to business accounts held by a financial institution. Under current law, without the clarification, creditors may be required to obtain a court-ordered injunction or

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restraining order to make an adverse claim to business accounts held by a financial institution.

## Enacted Law Summary

Public Law 2007, chapter 88 clarifies that a financial institution must recognize a writ of execution served on behalf of a creditor with an adverse claim to business accounts held by a financial institution. Under current law, without the clarification, creditors may be required to obtain a court-ordered injunction or restraining order to make an adverse claim to business accounts held by a financial institution. The law also adds limited liability companies to the enumeration of entities that may have their credits taken on writ of execution.

## LD 688 An Act To Establish a Universal Health Care Program

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE SULLIVAN	ONTP	

LD 688 is a concept draft pursuant to Joint Rule 208. This bill proposes to make the following changes to the laws governing health insurance and the Dirigo Health Program modeled on recent changes made by the Commonwealth of Massachusetts:

1. It would require that an individual in this State obtain health insurance coverage unless the individual qualifies for coverage under a public plan on the basis of income;
2. It would require all employers in this State with more than 10 full-time employees to offer health insurance coverage to their employees or pay a fair-share assessment to the State in lieu of providing coverage;
3. It would establish the Maine Health Insurance Connector within the Dirigo Health Program to facilitate the purchase of health insurance by individuals in this State through a pretax payroll deduction mechanism; and
4. It would merge the individual and small group health insurance markets for rating purposes.

## LD 713 An Act To Create the Insurance Fraud Division within the Bureau of Insurance

DIED BETWEEN  
HOUSES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARRACHE	OTP-AM MAJ ONTP MIN	

LD 713 establishes the Insurance Fraud Division within the Department of Professional and Financial Regulation, Bureau of Insurance. The bill requires insurers with knowledge or suspicion of fraudulent insurance acts to report those acts to the Bureau of Insurance. The bill provides for the confidentiality of records relating to insurance fraud investigations in a manner similar to the provision of confidentiality under current state law for investigative and intelligence information in the possession of other law enforcement entities. The bill does permit the Insurance Fraud Division to share investigatory information with certain national and international agencies. The bill also extends the immunity provision in current law to certain communications between insurers with respect to fraudulent insurance acts.

### Committee Amendment "A" (S-129)

This amendment is the majority report of the committee. The amendment adds an appropriations and allocations section recognizing the costs of the Department of Professional and Financial Regulation, Bureau of Insurance,

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Insurance Fraud Division.

Committee Amendment "A" was adopted in the Senate, but was not adopted in the House.

LD 713, as amended, was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

## LD 773 An Act To Preserve Dirigo Choice

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT M	ONTP	

LD 773 directs the Board of Directors of Dirigo Health to propose the establishment of a nonprofit health care plan that would offer consumers moderately priced insurance products under Dirigo Health as an alternative to those currently offered through an existing public plan. The bill directs the board to submit, by December 28, 2007, its proposal, including, but not limited to, a funding mechanism to capitalize the proposed nonprofit health care plan, and any recommended legislation to the Joint Standing Committee on Health and Human Services. The bill further authorizes that joint standing committee to submit legislation to implement the plan.

## LD 797 An Act To Clarify the Exemption of Federal, State and Local Public Assistance Benefits under State Bankruptcy Law

PUBLIC 276

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM	S-141

LD 797 conforms Maine law to the federal law regarding exemptions in bankruptcy proceedings.

### Committee Amendment "A" (S-141)

This amendment changes the title and replaces the bill. The amendment clarifies that federal and state public assistance benefits, including the federal earned income tax credit and additional child tax credit, are exempt property in bankruptcy proceedings.

### Enacted Law Summary

Public Law 2007, chapter 276 clarifies that federal and state public assistance benefits, including the federal earned income tax credit and additional child tax credit, are exempt property in bankruptcy proceedings.

## LD 840 An Act To Update the Authority of the Maine Employers' Mutual Insurance Company To Better Serve the Needs of Maine Employers

PUBLIC 125

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM SULLIVAN	OTP-AM	H-129

LD 840 permits the Superintendent of Insurance to determine whether, and on what conditions, the Maine Employers' Mutual Insurance Company, or "MEMIC," may offer employment practices liability insurance as part of the workers' compensation policy it issues to Maine employers. The terms and conditions of the coverage, including terms of reinsurance necessary to protect MEMIC and its policyholders, must be approved by the superintendent.

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## **Committee Amendment "A" (H-129)**

This amendment replaces the bill. The amendment permits the Maine Employers' Mutual Insurance Company to offer employers with an average of 100 or fewer employees employment practices liability insurance as an endorsement to workers' compensation coverage under terms and conditions approved by the Superintendent of Insurance. The amendment requires the Superintendent of Insurance to submit a report by March 1, 2008 on whether the superintendent has approved the coverage, the terms and conditions required for offering the coverage and the number of employers who have purchased the coverage. The Joint Standing Committee on Insurance and Financial Services is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

The amendment retains the provisions in the bill that permits a subsidiary of the Maine Employers' Mutual Insurance Company to write coverage in Maine if the coverage is incidental to and written in connection with coverage in the state in which the insured's principal place of business is located.

### **Enacted Law Summary**

Public Law 2007, chapter 125 permits the Maine Employers' Mutual Insurance Company to offer employers with an average of 100 or fewer employees employment practices liability insurance as an endorsement to workers' compensation coverage under terms and conditions approved by the Superintendent of Insurance. The law requires the Superintendent of Insurance to submit a report by March 1, 2008 on whether the superintendent has approved the coverage, the terms and conditions required for offering the coverage and the number of employers who have purchased the coverage. The Joint Standing Committee on Insurance and Financial Services is authorized to submit legislation based on the report to the Second Regular Session of the 123rd Legislature.

Public Law 2007, chapter 125 also permits a subsidiary of the Maine Employers' Mutual Insurance Company to write coverage in Maine if the coverage is incidental to and written in connection with coverage in the state in which the insured's principal place of business is located.

## **LD 841      An Act To Extend Health Insurance Coverage for Dependent Children up to 25 Years of Age**

**PUBLIC 115**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW STRIMLING	OTP-AM	H-130

LD 841 requires individual and group health insurance policies to continue coverage for a dependent child up to 25 years of age if the child is dependent upon the policyholder and the child has no dependents of the child's own.

### **Committee Amendment "A" (H-130)**

This amendment replaces the bill. The amendment requires individual and group health insurance policies to offer to continue coverage for a dependent child up to 25 years of age at the option of policyholders. The amendment defines a dependent child as a child of a person covered under the policy when that child is unmarried, has no dependents, is a State resident or enrolled as a full-time student and is not provided health coverage under another policy or under a federal or state program.

### **Enacted Law Summary**

Public Law 2007, chapter 115 requires individual and group health insurance policies to offer to continue coverage for a dependent child up to 25 years of age at the option of policyholders. The law defines a dependent child as a child of a person covered under the policy when that child is unmarried, has no dependents, is a State resident or enrolled as a full-time student and is not provided health coverage under another policy or under a federal or state program.

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## **LD 842 An Act To Require Insurance Coverage for Infertility Treatments**

**ONTP**

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

LD 842 requires group health insurance policies, contracts and certificates to include coverage for infertility treatment if pregnancy-related benefits are provided. It applies to all group policies issued or renewed on or after January 1, 2008.

## **LD 904 An Act To Make Technical and Supervisory Amendments to the Banking Laws**

**PUBLIC 79**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM	S-34

LD 904 makes a number of technical and supervisory changes to the banking laws.

1. It permits the Superintendent of Financial Institutions to designate more than one deputy superintendent. This authority would not add to the Bureau of Financial Institutions' headcount or change existing job classifications. It allows the superintendent to designate deputy superintendents with specific areas of expertise to assist in carrying out the mission of the bureau.
2. It requires that troubled financial institutions obtain approval from the superintendent before adding or replacing a member of the board of directors or governing body or employing or changing the duties of a senior executive officer.
3. It moves the requirement in the section of law regarding holding companies to the section of law regarding anticompetitive and unfair practices for the Superintendent of Financial Institution's approval for any financial institution, financial institution holding company, foreign bank or foreign bank holding company to acquire control of all or part of a financial institution if the acquiring institution would hold more than 30% of total deposits in the State.
4. It requires notice to the Superintendent of Financial Institutions when a state-chartered financial institution seeks to convert to a federally chartered financial institution.
5. It requires notice to the Superintendent of Financial Institutions when a state-chartered financial institution seeks to merge, consolidate with or acquire a federally chartered financial institution. It removes the requirement that the superintendent approve the transaction if the transaction is approved by a federal regulator and the resulting institution is federally chartered.
6. It clarifies that proxy voting on credit union mergers is permissible.
7. It requires notice to the Superintendent of Financial Institutions when a state-chartered credit union seeks to convert to a federally chartered credit union.
8. It provides that the Superintendent of Financial Institutions need only approve acquisitions of interests in Maine financial institutions and acquisitions by Maine financial institutions and Maine holding companies of other financial institutions. The changes eliminate requirements to approve acquisitions made by federally chartered

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institutions, and by holding companies that control only federally chartered institutions, of federal and out-of-state financial institutions. Approval is still required if these federal institutions acquire a Maine financial institution. It also reduces the number of criteria required for approval of changes in control of Maine financial institutions so as to make the law consistent with federal law.

9. It clarifies that approval of a plan of reorganization of a mutual holding company must come from a majority of the board of directors and account holders.

10. It allows the Superintendent of Financial Institutions to designate a deputy superintendent to serve on the board of commissioners of the Maine Municipal Bond Bank in place of the superintendent.

The bill also makes a technical change to the laws governing municipalities and counties contained in the Maine Revised Statutes, Title 30-A.

### **Committee Amendment "A" (S-34)**

This amendment makes the language consistent with another section of the bill relating to the actions taken by a Maine financial institution or Maine financial institution holding company that require the approval of the Superintendent of Financial Institutions. The amendment also corrects a punctuation error.

### **Enacted Law Summary**

Public Law 2007, chapter 79 makes a number of technical and supervisory changes to the banking laws.

1. It permits the Superintendent of Financial Institutions to designate more than one deputy superintendent. This authority would not add to the Bureau of Financial Institutions' headcount or change existing job classifications. It allows the superintendent to designate deputy superintendents with specific areas of expertise to assist in carrying out the mission of the bureau.
2. It requires that troubled financial institutions obtain approval from the superintendent before adding or replacing a member of the board of directors or governing body or employing or changing the duties of a senior executive officer.
3. It moves the requirement in the section of law regarding holding companies to the section of law regarding anticompetitive and unfair practices for the Superintendent of Financial Institution's approval for any financial institution, financial institution holding company, foreign bank or foreign bank holding company to acquire control of all or part of a financial institution if the acquiring institution would hold more than 30% of total deposits in the State.
4. It requires notice to the Superintendent of Financial Institutions when a state-chartered financial institution seeks to convert to a federally chartered financial institution.
5. It requires notice to the Superintendent of Financial Institutions when a state-chartered financial institution seeks to merge, consolidate with or acquire a federally chartered financial institution. It removes the requirement that the superintendent approve the transaction if the transaction is approved by a federal regulator and the resulting institution is federally chartered.
6. It clarifies that proxy voting on credit union mergers is permissible.
7. It requires notice to the Superintendent of Financial Institutions when a state-chartered credit union seeks to convert to a federally chartered credit union.
8. It provides that the Superintendent of Financial Institutions need only approve acquisitions of interests in Maine financial institutions and acquisitions by Maine financial institutions and Maine holding companies of other

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financial institutions. The changes eliminate requirements to approve acquisitions made by federally chartered institutions, and by holding companies that control only federally chartered institutions, of federal and out-of-state financial institutions. Approval is still required if these federal institutions acquire a Maine financial institution. It also reduces the number of criteria required for approval of changes in control of Maine financial institutions so as to make the law consistent with federal law.

9. It clarifies that approval of a plan of reorganization of a mutual holding company must come from a majority of the board of directors and account holders.

10. It allows the Superintendent of Financial Institutions to designate a deputy superintendent to serve on the board of commissioners of the Maine Municipal Bond Bank in place of the superintendent.

The law also makes a technical change to the laws governing municipalities and counties contained in the Maine Revised Statutes, Title 30-A.

**LD 911      Resolve, To Promote Health Care Insurance for Volunteer Public Safety Personnel through the Dirigo Health Program**

**RESOLVE 118**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS STRIMLING	OTP-AM MAJ ONTP MIN	H-470

LD 911 makes persons who act as volunteer firefighters or volunteer emergency services and police personnel for a county, municipality or local government eligible for health care coverage through the Dirigo Health Program. The bill also requires that the Dirigo Health Program pay a subsidy for 100% of the costs of that coverage. The bill gives authority to the Board of Directors of Dirigo Health to increase the amount of the savings offset payment used to fund subsidies for the program if necessary but prohibits the amount from exceeding 4.0% of annual paid claims.

**Committee Amendment "A" (H-470)**

This amendment replaces the bill and changes it to a resolve. The amendment requires the Executive Director of Dirigo Health to conduct an education and outreach initiative designed to promote awareness of the Dirigo Health Program to provide health insurance coverage for volunteer public safety personnel.

**Enacted Law Summary**

Resolve 2007, chapter 118 requires the Executive Director of Dirigo Health to conduct an education and outreach initiative designed to promote awareness of the Dirigo Health Program to provide health insurance coverage for volunteer public safety personnel.

**LD 912      An Act To Return Affordable Health Insurance to the State**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WALKER BOWMAN	ONTP	

LD 912 makes the following changes to the laws governing individual and small group health insurance and Dirigo Health.

Part A of the bill repeals the guaranteed issue and community rating laws for the individual and small group health insurance markets effective January 1, 2010. The bill enacts the Comprehensive Health Insurance Risk Pool Association Act, which will operate as an alternative to guaranteed issuance laws in the individual health

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insurance market. The bill requires that the Comprehensive Health Insurance Risk Pool Association begin offering coverage for sale on July 1, 2008. The bill also requires the Department of Professional and Financial Regulation, Bureau of Insurance to apply for federal funds that Congress is offering to states to create high-risk insurance pools.

Part B of the bill repeals the Dirigo Health Act effective January 1, 2009. Part B also corrects cross-references.

### **LD 951      An Act To Amend the Laws Governing Credit Card Companies**

**PUBLIC 99**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY J	OTP-AM   MAJ ONTP    MIN	S-48

LD 951 prohibits a credit card issuer from refusing to accept or charging a fee for more than one payment on a credit card debt by a cardholder within a one-month period.

#### **Committee Amendment "A" (S-48)**

This amendment is the majority report and replaces the bill. The amendment clarifies that consumers may prepay in part the unpaid balance of a consumer credit transaction without penalty.

#### **Enacted Law Summary**

Public Law 2007, chapter 99 clarifies that consumers may prepay in part the unpaid balance of a consumer credit transaction without penalty.

### **LD 958      An Act To Protect Maine Citizens' Credit**

**ACCEPTED ONTP  
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SIMPSON	ONTP   MAJ OTP-AM   MIN	

LD 958 prohibits a person who provides medical treatment or a debt collection agency from furnishing information to a consumer reporting agency regarding an amount owed by a consumer for the receipt of necessary medical treatment by the consumer or by a person to whom the consumer has a legal obligation to provide support.

#### **Committee Amendment "A" (H-286)**

This amendment is the minority report of the committee. The amendment prohibits a debt collector or person who provides medical treatment from furnishing information to a consumer reporting agency regarding overdue medical expenses for at least 6 months after the medical treatment is provided. The amendment also requires that the consumer reporting agency be notified if the consumer has been making periodic payments in good faith with the agreement of the debt collector or person who provided medical treatment.

Committee Amendment "A" was not adopted.

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**LD 959      An Act To Require Insurers To Use Savings from Dirigo Health To Reduce Premiums**

**ACCEPTED ONTP  
REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOLMAN NUTTING J	ONTP MAJ OTP-AM MIN	

LD 959 limits the amount of the savings offset payment paid by health insurers and 3rd-party administrators to support subsidies for the Dirigo Health Program to 75% of the aggregate measurable cost savings determined by the Board of Directors of Dirigo Health. The bill requires health insurers and providers to use best efforts to ensure that health insurance premiums and reimbursement rates reflect the recovery of all of the cost savings and savings offset payments paid by health insurers. The bill also requires the Board of Directors of Dirigo Health to adopt rules regarding the factors used to calculate aggregate measurable cost savings.

**Committee Amendment "A" (H-530)**

This amendment is the minority report of the committee and incorporates a fiscal note.

Committee Amendment "A" was not adopted.

**LD 991      An Act To Clarify the Security Requirements for Self-insurers**

**PUBLIC 75**

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

LD 991 clarifies that when a surety bond or a letter of credit held as security for a workers' compensation self-insurance program is drawn, the proceeds must be held and disbursed in a manner similar to a cash deposit. This bill also specifies that all group self-insurance trusts must have cash funding to no less than the 65% confidence level.

**Enacted Law Summary**

Public Law 2007, chapter 75 clarifies that when a surety bond or a letter of credit held as security for a workers' compensation self-insurance program is drawn, the proceeds must be held and disbursed in a manner similar to a cash deposit. The law also specifies that all group self-insurance trusts must have cash funding to no less than the 65% confidence level.

**LD 1028      An Act To Reform Dirigo Health**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	ONTP	

LD 1028 makes the following changes to the Dirigo Health Act.

The bill ends the terms of current members of the Board of Directors of Dirigo Health on September 30, 2007 and requires that the terms of new members be staggered. The bill retains the 5-member board but requires that 2 of the 5 members be elected by Dirigo plan enrollees by written ballot. The bill also adds 2 nonvoting members appointed by the Governor to represent labor and consumer advocacy interests.

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The bill clarifies that the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters is the committee of jurisdiction over Dirigo Health. The bill requires the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters to review the Dirigo Health budget and make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The bill also requires that Dirigo Health be subject to review under the State Government Evaluation Act in 2008.

The bill provides that all carriers licensed to transact health insurance in this State may offer health insurance plans eligible for subsidy under the Dirigo Health Program if the plan is comparable to the prototype for a health benefits package developed by Dirigo Health and certified by the Superintendent of Insurance.

The bill limits eligibility for Dirigo Health Program coverage to employers and individuals who did not have prior health insurance coverage for 6 months. The bill also requires that Dirigo Health apply an asset limit that is 3 times the limits applied by MaineCare to determine eligibility for subsidies in addition to the requirement that an individual's income be under 300% of the federal poverty level. The bill clarifies that the amount of the subsidy individuals enrolled in Dirigo Health receive is not included as income for the purposes of determining eligibility for MaineCare.

The bill requires that the subsidies be applied only to the premium cost for Dirigo Health Program coverage.

The bill repeals the savings offset payment as the source of funding for subsidies for the Dirigo Health Program and instead appropriates \$15,000,000 from the General Fund to support subsidies. The bill requires an annual transfer from General Fund undedicated revenue to permit subsidies. The bill also prohibits any funds collected by Dirigo Health from being used as the state share for an individual directly enrolled in MaineCare.

### **LD 1046    An Act To Make Changes to Maine's Homeowner Property Insurance Laws**

**ONTP**

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

LD 1046 is a concept draft pursuant to Joint Rule 208. This bill proposes to make changes to the laws governing homeowner property insurance.

### **LD 1047    An Act To Lower the Cost of Health Insurance**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VAUGHAN		

LD 1047 does the following.

Part A repeals the guaranteed issuance and community rating law for individual health plans effective April 1, 2008 and allows carriers to treat their pre-April 1, 2008 book of business separately from their post-April 1, 2008 book of business. It makes changes to the continuity of coverage laws to allow underwriting when someone switches carriers in the individual market. Part A creates a high-risk pool in the individual health insurance market called the Comprehensive Health Insurance Risk Pool Association. The purpose of the association is to spread the cost of high-risk individuals among all health insurers. The bill funds the high-risk pool through an assessment on insurers. An individual insured through the high-risk pool may be charged a premium up to 150% of the average premium rates charged by carriers for similar health insurance plans. The bill requires the State to submit an application to

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the Federal Government for federal assistance to create a high-risk pool.

Part A also removes the requirement that carriers offer standardized plans as defined in Bureau of Insurance Rule Chapter 750 in the individual market.

Part B repeals the community rating law for small group health plans effective January 1, 2009 and enacts in its place provisions governing the rating of small group health plans based on a model act from the National Association of Insurance Commissioners.

Part C allows a health maintenance organization to offer health plans that do not comply with geographic access standards if the health maintenance organization also offers health plans that comply with those access standards or offers a fee-for-service health plan.

Part D repeals the statutory provisions governing the State Health Plan and Certificate of Need.

Part E requires the Department of Professional and Financial Regulation, Bureau of Insurance to conduct a study of the State's rate and form filing laws and make recommendations for changes to reduce the costs and resources expended by health insurance carriers seeking regulatory approval of new health insurance products.

LD 1047 was carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

### **LD 1066 An Act To Protect Consumers in the Insurance Industry**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS BARTLETT	ONTP	

LD 1066 expands the duties of the Public Advocate to include oversight of the insurance industry by allowing the Public Advocate to review and make recommendations to the Superintendent of Insurance regarding insurance rates, policies and availability of products to Maine consumers. The Public Advocate also may intervene on behalf of a consumer or group of consumers of insurance products in any action before the Department of Professional and Financial Regulation, Bureau of Insurance, other state or federal agencies or courts.

This bill also imposes a filing fee of \$50,000 on an insurer who files for a rate change to workers' compensation insurance or employers' liability insurance written in connection with workers' compensation insurance. The fee is dedicated to the Public Advocate to fund the expanded duties as proposed in this bill.

### **LD 1072 An Act To Establish a Single-payor Health Care System**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAUDOIN SCHNEIDER		

LD 1072 establishes a universal access health care system that offers a choice of coverage through organized delivery systems or through a managed care system operated by the Maine Health Care Agency and channels all health care dollars through a dedicated trust fund.

Part A of the bill does the following.

1. It establishes the Maine Health Care Plan to provide security through high-quality, affordable health care for the

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people of the State. All residents and nonresidents who maintain significant contact with the State are eligible for covered health care services through the Maine Health Care Plan. The plan is funded by the Maine Health Care Trust Fund, a dedicated fund receiving payments from employers, individuals and plan members and, after fiscal year 2007, from the 5¢ per package increase in the cigarette tax. The Maine Health Care Plan provides a range of benefits, including hospital services, health care services from participating providers, laboratories and imaging procedures, home health services, rehabilitative services, prescription drugs and devices, mental health services, substance abuse treatment services, dental services, vision appliances, medical supplies and equipment and hospice care. Health care services under the Maine Health Care Plan are provided by participating providers in organized delivery systems and through the open plan, which is available to all providers. The plan is supplemental to other health care programs that may be available to plan members, such as Medicare, Medicaid, the federal Civilian Health and Medical Program of the Uniformed Services, the federal Indian Health Care Improvement Act and workers' compensation.

2. It establishes the Maine Health Care Agency to administer and oversee the Maine Health Care Plan, to act under the direction of the Maine Health Care Council and to administer and oversee the Maine Health Care Trust Fund. The Maine Health Care Council is the decision-making and directing council for the agency and is composed of 3 full-time appointees.
3. It directs the Maine Health Care Agency to establish programs to ensure quality, affordability, efficiency of care and health planning. The agency health planning program includes the establishment of global budgets for health care expenditures for the State and for institutions and hospitals. The health planning program also encompasses the certificate of need responsibilities of the agency pursuant to the Maine Revised Statutes, Title 22, chapter 103-A and the health planning responsibilities pursuant to Title 2, chapter 5.
4. It contains a directive to the State Controller to advance \$400,000 to the Maine Health Care Trust Fund on the effective date, January 1, 2008. This amount must be repaid by the Maine Health Care Agency by June 30, 2009.

Part B of the bill establishes the Maine Health Care Plan Transition Advisory Committee. Composed of 20 members, appointed and subject to confirmation, the committee is charged with holding public hearings, soliciting public comments and advising the Maine Health Care Agency on the transition from the current health care system to the Maine Health Care Plan. Members of the committee serve without compensation but may be reimbursed for their expenses. The committee is directed to report to the Governor and to the Legislature on July 1, 2008, January 1, 2009, July 1, 2009 and December 31, 2009. The committee completes its work on December 31, 2009.

Part C of the bill establishes the salaries of the members of the Maine Health Care Council and the executive director of the Maine Health Care Agency.

Part D of the bill prohibits the sale on the commercial market of health insurance policies and contracts that duplicate the coverage provided by the Maine Health Care Plan. It allows the sale of health care policies and contracts that do not duplicate and are supplemental to the coverage of the Maine Health Care Plan.

Part E of the bill imposes a 5¢ per package increase in the cigarette tax beginning December 1, 2007. Proceeds from the cigarette tax increase are paid to the Maine Health Care Trust Fund.

Part F of the bill directs the Maine Health Care Agency to ensure employment retraining for administrative workers employed by insurers and providers who are displaced by the transition to the Maine Health Care Plan. It directs the Maine Health Care Agency to study the delivery and financing of long-term care services to plan members. Consultation is required with the Maine Health Care Plan Transition Advisory Committee, representatives of consumers and potential consumers of long-term care services and representatives of providers of long-term care services, employers, employees and the public. A report by the agency to the joint standing committee of the Legislature having jurisdiction over health and human services matters is due January 1, 2009.

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The Maine Health Care Agency is directed to study the provision of health care services under the MaineCare, Medicaid and Medicare programs, waivers, coordination of benefit delivery and compensation, reorganization of State Government necessary to accomplish the objectives of the Maine Health Care Agency and legislation needed to carry out the purposes of the bill. The agency is directed to apply for all waivers required to coordinate the benefits of the Maine Health Care Plan and the Medicaid and Medicare programs. A report by the agency is due to the joint standing committee of the Legislature having jurisdiction over health and human services matters by March 1, 2008.

LD 1072 was carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

### **LD 1082      An Act To Create a Maine-based Independent Nonprofit Health Insurance Company**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST MARTIN		

LD 1082 directs the Board of Directors of Dirigo Health to establish a nonprofit health care plan to deliver health insurance coverage under Dirigo Health as an alternative to health insurance coverage offered by commercial health insurance carriers. The bill requires the board to consult with the Department of Professional and Financial Regulation, Bureau of Insurance and other state agencies as necessary and authorizes the board to contract for actuarial, financial and legal services. If the board determines that additional legislation is needed to establish the nonprofit health care plan, the bill requires that the recommended legislation be submitted to the Joint Standing Committee on Insurance and Financial Services by December 1, 2007. The bill authorizes the Joint Standing Committee on Insurance and Financial Services to submit legislation to the Second Regular Session of the 123rd Legislature. The bill directs that the board present a plan of operation for the nonprofit health care plan pursuant to the Maine Revised Statutes, Title 24, chapter 19 to the Superintendent of Insurance by March 1, 2008. Finally, the bill requires that the nonprofit health care plan begin offering coverage by October 1, 2008.

LD 1082 was carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

### **LD 1083      An Act To Clarify the Use of Insurance Scores**

**PUBLIC 74**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CANAVAN SNOWE-MELLO	OTP-AM MAJ ONTP MIN	H-72

LD 1083 requires an insurer that uses consumer reports in insurance underwriting to obtain an updated credit report, recalculate the insured's insurance score and reunderwrite and rerate the insured. An insurer must take these steps within 30 days of receiving the insured's request but need not do so more often than once in any 12-month period. Changes in premium do not become effective until the current policy's renewal.

#### **Committee Amendment "A" (H-72)**

This amendment is the majority report of the committee. The amendment clarifies that any adjustments in premium after an insurer reunderwrites and rerates an insured's policy become effective on the anniversary date or the renewal date of the policy.

#### **Enacted Law Summary**

Public Law 2007, chapter 74 requires an insurer that uses consumer reports in insurance underwriting to obtain an updated credit report, recalculate the insured's insurance score and reunderwrite and rerate the insured. An insurer

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must take these steps within 30 days of receiving the insured's request but need not do so more often than once in any 12-month period. Any adjustments in premium after an insurer reunderwrites and rerates an insured's policy become effective on the anniversary date or the renewal date of the policy.

**LD 1102      An Act To Lower Mandatory Group Participation Rates to 60%      ONTP**

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

Under current law, for purposes of guaranteed renewal, health insurance carriers are permitted to impose minimum participation requirements that may not exceed 75% for small group health plans. This bill reduces the minimum participation requirement to 60%.

**LD 1116      An Act To Create a State-sponsored Mutual Liability Company To Underwrite Risk for Snowmobile and ATV Clubs      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	ONTP	

LD 1116 establishes the Maine Snowmobile and ATV Club Mutual Liability Company to manage liability risks for snowmobile and ATV clubs in the State and to indemnify landowners.

**LD 1203      An Act To Amend the Laws Respecting Assignments for the Benefit of Creditors      CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS		

LD 1203 is a concept draft pursuant to Joint Rule 208. The bill seeks to clearly set forth the laws governing assignments for the benefit of creditors so that this process for gathering and distributing assets is more accessible and reliable for use in appropriate circumstances to benefit both creditors and debtors.

LD 1203 was carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

**LD 1208      An Act To Create Uniformity among Certain Self-insureds      PUBLIC 278**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM	S-130

LD 1208 clarifies that multiple-employer welfare arrangements will be treated like other plans under the federal Employee Retirement Income Security Act of 1974 for purposes of small group plan requirements. Multiple-employer welfare arrangements will no longer be required to comply with the standards of the Maine Revised Statutes, Title 24-A, section 2808-B relating to small group health plans and will not have to comply with the Department of Professional and Financial Regulation, Bureau of Insurance, Bureau Rule 750, which addresses standardized health plans, or Rule 850, which addresses health plan accountability. Multiple-employer welfare arrangements are still required to meet the reporting, actuarial, joint and several liability and group solvency

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standards of Title 24-A, chapter 81.

### **Committee Amendment "A" (S-130)**

This amendment replaces the bill. The amendment allows a multiple employer welfare arrangement to offer a managed care plan that does not adhere to any geographic access requirements on a pilot basis with approval of the Superintendent of Insurance between January 1, 2008 and January 1, 2011. The amendment prohibits an arrangement from including terms and conditions in the managed care plan that have a detrimental financial impact on a covered person or that require a covered person to travel outside of the United States for health care services. The amendment requires the Superintendent of Insurance to report to the Legislature on the status of any approved pilot program on an annual basis.

### **Enacted Law Summary**

Public Law 2007, chapter 278 allows a multiple employer welfare arrangement to offer a managed care plan that does not adhere to any geographic access requirements on a pilot basis with approval of the Superintendent of Insurance between January 1, 2008 and January 1, 2011. The law prohibits a multiple employer welfare arrangement from including terms and conditions in the managed care plan that have a detrimental financial impact on a covered person or that require a covered person to travel outside of the United States for health care services. The law requires the Superintendent of Insurance to report to the Legislature on the status of any approved pilot program on an annual basis.

### **LD 1218     An Act To Further Limit Retrospective Denials of Previously Paid Health Insurance Claims**

**PUBLIC 106**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARRACHE TURNER	OTP   MAJ ONTP   MIN	

LD 1218 shortens the time frame from 18 months to 12 months in which a health insurance carrier may deny retrospectively a health insurance claim submitted by a health care provider and processed and paid in accordance with the standards in effect at the time of submission.

### **Enacted Law Summary**

Public Law 2007, chapter 106 shortens the time frame from 18 months to 12 months in which a health insurance carrier may deny retrospectively a health insurance claim submitted by a health care provider and processed and paid in accordance with the standards in effect at the time of submission.

### **LD 1230     An Act To Protect Consumers against Inadequate Health Care Coverage**

**ONTP**

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

LD 1230 prohibits health insurance carriers from offering health plans with deductibles of \$1,500 or higher. The bill applies to all health plans issued or renewed on or after October 1, 2007. The bill also removes the authority of the Department of Professional and financial Regulation, Bureau of Insurance to adopt rules that give carriers flexibility with regard to deductible and requires the Bureau of Insurance to repeal Part II of Rule Chapter 750: Standardized Health Plans.

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## LD 1253 An Act To Protect Consumers from Deceptive Insurance Solicitation

PUBLIC 118

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM	S-57

LD 1253 prohibits a person from using the name of a financial institution in insurance solicitations without the express written permission of that financial institution.

### Committee Amendment "A" (S-57)

This amendment replaces the bill. The amendment prohibits a person from using the name of a financial institution in insurance solicitations in a manner that is untrue, deceptive or misleading.

### Enacted Law Summary

Public Law 2007, chapter 118 prohibits a person from using the name of a financial institution in insurance solicitations in a manner that is untrue, deceptive or misleading.

## LD 1262 An Act Regarding Property and Casualty Insurance Actuarial Opinion of Reserves

PUBLIC 281

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM	H-353

LD 1262 amends the Maine Insurance Code by replacing the current provisions regarding property and casualty actuarial opinions on insurer reserves with the model legislation adopted by the National Association of Insurance Commissioners. The bill requires the filing of the statement of actuarial opinion, the actuarial report supporting the opinion and the actuarial opinion summary by domestic insurers, excluding domestic mutual property insurers.

The bill also provides immunity to a qualified actuary for damages to persons other than the Superintendent of Insurance or a property and casualty insurance company for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct.

### Committee Amendment "A" (H-353)

This amendment clarifies that a qualified actuary is not immune from liability for damages to persons other than the Superintendent of Insurance or a property and casualty insurance company in cases of reckless disregard. The amendment also clarifies language relating to the public disclosure and confidentiality of certain documents.

LD 1262, as amended, was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### Enacted Law Summary

Public Law 2007, chapter 281 amends the Maine Insurance Code by replacing the current provisions regarding property and casualty actuarial opinions on insurer reserves with the model legislation adopted by the National Association of Insurance Commissioners. The law requires domestic insurers, excluding domestic mutual property insurers, to file the statement of actuarial opinion, the actuarial report supporting the opinion and the actuarial opinion summary with the Superintendent of Insurance. The law designates the statement of actuarial opinion as a public record, but otherwise designates the actuarial report, actuarial opinion summary and other documents

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provided by the property and casualty insurance company as confidential and not subject to public disclosure.

Public Law 2007, chapter 281 also provides immunity to a qualified actuary for damages to persons other than the Superintendent of Insurance or a property and casualty insurance company for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud, willful misconduct or reckless disregard.

**LD 1269      *Resolve, To Study the Feasibility of Pine Tree Health Care Insurance Zones*      **ONTP****

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

LD 1269 requires the Department of Professional and Financial Regulation, Bureau of Insurance to study the feasibility of pine tree health care insurance zones, which would address the problems of higher health care insurance rates in rural areas and less coverage in rural areas, and submit its study and any legislation it determines necessary to the Second Regular Session of the 123rd Legislature no later than December 5, 2007.

**LD 1287      *An Act To Assist Maine Pharmacies*      **ONTP****

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

LD 1287 establishes "the Prescription Drug Practices Act." The bill requires all pharmacy benefits managers operating in the State to acquire a valid certificate of authority to be issued by the Department of Professional and Financial Regulation, Bureau of Insurance. The bill also establishes compliance and disclosure requirements for pharmacy benefits managers and prohibits certain practices by pharmacy benefits managers.

**LD 1294      *An Act To Establish a Health Care Bill of Rights*      **CARRIED OVER****

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT		

LD 1294 makes the following changes to the laws regulating individual and small group health plans.

1. It increases the time period for advance notice of rate increases and rate changes to policyholders.
2. It requires the Department of Professional and Financial Regulation, Bureau of Insurance to hold public hearings when a rate increase is proposed.
3. It requires the Department of Professional and Financial Regulation, Bureau of Insurance to contract with an independent hearing officer to conduct rate hearings and to appoint an advocacy panel in those proceedings to represent the interests of consumers and the public.
4. It clarifies that all rate filings and information and documentation used to support the filings are public records and may be disclosed to the public.
5. It changes the standard of review that rates not be excessive to the standard that rates be reasonable and

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necessary.

6. It requires that rates not be approved unless certain standards are met and supported by evidence in the record.
7. It requires that carriers provide demonstrable proof and quantify the amount of any recovery of the savings offset payment through negotiations with health care providers as part of rate filings.
8. It increases the minimum loss ratios for individual and small group health plans and requires carriers to refund to policyholders the difference between the required loss ratio and the achieved loss ratio in instances when the carrier does not meet the minimum standards.
9. It repeals the exclusivity provision regarding an enrollee's right to sue under the Maine Revised Statutes, Title 24-A, chapter 56-A.

### **Committee Amendment "A" (H-512)**

This amendment is the minority report of the committee and replaces the bill. The amendment does the following.

1. It retains the provision of the bill that increases the time period for advance notice of rate increases and rate changes to policyholders from 60 to 90 days.
2. It requires that individual and small group rates be filed and approved by the Superintendent of Insurance.
3. It authorizes the Attorney General to request that a hearing be held for an individual or small group rate filing. If a hearing is held, the Attorney General is authorized to contract for actuarial consultants, with the costs of the consultants up to \$50,000 paid by the insurer. If the Attorney General or another party has not intervened, the amendment requires the Bureau of Insurance to appoint an advocacy panel to represent consumers in a rate hearing, with the costs of the panel to be paid by the insurer.
4. It clarifies that all rate filings and information and documentation used to support the filings, except for information relating to contracts between an insurer and a 3rd party, are public records and may be disclosed to the public.
5. It retains the provision of the bill that changes the standard of review that rates not be excessive to the standard that rates be reasonable and necessary.
6. It retains the provision of the bill that requires that rates not be approved unless certain standards are met and supported by evidence in the record.
7. It requires the Bureau of Insurance to develop consumer publications using the Office of the Public Advocate's Ratewatcher publication as a model and directs that a link to the Bureau of Insurance be added to the office's website.
8. It adds an appropriations and allocations section to reflect the costs to the Bureau of Insurance associated with the amendment.
9. It corrects cross-references to repealed law.

Committee Amendment "A" was not adopted.

LD 1294 was carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

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**LD 1334    Resolve, To Establish a Task Force To Study Strategies To Promote Financial Literacy**

**ONTP**

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

LD 1334 is a concept draft pursuant to Joint Rule 208. The resolve would create a task force to study strategies for educating the State's residents about personal finances, including but not limited to budgeting, savings, credit and identity theft, and to make recommendations to the Legislature on how to improve financial literacy throughout the State.

The substance of LD 1334 was incorporated into a joint order, H.P. 1330, Joint Study Order to Establish the Commission to Study Strategies to Promote Financial Literacy. H.P. 1330 was indefinitely postponed.

**LD 1389    An Act To Provide for Prompt Resolution of Insurance Claims**

**ONTP**

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

LD 1389 creates a private cause of action by consumers against insurance companies for violations of the Unfair Claims Practices Act of the Maine Insurance Code. The bill amends the Maine Insurance Code to provide for direct actions by injured persons against insurance companies in specific instances, including, but not limited to, when the insured is insolvent, bankrupt or deceased and when the policy being sued upon is for uninsured motorist coverage. The bill also requires property and casualty insurance policies to provide that the insured's insolvency or bankruptcy does not release the insurer from payment of damages under the policy.

**LD 1390    An Act Related to Special Purpose Reinsurance Vehicles**

**PUBLIC 386  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM	OTP-AM	H-456

LD 1390 allows the establishment of special purpose reinsurance vehicles to facilitate the securitization of insurance risks.

**Committee Amendment "A" (H-456)**

This amendment replaces the bill. The amendment allows the establishment of special purpose reinsurance vehicles to facilitate the securitization of insurance risks. The amendment removes the prohibition on a special purpose reinsurance vehicle being controlled by, controlling, or being under common control with the ceding insurer. The amendment allows a special purpose reinsurance vehicle to use protected cells as part of one special purpose reinsurance vehicle contract. The amendment also makes changes to update the current law to be consistent with similar legislation in other states. The amendment also adds an emergency preamble and emergency clause.

LD 1390, as amended, was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

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**Enacted Law Summary**

Public Law 2007, chapter 386 allows the establishment of special purpose reinsurance vehicles to facilitate the securitization of insurance risks. The law removes the prohibition on a special purpose reinsurance vehicle being controlled by, controlling, or being under common control with the ceding insurer. The law allows a special purpose reinsurance vehicle to use protected cells as part of one special purpose reinsurance vehicle contract. The law also makes changes to update the current law to be consistent with similar legislation in other states.

Public Law 2007, chapter 386 was enacted as an emergency measure effective June 21, 2007.

**LD 1401      An Act Prohibiting Delivery of Unsolicited Credit Cards      ONTP**

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

LD 1401 prohibits mailing or otherwise delivering an unsolicited check or credit card to any person. The bill also immunizes from liability a person in whose name a check or credit card was used if the person received no benefit and did not accept, use, activate or authorize the use of the check or credit card.

**LD 1428      An Act To Facilitate Reporting by Maine Financial Institutions of Elder Financial Exploitation      PUBLIC 108**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM MARRACHE	OTP-AM	H-131

LD 1428 establishes that financial institutions and credit unions are permitted to disclose financial records to the Department of Health and Human Services when the financial institution or credit union has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation, and it provides immunity for the good faith disclosure of financial records for this purpose.

**Committee Amendment "A" (H-131)**

This amendment replaces section 3 of the bill to add a cross-reference and clarify language referring to financial institutions and credit unions authorized to do business in this State.

**Enacted Law Summary**

Public Law 2007, chapter 108 establishes that financial institutions and credit unions are permitted to disclose financial records to the Department of Health and Human Services when the financial institution or credit union has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation. The law provides immunity for the good faith disclosure of financial records for this purpose.

**LD 1429      An Act To Require Insurance Coverage for Temporomandibular Joint Disorders      DIED BETWEEN HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VAUGHAN	OTP-AM MAJ ONTP MIN	

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LD 1429 requires health insurance policies, contracts and certificates to provide coverage for temporomandibular joint disorders. The provisions of this bill apply to all policies, contracts and certificates issued or renewed on or after January 1, 2008.

### **Committee Amendment "A" (H-605)**

This amendment replaces the bill. Like the bill, the amendment requires health insurance policies, contracts and certificates to provide coverage for temporomandibular joint disorders but specifies that such coverage must be provided if coverage would be provided under the policy for musculoskeletal disorders affecting other bones or joints in the body. The amendment requires that coverage be provided for diagnosis and surgical and nonsurgical treatment determined to be medically necessary. The amendment requires coverage for services and treatments provided by a dentist if those treatments and services would be reimbursed under the policy when performed by a licensed physician. The amendment excludes coverage for experimental treatment. The provisions of this bill apply to all policies, contracts and certificates issued or renewed on or after January 1, 2008.

Committee Amendment "A" as amended by House Amendment "B" was adopted in the House, but was not adopted in the Senate.

### **House Amendment "A" (H-609)**

This amendment clarifies that the coverage requirements established in the amendment do not apply for any state employee health plan policy, contract or certificate on or after the effective date of those requirements. It also strikes the appropriations and allocations section. House Amendment "A" to Committee Amendment "A" was not adopted.

### **House Amendment "B" (H-622)**

This amendment provides that the requirements of the legislation apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2009. House Amendment "B" to Committee Amendment "A" was adopted in the House, but was not adopted in the Senate.

## **LD 1452    An Act To Protect a Borrower's Right To Use the Borrower's Chosen Accounting Service**

**PUBLIC 185**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROBINSON HOBBINS	OTP-AM	H-235

LD 1452 provides that a financial institution or credit union authorized to do business in this State may not, in connection with the extension of credit, interfere with a purchaser's or borrower's free choice of an accounting, tax or attest services provider.

### **Committee Amendment "A" (H-235)**

This amendment replaces the bill. Like the bill, the amendment provides that a financial institution or a credit union may not, in connection with the extension of credit, interfere with a purchaser's or borrower's free choice of an accounting, tax or attest services provider; the amendment adds a supervised lender or other creditor to the provision. The amendment clarifies that the accounting, tax or attest services provider must have proper accreditation and permits a financial institution, credit union, supervised lender or other creditor to require that the accounting, tax or attest services provider have adequate liability insurance and meet other written policy requirements established by the financial institution, credit union, supervised lender or other creditor.

### **Enacted Law Summary**

Public Law 2007, chapter 185 provides that a financial institution, credit union, supervised lender or other creditor

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may not, in connection with the extension of credit, interfere with a purchaser's or borrower's free choice of an accounting, tax or attest services provider. The law clarifies that the accounting, tax or attest services provider must have proper accreditation and permits a financial institution, credit union, supervised lender or other creditor to require that the accounting, tax or attest services provider have adequate liability insurance and meet other written policy requirements established by the financial institution, credit union, supervised lender or other creditor.

**LD 1474     An Act To Increase the Minimum Medical Payments Coverage in  
Automobile Insurance**

**PUBLIC 213**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	OTP-AM	H-236

LD 1474 raises the minimum amount of insurance coverage required for medical payments for automobile liability insurance from \$1,000 to \$5,000.

**Committee Amendment "A" (H-236)**

While the bill proposes to increase the minimum amount to \$5,000, this amendment increases the amount of minimum medical payments coverage in automobile insurance policies from \$1,000 to \$2,000. The amendment clarifies that the law applies to automobile insurance policies issued or renewed on or after January 1, 2008.

**Enacted Law Summary**

Public Law 2007, chapter 213 increases the amount of minimum medical payments coverage in automobile insurance policies from \$1,000 to \$2,000. The law applies to automobile insurance policies issued or renewed on or after January 1, 2008.

**LD 1476     An Act Relating to Bad Check Enforcement Programs Operated by  
Private Entities**

**PUBLIC 214**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY A PERRY J	OTP	

LD 1476 applies the Maine Fair Debt Collection Practices Act to private companies that operate check diversion programs for district attorneys, requiring that such companies be licensed and bonded and that their initial communications to consumers notify consumers of their right to dispute the validity of the alleged debts.

**Enacted Law Summary**

Public Law 2007, chapter 214 amends the Maine Fair Debt Collection Practices Act to define "debt" to include any obligation or alleged obligation relating to a check returned for insufficient funds if a consumer is subject to an enforcement program operated by a private entity. As a result of the law, private companies that operate check diversion programs for district attorneys will be required to comply with the Maine Fair Debt Collection Practices Act, including requirements that such companies be licensed and bonded and that their initial communications to consumers notify consumers of their right to dispute the validity of the alleged debts.

**LD 1489     An Act To Enhance Fairness in Arbitration**

**PUBLIC 250**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWMAN	OTP-AM	S-131

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LD 1489 does the following.

1. It prohibits the use of binding consumer arbitration agreements unless permitted under federal law.
2. It requires that consumer arbitration agreements contain specific disclosures related to the costs and fees of arbitration.
3. It imposes reporting requirements on arbitration service providers.
4. It prohibits the imposition of the costs of the opposing party if the consumer does not prevail in the arbitration and requires the arbitration provider to waive fees upon request or if the consumer is indigent.
5. It prohibits an arbitration service provider from conducting an arbitration if the provider has a financial interest in a party or legal representative of a party to the arbitration or if a party or legal representative of a party has a financial interest in the arbitration.
6. It preserves certain legal rights of a party when entering into a binding arbitration agreement.
7. It prohibits the use of mandatory binding arbitration clauses in insurance contracts.

### **Committee Amendment "A" (S-131)**

This amendment replaces the bill. The amendment removes the provisions in the bill that regulated the substance of consumer arbitration clauses and retains only the provision requiring that arbitration providers report certain information relating to consumer arbitration proceedings. The amendment requires that the information be reported on a quarterly basis to the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation. The amendment requires that the director compile the information in a report to the Joint Standing Committee on Insurance and Financial Services by April 1, 2009 and authorizes the committee to report out legislation.

LD 1489, as amended, was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **Enacted Law Summary**

Public Law 2007, chapter 250 requires arbitration providers to report certain information relating to consumer arbitration proceedings on a quarterly basis to the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation. The law requires that the Director of the Office of Consumer Credit Regulation compile the information in a report to the Joint Standing Committee on Insurance and Financial Services by April 1, 2009 and gives the Joint Standing Committee authority to report out legislation related to consumer arbitration proceedings.

### **LD 1502    An Act To Clarify and Update the Laws Related to Property and Casualty Insurance**

**PUBLIC 188**

Sponsor(s)

PRIEST

Committee Report

OTP

Amendments Adopted

LD 1502 makes the following changes to clarify and update the laws related to property and casualty insurance.

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Part A corrects a redundancy made by prior revisions to the rate-making law.

Part B amends the rate-filing law to require the Department of Professional and Financial Regulation, Bureau of Insurance to act on electronic filings within 30 days.

Part C makes a variety of changes to the cancellation statutes. It amends the definition of "renewal" in the casualty insurance laws by adding language concerning affiliates that the Legislature added to the property insurance law in 2005. It adds to the laws governing cancellation of commercial policies covering physical damage the Maine Automobile Insurance Cancellation Control Act's requirement that the loss payee receive notice of cancellation or nonrenewal. It amends the Maine Automobile Insurance Cancellation Control Act to correct a typographical error in the definition of "policy" and to improve clarity by moving affiliate language from the statute governing cancellation to the statute governing notice of intent not to renew.

Part C also corrects technical errors in the property insurance law. It also amends laws governing property insurance cancellation control to be consistent in excepting policies that have been in effect for less than 90 days, to add to personal policies the requirement that a mortgagee receive notice of cancellation, to move a provision concerning affiliate renewal from the statute governing delivery of cancellation notice to the statute governing notice of intention not to renew.

## **Enacted Law Summary**

Public Law 2007, chapter 188 makes the following changes to clarify and update the laws related to property and casualty insurance.

1. The law corrects a redundancy made by prior revisions to the rate-making law.
2. The law amends the rate-filing law to require the Department of Professional and Financial Regulation, Bureau of Insurance to act on electronic filings within 30 days.
3. The law makes a variety of changes to the cancellation statutes. It amends the definition of "renewal" in the casualty insurance laws by adding language concerning affiliates that the Legislature added to the property insurance law in 2005. It adds to the laws governing cancellation of commercial policies covering physical damage the Maine Automobile Insurance Cancellation Control Act's requirement that the loss payee receive notice of cancellation or nonrenewal. It amends the Maine Automobile Insurance Cancellation Control Act to correct a typographical error in the definition of "policy" and to improve clarity by moving affiliate language from the statute governing cancellation to the statute governing notice of intent not to renew.
4. The law also corrects technical errors in the property insurance law. It amends laws governing property insurance cancellation control to be consistent in excepting policies that have been in effect for less than 90 days, to add to personal policies the requirement that a mortgagee receive notice of cancellation, to move a provision concerning affiliate renewal from the statute governing delivery of cancellation notice to the statute governing notice of intention not to renew.

## **LD 1503 An Act To Clarify and Update the Laws Related to Health Insurance**

**PUBLIC 199  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM	OTP-AM	H-234

LD 1503 makes the following changes to clarify and update the laws related to health insurance.

Part A amends various provisions of law concerning health insurance in order to comply with final federal rules

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published in December 2004 to clarify the federal Health Insurance Portability and Accountability Act of 1996. It also provides that a waiting period in a small group health plan includes a period between the time a substantially complete application is filed and the time the coverage takes effect.

Part B requires that second level appeals of health insurance claims be completed within 30 days when the insured has not requested the opportunity to appear in person before authorized representatives of the health carrier. It also clarifies that provisions of the health plan improvement laws applying to carriers offering health plans apply to carriers renewing health plans even if the plans are no longer sold.

Part C amends the list of exceptions to the law concerning guaranteed renewal of individual health insurance to include withdrawal from the market.

Part D amends the law concerning continuity of health insurance to clarify that it applies to blanket coverage.

Part E clarifies that a life and health insurer can be licensed to issue health maintenance organization contracts.

Part F clarifies the law requiring notice of group health termination.

Part G clarifies the law regarding permissible limitations on coverage of preexisting conditions in specified disease policies.

### **Committee Amendment "A" (H-234)**

This amendment clarifies the law relating to participation requirements at renewal of a policy to make it consistent with the law relating to participation requirements at the time a policy is issued. The amendment extends for 2 years the provision allowing financial incentives under Bureau of Insurance Rule Chapter 850. The amendment also corrects grammatical and punctuation errors.

### **Enacted Law Summary**

Public Law 2007, chapter 199 makes the following changes to clarify and update the laws related to health insurance.

The law amends various provisions of law concerning health insurance in order to comply with final federal rules published in December 2004 to clarify the federal Health Insurance Portability and Accountability Act of 1996. It also provides that a waiting period in a small group health plan includes a period between the time a substantially complete application is filed and the time the coverage takes effect.

The law requires that second level appeals of health insurance claims be completed within 30 days when the insured has not requested the opportunity to appear in person before authorized representatives of the health carrier. It also clarifies that provisions of the health plan improvement laws applying to carriers offering health plans apply to carriers renewing health plans even if the plans are no longer sold.

The law extends for 2 years the provision allowing managed care plans containing financial incentives for enrollees to use designated providers under Bureau of Insurance Rule Chapter 850.

The law amends the list of exceptions to the guaranteed renewal of individual health insurance to include withdrawal from the market. It also clarifies the law relating to participation requirements at renewal of a policy to make it consistent with the law relating to participation requirements at the time a policy is issued.

The law amends the statutory provision concerning continuity of health insurance to clarify that it applies to blanket coverage.

The law clarifies that a life and health insurer can be licensed to issue health maintenance organization contracts.

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The law clarifies the statutory provision requiring notice of group health termination.

The law clarifies the statutory provision regarding permissible limitations on coverage of preexisting conditions in specified disease policies.

Public Law 2007, chapter 199 was enacted as an emergency measure effective May 31, 2007.

## LD 1514 An Act To Require Health Insurance Coverage for Hearing Aids

PUBLIC 452

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM MAJ ONTP MIN	S-265 S-371 ROTUNDO

LD 1514 requires health insurance policies, contracts and certificates to provide coverage for hearing aids for persons under 21 years of age whose hearing loss has been documented by a physician or licensed audiologist. The provisions of this bill apply to all policies, contracts and certificates issued or renewed on or after January 1, 2008.

### Committee Amendment "A" (S-265)

This amendment replaces the bill. The amendment requires health insurance policies, contracts and certificates to provide coverage for hearing aids for persons 18 years of age and under. The amendment allows insurance policies to limit coverage to \$1,400 per hearing aid every 36 months. The bill would have required coverage for hearing aids for persons under 21 years of age without limits on the amount of coverage.

The amendment also adds an appropriations and allocations section to the bill.

### Senate Amendment "A" (S-371)

This amendment makes changes to Committee Amendment "A" to require health insurance policies, contracts and certificates issued or renewed on or after January 1, 2008 to provide coverage for hearing aids for persons from birth to 5 years of age, beginning January 1, 2008; for persons from 6 to 13 years of age, beginning January 1, 2009; and for persons from 14 to 18 years of age, beginning January 1, 2010.

The amendment also replaces the appropriations and allocations section to reflect the changes in required funding as a result of the amendment.

### Enacted Law Summary

Public Law 2007, chapter 452 requires health insurance policies, contracts and certificates to provide coverage for hearing aids for persons from birth to 5 years of age, beginning January 1, 2008; for persons from 6 to 13 years of age, beginning January 1, 2009; and for persons from 14 to 18 years of age, beginning January 1, 2010. The law allows health insurance policies to limit coverage to \$1,400 per hearing aid every 36 months.

## LD 1517 An Act To Allow Maine Consumers To Purchase Health Insurance from Out-of-State Insurers

ACCEPTED ONTP  
REPORT

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH D	ONTP MAJ OTP-AM MIN	

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Part A of LD 1517 permits out-of-state health insurers, which are referred to as regional insurers in the bill, to offer their individual or group health plans for sale in this State if certain requirements of Maine law are met, including minimum capital and surplus and reserve, disclosure and reporting and grievance procedures. The bill defines the out-of-state health insurers as those insurers authorized to transact individual or group health insurance in one of the following states or jurisdictions: Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania or the District of Columbia. It also permits Maine health insurers to offer individual health plans of out-of-state parent or subsidiary health insurers if similar requirements are met. If out-of-state health plans are offered for sale in this State, the bill requires that prospective enrollees be provided adequate disclosure of how the plans differ from Maine health plans in a format approved by the Superintendent of Insurance.

Part B of the bill repeals the statutory provisions governing the Capital Investment Fund and certificate of need. The bill takes effect January 1, 2008.

### **Committee Amendment "A" (S-261)**

This amendment is the minority report of the committee. The amendment clarifies that the bill's provisions apply to the sale of individual and small group health plans. The amendment clarifies that the regional insurer must be domiciled and licensed to transact health insurance in the states listed in the bill. The amendment also clarifies the provision relating to the participation of a regional insurer in the guaranty association.

The amendment removes Part B of the bill, which proposed to repeal the statutory provisions governing the Capital Investment Fund and Certificate of Need.

Committee Amendment "A" was not adopted.

### **LD 1521      Resolve, To Provide Education Concerning and Insurance Coverage for Lyme Disease**

**RESOLVE 143**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT B	OTP-AM	S-349      MARTIN S-78

LD 1521 requires insurance policies to provide coverage for the treatment of Lyme disease. It also requires any employer whose employees are involved in activities that place them at high risk of exposure to Lyme disease to provide those employees with accurate information about Lyme disease before allowing them to engage in such activities. It directs the Maine Center for Disease Control Prevention to study the incidence of Lyme disease in this State, how many cases of Lyme disease are contracted by employees during the course of their employment, and the effects of the disease on the State.

### **Committee Amendment "A" (S-78)**

This amendment replaces the bill, and changes it to a resolve. The amendment directs the Maine Center for Disease Control and Prevention to undertake public education efforts relating to the prevention, diagnosis and treatment of Lyme disease and other tick-borne illnesses. The amendment also requires the Joint Standing Committee on Insurance and Financial Services to review issues related to Lyme disease and other tick-borne illnesses and authorizes the committee to submit legislation to the Second Regular Session of the 123rd Legislature.

### **Senate Amendment "A" (S-349)**

This amendment removes the requirement in Committee Amendment "A" that the Joint Standing Committee on Insurance and Financial Services review issues regarding Lyme disease.

### **Enacted Law Summary**

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Resolve 2007, chapter 143 directs the Maine Center for Disease Control and Prevention to undertake public education efforts relating to the prevention, diagnosis and treatment of Lyme disease and other tick-borne illnesses.

### LD 1539 An Act To Implement a Single-Payor Health Care System

ONTP

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

LD 1539 is a concept draft pursuant to Joint Rule 208. This bill proposes to establish a single-payor health care system.

A related bill, LD 1072, An Act to Establish a Single-payor Health Care System, has been carried over to any special or regular session of the Legislature. See LD 1072.

### LD 1568 Resolve, To Explore the Feasibility of Enrolling the Legislature as an Employer Group in Dirigo Health

RESOLVE 112

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLER	OTP-AM MAJ ONTP MIN	H-513

LD 1568 directs the State Employee Health Commission to evaluate the feasibility of the Legislature's being an employer group in the Dirigo Health Program and what effect that would have on retirees who are Legislators.

#### Committee Amendment "A" (H-513)

This amendment requires that the State Employee Health Commission consult with Dirigo Health in evaluating and issuing a report on the feasibility of enrolling the Legislature as an employer group in the Dirigo Health Program. The amendment clarifies that legislative employees are not included. The amendment also clarifies that the Joint Standing Committee on Insurance and Financial Services may submit a bill to the Second Regular Session of the 123rd Legislature.

#### Enacted Law Summary

Resolve 2007, chapter 112 directs the State Employee Health Commission, in consultation with Dirigo Health, to evaluate the feasibility of enrolling the Legislature as an employer group in the Dirigo Health Program.

### LD 1592 An Act To Protect Small Businesses and Individual Health Insurance Consumers

ONTP

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

LD 1592 is a concept draft pursuant to Joint Rule 208. The bill proposes to require health insurance carriers, over a 2-year period, to merge their insurance group markets for purposes of rate filings and to offer standardized health insurance plans. The first year, the carriers would be required to merge their small group and individual markets; the second year, carriers would be required to merge their large group markets. The bill would require the Department of Professional and Financial Regulation, Bureau of Insurance to ensure that surplus and profits are shared across the combined pool. Existing requirements for basic and standard health insurance plans would continue to apply to the merged market.

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**LD 1640     An Act To Allow Health Insurance Premiums To Vary Based on Behaviors Pertaining to Health** **ONTP**

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

LD 1640 allows insurers to increase the premiums of individual and group health insurance policies based upon adverse health-related behaviors of the insured, including smoking, not exercising, not taking prescribed medication and abusing alcohol.

**LD 1641     An Act To Provide for Transparency in Insurance Rate Proceedings** **ONTP**

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

LD 1641 requires the Superintendent of Insurance to make medical malpractice insurance rate filings open to the public and to hold a public hearing for any filing requesting a rate increase of over 5%.

**LD 1659     An Act To Improve the Affordability of Health Insurance for Maine People** **ONTP**

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

LD 1659 establishes a high-risk pool in the individual health insurance market called the Comprehensive Health Insurance Risk Pool Association. The purpose of the association is to spread the cost of high-risk individuals among all health insurers. The bill funds the high-risk pool through an assessment on insurers. An individual insured through the high-risk pool may be charged a premium up to 150% of the average premium rates charges by carriers for similar health insurance plans. The bill requires the State to submit an application to the Federal Government for federal assistance to create a high-risk pool. The bill also removes the guaranteed issuance requirement for individual health plans, effective January 1, 2008.

The bill also broadens the community rating laws to allow carriers to vary premiums on the basis of age within a maximum rate differential from highest to lowest on a ratio of 4 to one and on the basis of health status and tobacco use within a maximum rate differential from highest to lowest on a ratio of 1.5 to one.

**LD 1667     An Act To Require Health Insurers To Provide Coverage for Nutritional Wellness and Prevention** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE		

LD 1667 requires that health insurance policies provide coverage for nutritional wellness and prevention that is shown to be beneficial to the enrollee. The bill defines "nutritional wellness and prevention" as nutritional measures and products, including dietary supplements, whose primary purposes are to enhance health, improve nutritional intake, strengthen the immune system, cleanse the body of toxins, address specific health needs and aid in resisting

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disease. The bill applies to all individual and group policies issued or renewed on or after January 1, 2008.

LD 1667 was carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

## LD 1703 An Act To Regulate Presettlement Lawsuit Funding

PUBLIC 394

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM	H-511

LD 1703 clarifies that presettlement lawsuit funding constitutes supervised lending subject to the Maine Consumer Credit Code. As a result, lenders who engage in this type of lending would be required to be licensed to operate in the State and make the loans subject to the same interest rate limits and disclosure requirements as other consumer loans.

### Committee Amendment "A" (H-511)

This amendment replaces the bill. The amendment creates a separate article in the Maine Consumer Credit Code to differentiate the activities of legal funding companies from lenders or creditors. The amendment does the following.

1. It establishes a registration requirement for legal funding companies.
2. It incorporates disclosure and operational provisions that legal funding companies are currently complying with in other states.
3. It limits to 42 months the period for which fees may be charged to a consumer and requires that fees be assessed only on amounts actually retained by the consumer.
4. It permits semiannual compounding of interest and prohibits the compounding of interest for any lesser period of time.
5. It prohibits the use of mandatory arbitration clauses in contracts.
6. It establishes enforcement provisions based on those now applied to consumer creditors and lenders.
7. It requires an annual report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on the status of legal funding in this State. As part of the first annual report submitted by March 1, 2009, the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation is required to review and evaluate the annual percentage fees charged to consumers and assess whether a cap on the maximum annual percentage fee is necessary. The amendment authorizes the joint standing committee to submit legislation to implement a cap to the 124th Legislature.

### Enacted Law Summary

Public Law 2007, chapter 394 creates a separate article in the Maine Consumer Credit Code to differentiate the activities of legal funding companies from lenders or creditors. The law does the following.

1. It establishes a registration requirement for legal funding companies.
2. It incorporates disclosure and operational provisions that legal funding companies are currently complying with in other states.
3. It limits to 42 months the period for which fees may be charged to a consumer and requires that fees be assessed

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only on amounts actually retained by the consumer.

4. It permits semiannual compounding of interest and prohibits the compounding of interest for any lesser period of time.
5. It prohibits the use of mandatory arbitration clauses in contracts.
6. It establishes enforcement provisions based on those now applied to consumer creditors and lenders.
7. It requires an annual report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on the status of legal funding in this State. As part of the first annual report submitted by March 1, 2009, the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation is required to review and evaluate the annual percentage fees charged to consumers and assess whether a cap on the maximum annual percentage fee is necessary. The law authorizes the joint standing committee to submit legislation to implement a cap to the 124th Legislature.

**LD 1715     An Act To Reduce the Cost of Health Insurance**

**ONTP**

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

LD 1715 requires health insurers to offer for sale qualified high-deductible health plans that may be used in conjunction with a health savings account. The bill exempts these health plans from the community rating, guaranteed issuance and mandated benefit requirements otherwise applicable to certain individual and group health plans.

**LD 1716     An Act To Ensure That DirigoChoice Is Affordable**

**ONTP**

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

LD 1716 requires that Dirigo Health Program coverage meet certain standards for a comprehensive and affordable health benefit package. The bill also limits the amount of contributions required by enrollees in the Dirigo Health Program based on an enrollee's income.

**LD 1742     An Act To Permit Greater Flexibility in the Design of Affordable Health Insurance**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	ONTP	

LD 1742 makes the following changes to the laws governing health insurance.

1. It expands the community rating bands from 20% to 40% for premium rates filed with the Superintendent of Insurance on or after January 1, 2008.
2. It requires that the Bureau of Insurance revise Bureau of Insurance Rule, Chapter 750 defining minimum

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standards for mandated health plan offerings to reflect current market conditions and requires that the bureau review the rule and adopt changes to reflect market conditions at least once every 3 years.

3. It requires carriers that offer individual health plans to offer individual health plans utilizing preferred provider arrangements.
4. It changes the standard of review of benefit changes in individual health plans to be consistent with the standard of review for group health plans.
5. It repeals the requirement that all health plans meet certain access standards.

**LD 1753     An Act Regarding Health Insurance Coverage for Persons under the Influence of Alcohol or Narcotics**

**PUBLIC 216**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP	S-113     SULLIVAN

LD 1753 repeals the provision in the Maine Insurance Code that allowed health insurers to insert a provision in a policy denying liability for loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic. This bill also corrects cross-references to the repealed provision.

**Senate Amendment "A" (S-113)**

This amendment replaces the bill. The amendment clarifies that a provision prohibiting an insurance policy from excluding coverage for losses sustained by a person under the influence of alcohol or narcotics only applies to health insurance policies.

**Enacted Law Summary**

Public Law 2007, chapter 216 prohibits insurers from inserting a provision in a health insurance policy denying liability for loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic.

**LD 1760     An Act To Restore Competition to Maine's Health Insurance Market**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PILON		

LD 1760 establishes a reinsurance high-risk pool for the individual health insurance market called the Maine Individual High-risk Reinsurance Pool, which is modeled on a similar reinsurance pool in the state of Idaho. The bill modifies the guaranteed issuance law to require all individual health insurance carriers to guarantee coverage under health plans approved by the Maine Individual High-risk Reinsurance Pool. The bill requires health maintenance organizations to pay an assessment of 2% of premiums to partially support the costs of the reinsurance pool. The remaining costs of the pool are funded through reinsurance premiums paid by participating carriers. The bill provides reimbursement to carriers for individuals insured through the high-risk reinsurance pool for 90% of claims between \$5,000 and \$25,000 and 100% of claims incurred over \$25,000.

The bill also expands the community rating bands in the individual health insurance market to allow a maximum rate differential from highest to lowest of 5 to 1 on the basis of age, occupation and industry or geographic area and a maximum rate differential from highest to lowest of 1.5 to 1 on the basis of health status or tobacco use.

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LD 1760 was carried over by joint order, H.P. 1369, to the next special or regular session of the 123rd Legislature.

**LD 1829     An Act To Amend the Banking Laws Regarding the Establishment of  
Branches by Financial Institutions with Affiliates That Engage in  
Commercial Activity**

**PUBLIC 69**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1829 was reported out of committee pursuant to joint order, S.P. 575. The bill adds "commercial activity" to the definitions included in the Maine banking laws and clarifies that out-of-state financial institutions and their affiliates, like Maine financial institutions and their affiliates, are prohibited from conducting any commercial activity at in-state branches and cannot establish a branch within 1.5 miles of the location of an affiliate where the affiliate engages in any commercial activity.

**Enacted Law Summary**

Public Law 2007, chapter 69 adds "commercial activity" to the definitions included in the Maine banking laws and clarifies that out-of-state financial institutions and their affiliates, like Maine financial institutions and their affiliates, are prohibited from conducting any commercial activity at in-state branches and cannot establish a branch within 1.5 miles of the location of an affiliate where the affiliate engages in any commercial activity.

**LD 1865     An Act To Amend the Long-term Care Insurance Law**

**PUBLIC 232**

<u>Sponsor(s)</u>  SULLIVAN	<u>Committee Report</u>  OTP	<u>Amendments Adopted</u>
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LD 1865 qualifies consumers who purchase certain long-term care insurance policies for asset-protection measures under the federal Deficit Reduction Act of 2005, Public Law 109-171. The bill conforms Maine law to recently adopted amendments to the National Association of Insurance Commissioners' long-term care insurance model act. The bill prohibits issuing policies or certificates in the field if a field producer's compensation is based on the number of policies or certificates sold. The bill also imposes training requirements on producers who sell, solicit or negotiate long-term care policies.

**Enacted Law Summary**

Public Law 2007, chapter 232 qualifies consumers who purchase certain long-term care insurance policies for asset-protection measures under the federal Deficit Reduction Act of 2005, Public Law 109-171. The law conforms Maine law to recently adopted amendments to the National Association of Insurance Commissioners' long-term care insurance model act. The law prohibits issuing policies or certificates in the field if a field producer's compensation is based on the number of policies or certificates sold. The law also imposes training requirements on producers who sell, solicit or negotiate long-term care policies.

**LD 1869     An Act To Protect Maine Homeowners from Predatory Lending**

**PUBLIC 273**

<u>Sponsor(s)</u>  CUMMINGS DOW	<u>Committee Report</u>  OTP-AM	<u>Amendments Adopted</u>  H-354
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## *Joint Standing Committee on Insurance and Financial Services*

LD 1869 makes significant changes to current Maine law relating to residential mortgage loans and permissible high-rate, high-fee mortgages. The bill updates and amends current law to address predatory and abusive lending practices and to provide additional protections for Maine consumers.

With regard to the making of residential mortgage loans, the bill includes the following provisions.

1. It lowers the threshold for fees that can be charged in connection with certain residential home mortgage loans from 8% of the total loan amount to 5% or 6% based upon the total loan amount.
2. It prohibits creditors from recommending or encouraging default on an existing loan in connection with the closing or planned closing on a refinancing.
3. It prohibits creditors from "flipping" loans, which means the refinancing of a loan with no tangible net benefit to the borrower.
4. It places restrictions on the imposition of late payment fees or penalties.
5. It prohibits creditors from financing premiums or payments for credit insurance or debt cancellation agreements as part of the loan.
6. It prohibits the inclusion of a provision in mortgage loan contracts that permits the creditor, in its sole discretion, to accelerate the indebtedness.
7. It prohibits creditors from charging a fee to receive the amount of the payoff balance for a loan or to receive a release upon prepayment and also requires creditors to provide a payoff balance as required by law.
8. It requires that creditors have a reasonable belief at the time of closing that the borrower has the financial ability to make the scheduled payments on the loan.

With regard to the making of high-rate, high-fee mortgages, the bill includes the following provisions.

1. It requires that, before making the loan, creditors receive certification that a borrower has received counseling on the advisability of such a loan from a 3rd-party, nonprofit organization approved by the federal housing agency, a state housing financing agency or the state regulatory agency with jurisdiction over the creditor.
2. It prohibits creditors from financing any points or fees in connection with the loan.
3. It prohibits the inclusion of prepayment penalties or fees.
4. It prohibits scheduled payments more than twice as large as the average of earlier scheduled payments unless the payment schedule is adjusted according to the seasonal or irregular income of a borrower.
5. It prohibits payment terms under which outstanding principal or accrued interest will increase at any time because the scheduled payments do not cover the full amount of interest due.
6. It prohibits loan terms that increase the interest rate following a default.
7. It prohibits terms under which more than 2 periodic payments are consolidated and paid in advance from loan proceeds provided to the borrower.
8. It prohibits fees in connection with the modification of the loan or deferral of payments under the terms of the loan.

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

9. It requires certain disclosures related to the purchase or assignment of high-rate, high-fee mortgages and the effect on claims and defenses available to the borrower. The bill makes purchasers or assignees of high-rate, high-fee mortgages subject to all affirmative claims and any defenses that a borrower can assert against the creditor that originated the loan, except claims that the creditor did not have a reasonable belief at closing that the borrower had the financial ability to make scheduled payments, unless certain requirements are satisfied by the purchaser or assignee of the mortgage.

10. It prohibits creditors from paying a contractor for home improvements from the proceeds of a high-rate, high-fee mortgage unless the payment instrument is payable jointly to the borrower and the contractor or paid to an escrow account and the creditor has received proof that the home repairs are completed.

The bill requires that a consumer be specifically notified if a prepayment penalty provision is added to the consumer's mortgage note just before closing.

The bill applies consumer protections to so-called "piggy-back" loans, which are second-lien mortgages used in conjunction with first-lien loans to purchase real estate. This bill prohibits lenders and loan brokers from facilitating submission of false credit application information by a consumer.

The bill regulates the sale and issuance of rate locks by lenders and brokers.

The bill prohibits inclusion of contradictory information about prepayment penalties in a consumer's closing package.

The bill requires disclosure to a consumer of any yield spread premium to be paid to a loan broker by a lender.

The bill prevents unfair or deceptive practices with respect to trigger leads derived from consumers' credit reports.

The bill increases the accountability of lenders and loan brokers operating across state lines by permitting state mortgage regulators to participate in a uniform automated nationwide mortgage licensing system once the system is developed and implemented.

The bill adds 2 positions, an investigator and a staff attorney, within the Office of Consumer Credit Regulation, to implement the provisions.

The bill makes creditors who violate the provisions enacted in the bill subject to monetary penalties and enforcement by the Department of Professional and Financial Regulation, Bureau of Financial Institutions, the Office of Consumer Credit Regulation as well as the Attorney General for entities regulated by the Office of Consumer Credit Regulation. The bill also gives borrowers the right to bring a private court action against creditors for violations and to recover statutory, actual and punitive damages.

The bill applies to all residential mortgage loans and high-rate, high-fee mortgages made in connection with residential property located in this State.

The bill takes effect January 1, 2008, except for the provision establishing 2 positions in the Office of Consumer Credit Regulation, which takes effect 90 days after adjournment.

### **Committee Amendment "A" (H-354)**

This amendment does the following.

1. It clarifies that implementation of the multistate licensing system must reflect principles agreed upon by the Conference of State Bank Supervisors and the American Financial Services Association.

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

2. It clarifies that records provided to the administrator that are confidential must be maintained as confidential and not disclosed except as authorized.
3. It clarifies that construction loans are excluded from the definition of "residential mortgage loan."
4. It adds a definition of "subprime mortgage loan."
5. It clarifies that counseling organizations must be approved by the United States Department of Housing and Urban Development, the Maine State Housing Authority or the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection.
6. It requires rulemaking to further define tangible net benefit before January 1, 2008.
7. It clarifies that the provision requiring a creditor to determine a borrower's reasonable ability to pay before making a loan applies only to subprime mortgage loans.
8. It clarifies that a borrower must pay the reasonable costs of the lender incurred before cure of default.
9. It clarifies that assignees or purchasers of loans are not subject to the violations provision except as specifically provided.
10. It clarifies that punitive damages are permitted for violations of the high-rate, high-fee mortgage provisions or the flipping provision when the violation is malicious or reckless.
11. It excludes residential mortgage loans from potential criminal liability and clarifies that fines and terms of imprisonment for violations of the bill's provisions are in accordance with the Maine Revised Statutes, Title 17-A.
12. It requires the Superintendent of Consumer Credit Protection to report annually to the Legislature.
13. It adds a requirement of good faith and fair dealing on loan brokers.
14. It establishes the Bureau of Consumer Credit Protection to replace the current Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation.

LD 1869, as amended, was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **Enacted Law Summary**

Public Law 2007, chapter 273 makes significant changes to current Maine law relating to residential mortgage loans and permissible high-rate, high-fee mortgages. The law updates and amends current law to address predatory and abusive lending practices and to provide additional protections for Maine consumers.

With regard to the making of residential mortgage loans, the law includes the following provisions.

1. It clarifies that construction loans are excluded from the definition of "residential mortgage loan."
2. It lowers the threshold for fees that can be charged in connection with certain residential home mortgage loans from 8% of the total loan amount to 5% or 6% based upon the total loan amount.
3. It prohibits creditors from recommending or encouraging default on an existing loan in connection with the

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closing or planned closing on a refinancing.

4. It prohibits creditors from "flipping" loans, which means the refinancing of a loan with no tangible net benefit to the borrower. It also requires rulemaking to further define net tangible benefit before January 1, 2008.
5. It places restrictions on the imposition of late payment fees or penalties.
6. It prohibits creditors from financing premiums or payments for credit insurance or debt cancellation agreements as part of the loan.
7. It prohibits the inclusion of a provision in mortgage loan contracts that permits the creditor, in its sole discretion, to accelerate the indebtedness.
8. It prohibits creditors from charging a fee to receive the amount of the payoff balance for a loan or to receive a release upon prepayment and also requires creditors to provide a payoff balance as required by law.
9. It requires that creditors have a reasonable belief at the time of closing on a subprime mortgage loan that the borrower has the financial ability to make the scheduled payments on the loan.

With regard to the making of high-rate, high-fee mortgages, the law includes the following provisions.

1. It requires that, before making the loan, creditors receive certification that a borrower has received counseling on the advisability of such a loan from a 3rd-party, nonprofit organization approved by the United States Department of Housing and Urban Development, the Maine State Housing Authority or the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection.
2. It prohibits creditors from financing any points or fees in connection with the loan.
3. It prohibits the inclusion of prepayment penalties or fees.
4. It prohibits scheduled payments more than twice as large as the average of earlier scheduled payments unless the payment schedule is adjusted according to the seasonal or irregular income of a borrower.
5. It prohibits payment terms under which outstanding principal or accrued interest will increase at any time because the scheduled payments do not cover the full amount of interest due.
6. It prohibits loan terms that increase the interest rate following a default.
7. It prohibits terms under which more than 2 periodic payments are consolidated and paid in advance from loan proceeds provided to the borrower.
8. It prohibits fees in connection with the modification of the loan or deferral of payments under the terms of the loan.
9. It requires certain disclosures related to the purchase or assignment of high-rate, high-fee mortgages and the effect on claims and defenses available to the borrower. The law makes purchasers or assignees of high-rate, high-fee mortgages subject to all affirmative claims and any defenses that a borrower can assert against the creditor that originated the loan, except claims that the creditor did not have a reasonable belief at closing that the borrower had the financial ability to make scheduled payments, unless certain requirements are satisfied by the purchaser or assignee of the mortgage.
10. It prohibits creditors from paying a contractor for home improvements from the proceeds of a high-rate, high-fee

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mortgage unless the payment instrument is payable jointly to the borrower and the contractor or paid to an escrow account and the creditor has received proof that the home repairs are completed.

The law requires that a consumer be specifically notified if a prepayment penalty provision is added to the consumer's mortgage note just before closing.

The law applies consumer protections to so-called "piggy-back" loans, which are second-lien mortgages used in conjunction with first-lien loans to purchase real estate. This law prohibits lenders and loan brokers from facilitating submission of false credit application information by a consumer.

The law regulates the sale and issuance of rate locks by lenders and brokers.

The law prohibits inclusion of contradictory information about prepayment penalties in a consumer's closing package.

The law requires disclosure to a consumer of any yield spread premium to be paid to a loan broker by a lender.

The law prevents unfair or deceptive practices with respect to trigger leads derived from consumers' credit reports.

The law adds a requirement of good faith and fair dealing on loan brokers.

The law increases the accountability of lenders and loan brokers operating across state lines by permitting state mortgage regulators to participate in a uniform automated nationwide mortgage licensing system once the system is developed and implemented.

The law makes creditors who violate the provisions enacted in the law subject to monetary penalties and enforcement by the Department of Professional and Financial Regulation, Bureau of Financial Institutions, the Office of Consumer Credit Regulation as well as the Attorney General for entities regulated by the Office of Consumer Credit Regulation, except for assignees or purchasers of loans. The law also gives borrowers the right to bring a private court action against creditors for violations and to recover statutory, actual and punitive damages. Punitive damages are permitted for violations of the high-rate, high-fee mortgage provisions or the flipping provision when the violation is malicious or reckless. The law excludes creditors who make residential mortgage loans from potential criminal liability and clarifies that fines and terms of imprisonment for violations of the law's provisions are in accordance with the Maine Revised Statutes, Title 17-A.

The law applies to all residential mortgage loans and high-rate, high-fee mortgages made in connection with residential property located in this State.

The law establishes the Bureau of Consumer Credit Protection to replace the current Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation and adds 2 new positions, an investigator and a staff attorney.

Public Law 2007, chapter 273 takes effect January 1, 2008, except for the provisions establishing the Bureau of Consumer Credit Protection and the 2 new positions, which take effect 90 days after adjournment.

### **Senate Amendment "A" (S-188)**

This amendment is being presented on behalf of the Committee on Bills in the Second Reading to avoid a conflict with duplicate section numbers already enacted in Public Law 2007, chapter 185.

Senate Amendment "A" to LD 1869 was not adopted.

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

**LD 1890    An Act To Make Health Care Affordable, Accessible and Effective for  
All**

**DIED ON  
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE	OTP-AM    A OTP-AM    B OTP-AM    C	

LD 1890 does the following.

Part A requires all insurance carriers to offer a discount on premiums for nonsmokers and requires insurance carriers in the small and large group markets to offer a discount on premiums for participants in workplace wellness programs. This Part directs Dirigo Health's Maine Quality Forum to develop certification standards for eligible workplace wellness programs.

Part B clarifies that all rate filings, as well as information and documentation used to support the filings, are public records. It also requires that carriers provide demonstrable proof and quantify the amount of any recovery of the savings offset payment until repealed or the surcharge through negotiations with health care providers as part of the filing.

Part C requires a medical loss ratio of 78% in the individual market and requires approval from the Department of Professional and Financial Regulation, Bureau of Insurance for all rate filings in the small group market. This Part also requires carriers to refund the amount of the premium above the amount necessary to achieve a 78% loss ratio to policyholders in both the individual and small group markets.

Part D extends the provision allowing carriers to lower premium costs by including financial incentives to members to use designated providers and gives the Superintendent of Insurance the authority to develop a financial incentive pilot program that allows companies to offer products in which consumers can choose to travel further for cost savings and better quality.

Part E establishes a reinsurance plan for the individual health insurance market, effective January 2009. It preserves guaranteed issue, keeps all people in the same pool and provides reinsurance for all claims above a certain limit, reducing the community rate in the individual insurance market. It requires that all insurers in the individual market offer a plan that includes a \$1,000 deductible, a prescription drug benefit not subject to a deductible and the option of no lifetime benefit maximum. It expands individual insurance market community rating bands for age and geography to plus or minus 33% in 2008; in 2009, when the reinsurance program becomes effective, the bands may be adjusted to plus or minus 50% and by an additional 10% upward for variation in health status. If individual insurance market savings are not achieved in the rate-filings submitted by insurers to the Bureau of Insurance by September 1, 2008, the 2009 rating expansions and the law establishing the individual reinsurance plan will not go into effect.

Part E also provides that health maintenance organizations are subject to the tax imposed on insurance premiums beginning October 1, 2007, with 85% of the resulting revenue dedicated to the Dirigo Health Program for one year and then to the individual reinsurance plan in the Maine Revised Statutes, Title 24-A, chapter 54. The reinsurance program is also financed in part by reinsurance premiums paid by insurers in the individual market. Beginning October 1, 2007, health maintenance organizations will not be subject to the corporate income tax. This Part also amends the Maine corporate income tax law to provide that income received by an insurance company from a health maintenance organization that is not separately organized is also not subject to the corporate income tax.

Part F makes permanent, beginning on or after July 1, 2008, the temporary voluntary cost containment targets on

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hospital consolidated operating margins and cost increases, which were initiated in Public Law 2003, chapter 469, Part F, section 1 and which otherwise would expire.

Part G allows Dirigo Health to administer grants and other subsidies to strengthen the State's health care quality improvement infrastructure.

Part H allows persons who become eligible for premium assistance through MaineCare to enroll in their employer's group health care plan outside of the annual open enrollment period in order to allow MaineCare to pay eligible employees' premiums.

Part I establishes a health care shared responsibility program to require certain employers and individuals who do not offer or take up health insurance to pay a fee toward coverage of the uninsured. This Part directs Dirigo Health, in consultation with representatives from the business, labor, economic development, taxation, consumer, insurance and health care communities along with other interested stakeholders, to adopt major substantive rules to implement this program and to address the concerns for affordability and fairness and the impact on the business climate.

Part J disallows employers from counting MaineCare enrollees for purposes of determining the 75% of workforce eligibility for small group health plans, including DirigoChoice. This Part allows Dirigo Health to reduce the amount employers must contribute toward coverage to join DirigoChoice and also allows Dirigo Health, once the health care shared responsibility contribution requirement is implemented, to subsidize approved plans provided by multiple carriers. This Part also reduces from 20 to 10 the number of hours employees must work before being eligible for coverage under their employer's DirigoChoice plan. This Part allows Dirigo Health to assist employers in establishing payroll deduction systems that would help employees purchase health coverage with pre-tax dollars.

Part K requires the Superintendent of Insurance to report yearly to the Legislature the numbers of previously uninsured individuals who have enrolled in any health insurance product regulated by the Bureau of Insurance.

Part L replaces the savings offset payment with a surcharge. The surcharge is added to certain payments made to hospitals and is paid to Dirigo Health by an expanded group of payors, some of whom are now exempt from payment. The intent of this provision is to reduce the amount paid by each payor by sharing responsibility among a larger group of payors. The amount of the surcharge cannot exceed the actual total incurred claims paid in the preceding year for previously underinsured and uninsured individuals now covered through the program. The Board of Directors of Dirigo Health has the authority to exclude amounts established by rule for which the costs and efficiency of billing or enforcing collection from an individual would not be cost-effective.

### **Committee Amendment "A" (H-615)**

This amendment replaces the bill and makes changes to the laws governing health insurance and the Dirigo Health Program.

Part A requires carriers to offer a wellness program in all small group and group health plans. The Part requires that carriers offer enrollees participating in the wellness program a financially tangible benefit, including a premium discount. The Part also requires that carriers report annually to the Superintendent of Insurance about the wellness programs offered to enrollees and that the superintendent report aggregate data from carriers to the Legislature and to the Maine Quality Forum. Part A also requires all individual health plans to provide coverage for tobacco cessation treatment.

Part B requires that all insurers in the individual market offer a plan that includes a \$1,000 deductible, a prescription drug benefit not subject to a deductible and the option of no cap on the lifetime maximum benefit.

Part C directs the Superintendent of Insurance to report the results of the consensus-based rule-making process related to possible amendments to Bureau of Insurance Rule Chapter 850. The Part also permits the Joint Standing Committee on Insurance and Financial Services to submit legislation to the Second Regular Session of the 123rd

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Legislature.

Part D establishes a reinsurance mechanism for the individual health insurance market. The Part provides reimbursement to carriers offering individual health plans for 80% of claims incurred between \$50,000 and \$200,000 for health plans as determined by the superintendent.

Part E modifies the community rating band in the individual market to permit the variation of rates below the community rate by 40% on the basis of age. This Part prohibits rating variations on the basis of geographic area and occupation or industry. Rates may not vary above the community rate by more than 20%.

Part F requires the Superintendent of Insurance to study the impact of merging the individual and small group markets.

Part G makes changes to the standards for the review of individual and small group health insurance rate filings. This Part also prohibits carriers from increasing rates to account for the hospital surcharge paid to support Dirigo Health unless the carrier has a loss ratio of 83% or higher for its individual health plans. Small group carriers are prohibited from increasing their rates.

Part H clarifies that rate filings and supporting information are public records subject to disclosure and requires the Superintendent of Insurance to review Bureau of Insurance Rule Chapter 945 to identify any gaps in data filed by insurance companies to improve transparency in developing premium rates. Part H also requires carriers in the individual market to have a loss ratio of 78% and to refund the excess amount to policy holders.

Part I requires the Superintendent of Insurance to report yearly to the Legislature the impact of changes to the rating provisions in the Maine Revised Statutes, Title 24-A, section 2736-C and the establishment of the Maine Individual Reinsurance Program pursuant to Title 24-A, chapter 54 on the overall health insurance market, including the number of carriers, the types of products offered and the number of individuals enrolled in health plans. This Part also requires the Governor's Office of Health Policy and Finance to study the impact of an individual and employer mandate in conjunction with the Department of Labor.

Part J allows Dirigo Health to administer grants and other subsidies to strengthen the State's health care quality improvement infrastructure.

Part K allows Dirigo Health to subsidize approved plans provided by multiple carriers. This Part also permits eligible businesses to elect to treat as eligible employees who work at least 10 hours per week for coverage under their employer's DirigoChoice plan. This Part allows Dirigo Health to assist employers in establishing payroll deduction systems that would help employees purchase health coverage with pre-tax dollars.

Part L makes permanent, beginning on or after July 1, 2008, the temporary voluntary cost containment targets on hospital consolidated operating margins and cost increases, which were initiated in Public Law 2003, chapter 469, Part F, section 1 and which otherwise would expire.

Part M authorizes the Board of Directors of Dirigo Health to develop a demonstration project to provide a targeted DirigoChoice health coverage plan to meet the needs of temporary and seasonal workers and long-term care employers and their employees and that allows multiple employers to contribute monthly premium assistance to temporary and seasonal workers and direct-care employees eligible to enroll in DirigoChoice as an individual.

Part N repeals the savings offset payment. The Part establishes a 1.8% surcharge on hospital bills. The Part increases the tax on cigarettes by 75 cents per pack and equalizes the rate of tax imposed on all tobacco products. The Part requires that these revenues be credited to the Dirigo Health Enterprise Fund to support the Dirigo Health Program except that 24% of the revenues must be transferred to the Maine Individual Reinsurance Program.

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Part O changes cross-references.

Part P adds an appropriations and allocations section to the bill.

Committee Amendment "A" was not adopted.

### **Committee Amendment "B" (H-616)**

This amendment replaces the bill and makes changes to the laws governing health insurance and the Dirigo Health Program.

Part A requires carriers to offer a wellness program in all small group and group health plans. The Part requires that carriers offer enrollees participating in the wellness program a financially tangible benefit, including a premium discount. The Part also requires that carriers report annually to the Superintendent of Insurance about the wellness programs offered to enrollees and that the superintendent report aggregate data from carriers to the Legislature and to the Maine Quality Forum.

Part B requires that all insurers in the individual market offer a plan that includes a \$1,000 deductible, a prescription drug benefit not subject to a deductible and the option of no cap on the lifetime maximum benefit.

Part C extends the provision allowing carriers to lower premium costs by including financial incentives to members to use designated providers and gives the Superintendent of Insurance the authority to develop a financial incentive pilot program that allows companies to offer products in which consumers can choose to travel further for cost savings and better quality.

Part D establishes a reinsurance pool for the individual health insurance market and is modeled on a similar reinsurance pool in Idaho. The Part requires insurers that provide medical insurance as defined in the bill to pay an assessment of up to \$2 per covered person per month to partially support the costs of the reinsurance pool. The Part requires all individual carriers to guarantee issue of all health plans approved by the high-risk reinsurance pool as a condition of offering individual health plans in this State.

Part E allows a maximum rate differential for individual health plans on the basis of age, occupation or industry and geographic area of 4:1 and a maximum rate differential on the basis of health status and tobacco use of 1.5:1.

Part F requires the Superintendent of Insurance to report yearly to the Legislature the impact of changes to the rating provisions in Title 24-A, section 2736-C and the establishment of the Maine Individual High-risk Reinsurance Pool pursuant to Title 24-A, chapter 54, the total number of individuals enrolled in any health insurance product regulated by the Bureau of Insurance and the numbers of previously uninsured individuals who have enrolled in any health insurance product regulated by the Bureau of Insurance.

Part G allows Dirigo Health to administer grants and other subsidies to strengthen the State's health care quality improvement infrastructure.

Part H allows Dirigo Health to subsidize approved plans provided by multiple carriers. This Part allows Dirigo Health to assist employers in establishing payroll deduction systems that would help employees purchase health coverage with pre-tax dollars.

Part I makes permanent, beginning on or after July 1, 2008, the temporary voluntary cost containment targets on hospital consolidated operating margins and cost increases, which were initiated in Public Law 2003, chapter 469, Part F, section 1 and which otherwise would expire.

Part J repeals the savings offset payment as a source of funding for Dirigo Health.

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Part K corrects cross-references.

Committee Amendment "B" was not adopted.

### **Committee Amendment "C" (H-617)**

This amendment replaces the bill and makes changes governing health insurance and the Dirigo Health Program.

Part A requires carriers to offer a wellness program in all small group and group health plans. The Part requires that carriers offer enrollees participating in the wellness program a financially tangible benefit, including a premium discount. The Part also requires that carriers report annually to the Superintendent of Insurance about the wellness programs offered to enrollees and that the superintendent report aggregate data from carriers to the Legislature and to the Maine Quality Forum.

Part B requires that all insurers in the individual market offer a plan that includes a \$1,000 deductible, a prescription drug benefit not subject to a deductible and the option of no cap on the lifetime maximum benefit.

Part C extends the provision allowing carriers to lower premium costs by including financial incentives to members to use designated providers and gives the Superintendent of Insurance the authority to develop a financial incentive pilot program that allows companies to offer products in which consumers can choose to travel further for cost savings and better quality.

Part D establishes a reinsurance pool for the individual health insurance market and is modeled on a similar reinsurance pool in Idaho. The Part requires insurers that provide medical insurance as defined in the bill to pay an assessment of up to \$2 per covered person per month to partially support the costs of the reinsurance pool. The Part requires all individual carriers to guarantee issue of all health plans approved by the high-risk reinsurance pool as a condition of offering individual health plans in this State.

Part E allows a maximum rate differential for individual health plans on the basis of age, occupation or industry and geographic area of 4:1 and a maximum rate differential on the basis of health status and tobacco use of 1.5:1.

Part F requires the Superintendent of Insurance to report yearly to the Legislature the impact of changes to the rating provisions in Title 24-A, section 2736-C and the establishment of the Maine Individual High-risk Reinsurance Pool pursuant to Title 24-A, chapter 54, the total number of individuals enrolled in any health insurance product regulated by the Bureau of Insurance and the numbers of previously uninsured individuals who have enrolled in any health insurance product regulated by the Bureau of Insurance.

Part G allows Dirigo Health to administer grants and other subsidies to strengthen the State's health care quality improvement infrastructure.

Part H allows Dirigo Health to subsidize approved plans provided by multiple carriers. This Part also permits eligible businesses to elect to treat employees who work at least 10 hours per week as eligible for coverage under their employer's DirigoChoice plan. This Part allows Dirigo Health to assist employers in establishing payroll deduction systems that would help employees purchase health coverage with pre-tax dollars.

Part I makes permanent, beginning on or after July 1, 2008, the temporary voluntary cost containment targets on hospital consolidated operating margins and cost increases, which were initiated in Public Law 2003, chapter 469, Part F, section 1 and which otherwise would expire.

Part J makes changes to the funding for subsidies for the Dirigo Health Program. The Part repeals the savings offset payment and puts in its place an assessment on carriers and hospitals. The Part requires carriers to pay an assessment equal to 1% of gross direct premiums for health insurance. The Part also increases the tax payable by hospitals by 1% of net operating revenue. The assessments and hospital revenues must be pooled with other revenues of the

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Dirigo Health Program in the Dirigo Health Enterprise Fund. If the assessments paid in any year exceed \$50,000,000, the Part requires Dirigo Health to use those excess funds to provide subsidies to eligible businesses. The Part also establishes a voluntary checkoff on individual income tax returns for contributions to the Dirigo Health Enterprise Fund to support the costs of health insurance coverage for the uninsured and underinsured.

Part K corrects cross-references.

Part L adds an appropriations and allocations section.

Committee Amendment "C" was not adopted.

### **Senate Amendment "B" (S-384)**

Senate Amendment "B" to Committee Amendment "A" strikes out all of that committee amendment and replaces it with the provisions of Committee Amendment "B". Senate Amendment "B" to Committee Amendment "A" was not adopted.

### **Senate Amendment "B" (S-380)**

Senate Amendment "B" to Committee Amendment "C" strikes all of that committee amendment and replaces it with all of the provisions of Committee Amendment "B." Senate Amendment "B" to Committee Amendment "C" was not adopted.

### **Senate Amendment "C" (S-383)**

Senate Amendment "C" to Committee Amendment "C" strikes out all of the committee amendment and instead does the following in order to increase the affordability and accessibility of health care.

Part A repeals the guaranteed issuance and community rating law for individual health plans effective April 1, 2008 and allows carriers to treat their pre-April 1, 2008 book of business separately from their post-April 1, 2008 book of business. It makes changes to the continuity of coverage laws to allow underwriting when someone switches carriers in the individual market.

Part A creates the Comprehensive Health Insurance Risk Pool Association. The purpose of the association is to spread the cost of high-risk individuals among all health insurers. The bill funds the high-risk pool through an assessment on insurers. An individual insured through the high-risk pool may be charged a premium up to 150% of the average premium rates charged by carriers for similar health insurance plans. The bill requires the State to submit an application to the Federal Government for federal assistance to create a high-risk pool.

Part A also removes the requirement that carriers offer standardized plans as defined in Bureau of Insurance Rule Chapter 750 in the individual market.

Part B repeals the community rating law for small group health plans effective January 1, 2009 and enacts in its place provisions governing the rating of small group health plans based on a model act from the National Association of Insurance Commissioners.

Part C allows a health maintenance organization to offer health plans that do not comply with geographic access standards if the health maintenance organization also offers health plans that comply with those access standards or offers a fee-for-service health plan.

Part D requires the Department of Professional and Financial Regulation, Bureau of Insurance to conduct a study of the State's rate and form filing laws and make recommendations for changes to reduce the costs and resources expended by health insurance carriers seeking regulatory approval of new health insurance products.

Senate Amendment "C" to Committee Amendment "C" was not adopted.

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

### **Senate Amendment "A" (S-382)**

Senate Amendment "A" to Committee Amendment "A" strikes the committee amendment and instead does the following in order to increase the affordability and accessibility of health care.

Part A repeals the guaranteed issuance and community rating law for individual health plans effective April 1, 2008 and allows carriers to treat their pre-April 1, 2008 book of business separately from their post-April 1, 2008 book of business. It makes changes to the continuity of coverage laws to allow underwriting when someone switches carriers in the individual market.

Part A creates the Comprehensive Health Insurance Risk Pool Association. The purpose of the association is to spread the cost of high-risk individuals among all health insurers. The bill funds the high-risk pool through an assessment on insurers. An individual insured through the high-risk pool may be charged a premium up to 150% of the average premium rates charged by carriers for similar health insurance plans. The bill requires the State to submit an application to the Federal Government for federal assistance to create a high-risk pool.

Part A also removes the requirement that carriers offer standardized plans as defined in Bureau of Insurance Rule Chapter 750 in the individual market.

Part B repeals the community rating law for small group health plans effective January 1, 2009 and enacts in its place provisions governing the rating of small group health plans based on a model act from the National Association of Insurance Commissioners.

Part C allows a health maintenance organization to offer health plans that do not comply with geographic access standards if the health maintenance organization also offers health plans that comply with those access standards or offers a fee-for-service health plan.

Part D requires the Department of Professional and Financial Regulation, Bureau of Insurance to conduct a study of the State's rate and form filing laws and make recommendations for changes to reduce the costs and resources expended by health insurance carriers seeking regulatory approval of new health insurance products.

Senate Amendment "A" to Committee Amendment "A" was not adopted.

### **Senate Amendment "A" (S-379)**

Senate Amendment "A" to Committee Amendment "C" does the following.

1. It maintains guaranteed issue in the individual market.
2. It modifies the reinsurance pool to make it clear that individuals will not be placed in a separate risk pool or be covered under different health plans than those available in the individual market. The amendment permits carriers in the individual market to use an individual health assessment to designate persons covered under an individual health plan for inclusion in the reinsurance pool at the time a policy is issued.
3. The amendment requires carriers to account for the impact of the reinsurance pool in rates for individual health plans filed for approval with the Superintendent of Insurance.
4. The amendment modifies the community rating provisions in the committee amendment to permit premium rates to vary on the basis of age up to 33% above or up to 66% below the community rate. The amendment would maintain the requirement in current law that permits premium rates to vary on the basis of geographic area and occupation or industry up to 20% above or below the community rate.
5. The amendment adds a requirement that carriers in the individual market maintain a loss ratio of 78%.

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6. The amendment removes the provisions in the committee amendment that impose a 1% assessment on carriers and increase the hospital tax by 1% to fund the Dirigo Health Program. This amendment increases the tax on cigarettes by 75¢ and equalizes the rate of tax on all other tobacco products. The amendment requires that all of the revenues from the tax increases be credited to the Dirigo Health Enterprise Fund to support the Dirigo Health Program.

7. The amendment removes the provision in the committee amendment establishing a voluntary checkoff on individual income tax returns for contributions to the Dirigo Health Enterprise Fund.

Senate Amendment "A" to Committee Amendment "C" was not adopted.

LD 1890 was still in possession of the House upon adjournment sine die.

### **LD 1894     An Act To Ensure Affordable Health Care for Maine Families through Shared Responsibilities**

**ONTP**

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

LD 1894 is a concept draft pursuant to Joint Rule 208. The bill proposes to expand health care coverage through the Dirigo Health Program based on the principle of shared responsibility.

The major components of the bill include the following.

**1. Employer contribution.** The bill requires that employers pay an assessment based on the employer's taxable payroll. Before making such payment, the employer may credit against the payment any sums paid by the employer toward employee nonpayroll benefits. Small employers, employers in financial hardship and employers in business for less than 2 years may be exempted from the employer contribution. The assessment must be used solely for the purpose of expanding access to health care through the Dirigo Health Program.

**2. Insurance carrier contribution.** The bill requires each insurance carrier to achieve a minimum loss ratio, to be specified in this bill, across all its products. This minimum loss ratio must be calculated at the end of each calendar year and must reflect the aggregate of all health insurance products sold in Maine by that carrier. Any insurance carrier that does not achieve the minimum loss ratio must be assessed an amount equal to 1/2 of the difference between the carrier's actual loss ratio and the minimum loss ratio. The carrier may not pass through any portion of the assessment to individual policyholders or providers. This assessment must be used to provide reinsurance to reduce premiums in the nongroup health insurance market and in the DirigoChoice product.

**3. Hospital contribution.** Under this bill, each hospital licensed to operate as a charity in the State must provide an amount of free charity care, to be determined in this bill. Any hospital that does not provide free care in the statutorily determined amount will be assessed an amount equal to the difference between the statutorily determined amount and the value of the free care actually provided by the hospital. The charity hospital may not pass this payment on to patients, providers or carriers. Any charity hospital in financial hardship may apply to the Department of Health and Human Services for a waiver of the assessment. A hospital is not in financial hardship if its most recent yearly operating margin exceeds a threshold to be determined in this bill, or if its unrestricted financial assets exceed a percentage of its net operating revenue to be determined in this bill. The assessment will be used solely for the purposes of expanding access to health care through the Dirigo Health Program.

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**4. Individual contribution.** The bill requires that persons earning above a statutorily determined income threshold ensure that they and their dependents are covered by a comprehensive health insurance policy by January 1, 2008, except that for a person under 30 years of age, a qualifying health insurance policy is any policy approved by the Department of Professional and Financial Regulation, Bureau of Insurance. A person who does not maintain a qualifying health insurance policy for at least 10 months during the year may not be credited with the standard individual exemption in that person's next Maine income tax filing. Maine Revenue Services will transfer the value of any increased tax collections as a result of this provision to the Dirigo Health Program.

**5. Application of assessments.** The bill requires that funding from the employer, hospital and individual contribution sources be applied to achieve the goal of expanding access to health care by opening Dirigo Health up to 60,000 members by 2010.

**6. Cost containment.** The bill establishes a cost containment commission, which is charged with the responsibility and authority of achieving savings of 2% in the cost of health care in the State.

**7. Rulemaking.** The bill authorizes Dirigo Health, the Bureau of Insurance, Maine Revenue Services or other authority established pursuant to this legislation to undertake rulemaking to enforce the provisions of this bill.

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## **SUBJECT INDEX**

### *Banking and Credit Unions*

#### Enacted

LD 687	An Act To Clarify That a Financial Institution Must Recognize a Writ of Execution To Satisfy a Creditor's Claims to Business Accounts Held by That Financial Institution	PUBLIC 88
LD 904	An Act To Make Technical and Supervisory Amendments to the Banking Laws	PUBLIC 79
LD 1428	An Act To Facilitate Reporting by Maine Financial Institutions of Elder Financial Exploitation	PUBLIC 108
LD 1452	An Act To Protect a Borrower's Right To Use the Borrower's Chosen Accounting Service	PUBLIC 185
LD 1829	An Act To Amend the Banking Laws Regarding the Establishment of Branches by Financial Institutions with Affiliates That Engage in Commercial Activity	PUBLIC 69

#### Not Enacted

LD 100	An Act To Prohibit Retail Store-operated Banks	ONTP
LD 456	An Act To Protect Holders of Small Bank Accounts	ACCEPTED ONTP REPORT
LD 635	An Act To Amend the Banking Laws Regarding Industrial Loan Company Reciprocity across State Lines	ONTP

### *Consumer Credit*

#### Enacted

LD 135	An Act To Amend the Debt Management Services Laws	PUBLIC 36
LD 231	An Act To Modify the Laws Regarding Garnishment of Wages	PUBLIC 7
LD 951	An Act To Amend the Laws Governing Credit Card Companies	PUBLIC 99
LD 1476	An Act Relating to Bad Check Enforcement Programs Operated by Private Entities	PUBLIC 214

#### Not Enacted

LD 331	An Act To Incorporate the Federal Real Estate Settlement Procedures Act into the Maine Consumer Credit Code	ONTP
LD 371	An Act To Protect Young Consumers	ONTP
LD 958	An Act To Protect Maine Citizens' Credit	ACCEPTED ONTP REPORT
LD 1401	An Act Prohibiting Delivery of Unsolicited Credit Cards	ONTP

### *Dirigo Health*

#### Enacted

LD 431	An Act To Enable the Dirigo Health Program To Be Self-administered	PUBLIC 447
LD 911	Resolve, To Promote Health Care Insurance for Volunteer Public Safety Personnel through the Dirigo Health Program	RESOLVE 118
LD 1568	Resolve, To Explore the Feasibility of Enrolling the Legislature as an Employer Group in Dirigo Health	RESOLVE 112

#### Not Enacted

LD 439	An Act To Reform the Dirigo Health Program	ONTP
LD 526	An Act To Increase Eligibility for the Dirigo Health Program	ONTP
LD 773	An Act To Preserve Dirigo Choice	ONTP
LD 959	An Act To Require Insurers To Use Savings from Dirigo Health To Reduce Premiums	ACCEPTED ONTP REPORT
LD 1028	An Act To Reform Dirigo Health	ONTP
LD 1716	An Act To Ensure That DirigoChoice Is Affordable	ONTP

### *Insurance, Health*

#### Enacted

LD 101	An Act To Enhance Screening for Breast Cancer	PUBLIC 153
LD 416	An Act To Protect Seniors and the Public from Unfair Health Insurance Sales Practices	PUBLIC 53 EMERGENCY

LD 841	An Act To Extend Health Insurance Coverage for Dependent Children up to 25 Years of Age	PUBLIC 115
LD 1208	An Act To Create Uniformity among Certain Self-insureds	PUBLIC 278
LD 1218	An Act To Further Limit Retrospective Denials of Previously Paid Health Insurance Claims	PUBLIC 106
LD 1503	An Act To Clarify and Update the Laws Related to Health Insurance	PUBLIC 199 EMERGENCY
LD 1514	An Act To Require Health Insurance Coverage for Hearing Aids	PUBLIC 452
LD 1521	Resolve, To Provide Education Concerning and Insurance Coverage for Lyme Disease	RESOLVE 143
LD 1753	An Act Regarding Health Insurance Coverage for Persons under the Influence of Alcohol or Narcotics	PUBLIC 216
<b><u>Not Enacted</u></b>		
LD 278	Resolve, To Assess the Feasibility and Efficiency of Combining All Health Insurance Funds Supported by the State	ONTP
LD 476	An Act To Establish a Reinsurance Fund To Expand Health Insurance Coverage for Individuals and Small Groups	ONTP
LD 578	An Act To Help Maine People Be Informed Medical Consumers	ONTP
LD 589	An Act To Repeal Certain Health Savings Account Provisions	ONTP
LD 658	An Act To Protect the Health of Infants	CARRIED OVER
LD 688	An Act To Establish a Universal Health Care Program	ONTP
LD 842	An Act To Require Insurance Coverage for Infertility Treatments	ONTP
LD 912	An Act To Return Affordable Health Insurance to the State	ONTP
LD 1047	An Act To Lower the Cost of Health Insurance	CARRIED OVER
LD 1072	An Act To Establish a Single-payor Health Care System	CARRIED OVER
LD 1082	An Act To Create a Maine-based Independent Nonprofit Health Insurance Company	CARRIED OVER
LD 1102	An Act To Lower Mandatory Group Participation Rates to 60%	ONTP

LD 1230	An Act To Protect Consumers against Inadequate Health Care Coverage	ONTP
LD 1269	Resolve, To Study the Feasibility of Pine Tree Health Care Insurance Zones	ONTP
LD 1294	An Act To Establish a Health Care Bill of Rights	CARRIED OVER
LD 1429	An Act To Require Insurance Coverage for Temporomandibular Joint Disorders	DIED BETWEEN HOUSES
LD 1517	An Act To Allow Maine Consumers To Purchase Health Insurance from Out-of-State Insurers	ACCEPTED ONTP REPORT
LD 1539	An Act To Implement a Single-Payor Health Care System	ONTP
LD 1592	An Act To Protect Small Businesses and Individual Health Insurance Consumers	ONTP
LD 1640	An Act To Allow Health Insurance Premiums To Vary Based on Behaviors Pertaining to Health	ONTP
LD 1659	An Act To Improve the Affordability of Health Insurance for Maine People	ONTP
LD 1667	An Act To Require Health Insurers To Provide Coverage for Nutritional Wellness and Prevention	CARRIED OVER
LD 1715	An Act To Reduce the Cost of Health Insurance	ONTP
LD 1742	An Act To Permit Greater Flexibility in the Design of Affordable Health Insurance	ONTP
LD 1760	An Act To Restore Competition to Maine's Health Insurance Market	CARRIED OVER
LD 1890	An Act To Make Health Care Affordable, Accessible and Effective for All	DIED ON ADJOURNMENT
LD 1894	An Act To Ensure Affordable Health Care for Maine Families through Shared Responsibilities	ONTP

*Insurance, Motor Vehicle*

Enacted

LD 1474	An Act To Increase the Minimum Medical Payments Coverage in Automobile Insurance	PUBLIC 213
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*Insurance, Regulation and Practices*

**Enacted**

LD 138	An Act To Require Prior Notice before Cancellation of a Life Insurance Policy for Nonpayment of Premiums	PUBLIC 40
LD 415	An Act To Enhance Consumer Awareness of Insurance Sales Activity	PUBLIC 32
LD 590	An Act To Amend Certain Requirements Applicable to Insurance Producers	PUBLIC 51
LD 682	An Act To Allow Schools in the State To Self-insure for Fire, Property and Theft Insurance	PUBLIC 84
LD 991	An Act To Clarify the Security Requirements for Self-insurers	PUBLIC 75
LD 1083	An Act To Clarify the Use of Insurance Scores	PUBLIC 74
LD 1253	An Act To Protect Consumers from Deceptive Insurance Solicitation	PUBLIC 118
LD 1262	An Act Regarding Property and Casualty Insurance Actuarial Opinion of Reserves	PUBLIC 281
LD 1390	An Act Related to Special Purpose Reinsurance Vehicles	PUBLIC 386 EMERGENCY
LD 1502	An Act To Clarify and Update the Laws Related to Property and Casualty Insurance	PUBLIC 188
LD 1865	An Act To Amend the Long-term Care Insurance Law	PUBLIC 232

**Not Enacted**

LD 388	An Act Concerning Insurance for Churches and Nonprofit Organizations	ONTP
LD 419	An Act To Restrict the Use of Credit Scoring for Insurance Purposes	DIED BETWEEN HOUSES
LD 713	An Act To Create the Insurance Fraud Division within the Bureau of Insurance	DIED BETWEEN HOUSES
LD 1046	An Act To Make Changes to Maine's Homeowner Property Insurance Laws	ONTP
LD 1066	An Act To Protect Consumers in the Insurance Industry	ONTP
LD 1116	An Act To Create a State-sponsored Mutual Liability Company To Underwrite Risk for Snowmobile and ATV Clubs	ONTP
LD 1287	An Act To Assist Maine Pharmacies	ONTP

LD 1389	An Act To Provide for Prompt Resolution of Insurance Claims	ONTP
LD 1641	An Act To Provide for Transparency in Insurance Rate Proceedings	ONTP

*Insurance, Workers' Compensation*

Enacted

LD 840	An Act To Update the Authority of the Maine Employers' Mutual Insurance Company To Better Serve the Needs of Maine Employers	PUBLIC 125
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Not Enacted

LD 234	An Act To Amend the Laws Concerning the Assessment of Rates for Workers' Compensation	ONTP
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*Miscellaneous*

Enacted

LD 797	An Act To Clarify the Exemption of Federal, State and Local Public Assistance Benefits under State Bankruptcy Law	PUBLIC 276
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LD 1489	An Act To Enhance Fairness in Arbitration	PUBLIC 250
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LD 1703	An Act To Regulate Presettlement Lawsuit Funding	PUBLIC 394
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Not Enacted

LD 675	An Act To Eliminate the Interest on Security Deposits for Mobile Homes	DIED BETWEEN HOUSES
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LD 1203	An Act To Amend the Laws Respecting Assignments for the Benefit of Creditors	CARRIED OVER
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LD 1334	Resolve, To Establish a Task Force To Study Strategies To Promote Financial Literacy	ONTP
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*Mortgage Lending*

Enacted

LD 1869	An Act To Protect Maine Homeowners from Predatory Lending	PUBLIC 273
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*Securities*

Enacted

LD 332	An Act To Update References to Federal Laws in the Maine Uniform Securities Act and To Make Other Technical Corrections to the Act	PUBLIC 14 EMERGENCY
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