

STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

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

May 2008

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Joint Standing Committee on Insurance and Financial Services

LD 658 An Act To Protect the Health of Infants

PUBLIC 595

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CURTIS	OTP-AM MAJ ONTP MIN	H-891

LD 658 was carried over from the First Regular Session by joint order, H.P. 1369. 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 "B" (H-891)

This amendment replaces the bill and is the majority report of the committee. The amendment requires health insurance carriers to provide coverage for amino acid-based elemental infant formulas for children 2 years of age and under, regardless of the delivery method, for the treatment of certain specified medical conditions when the infant formula is determined to be medically necessary. The amendment applies to all policies, contracts and certificates issued or renewed on or after January 1, 2009.

Enacted Law Summary

Public Law 2007, chapter 595 requires health insurance carriers to provide coverage for amino acid-based elemental infant formulas for children 2 years of age and under, regardless of the delivery method, for the treatment of certain specified medical conditions when the infant formula is determined to be medically necessary.

Public Law 2007, chapter 595 applies to all individual and group policies, contracts and certificates issued or renewed on or after January 1, 2009.

LD 1047 An Act To Lower the Cost of Health Insurance

ACCEPTED ONTP
REPORT

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

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 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

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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.

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.

Committee Amendment "A" (H-644)

This amendment replaces the bill and is the majority report of the committee. The amendment changes the bill from an act to a resolve. The amendment requires the Legislature to contract for an update to a 2002 study of the

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feasibility of establishing a single-payor health plan in the State. The amendment requires that the updated study be submitted to the First Regular Session of the 124th Legislature and authorizes the joint standing committee of the Legislature having jurisdiction over health insurance matters to submit legislation based on the updated feasibility study.

House Amendment "A" (H-662)

This amendment requires that only outside funding be used to support the costs of the updated study. The amendment also provides that the costs of the study may not exceed \$60,000.

Enacted Law Summary

Resolve 2007, chapter 216 requires the Legislature to contract for an update to a 2002 study of the feasibility of establishing a single-payor health plan in the State. The resolve specifies that the costs of the study may not exceed \$60,000 and that only outside funding be used. The resolve also requires that the updated study be submitted to the First Regular Session of the 124th Legislature and authorizes the joint standing committee of the Legislature having jurisdiction over health insurance matters to submit legislation based on the updated feasibility study.

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

ONTP

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

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 1203 An Act To Amend the Laws Respecting Assignments for the Benefit of Creditors

ONTP

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

LD 1203 was carried over from the First Regular Session by joint order, H. P. 1369. The bill 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.

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

DIED BETWEEN
HOUSES

Sponsor(s)

TREAT

Committee Report

OTP-AM MAJ
ONTP MIN

Amendments Adopted

LD 1294 was carried over from the First Regular Session by joint order, H.P. 1369, after being recommitted before adjournment sine die of the First Regular Session.

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 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 "B" (H-650)

Committee Amendment "B" is the majority report of the committee and 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 health insurance rates be filed for approval 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

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amendment requires the Department of Professional and Financial Regulation, 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 corrects cross-references to repealed law.

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

House Amendment "A" (H-1018)

House Amendment "A" to Committee Amendment "B" removes language in the amendment that directs the insurance company making the rate filing to pay the cost of participation of consultants to the Attorney General. The amendment requires that a carrier provide summaries of coverage and premium rates for at least 5 individual policies with the highest level of enrollment and at least 5 small group policies with the highest level of enrollment on the carrier's publicly accessible website to allow consumers to review coverage offered under the policies. The amendment also requires the Bureau of Insurance to provide a link from its website to the publicly accessible websites of individual and small group insurance carriers.

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

LD 1667 An Act To Require Health Insurers To Provide Coverage for Nutritional Wellness and Prevention ONTP

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

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

LD 1687 An Act To Increase Health Insurance Coverage for Front-line Direct Care Workers Providing Long-term Care ONTP

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

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LD 1687 amends the definition of "eligible business" for the Dirigo Health Program to allow providers of long-term care services with more than 50 employees to participate in the DirigoChoice health insurance plan. The bill also allows uninsured direct care workers who work an average of 10 or more hours per week to participate in the DirigoChoice health insurance plan. The bill directs the Board of Directors of Dirigo Health to develop a marketing and outreach program to enroll those newly eligible direct care workers and to design a targeted DirigoChoice health coverage plan that allows multiple long-term care employers to contribute monthly premium assistance to direct care employees eligible to enroll in Dirigo as an individual. The bill limits the costs to Dirigo Health for subsidies to direct care workers in the targeted DirigoChoice plan to \$400,000.

The bill also requires the Department of Health and Human Services to establish a demonstration project for long-term care providers who provide health insurance coverage to their full-time and part-time employees. The bill requires the department to provide financial assistance to allow those providers to start or expand health care coverage for their direct care employees. The bill limits the funding of the demonstration project to no more than \$500,000.

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

**ACCEPTED ONTP
REPORT**

Sponsor(s)

PILON

Committee Report

ONTP MAJ
OTP-AM MIN

Amendments Adopted

LD 1760 was carried over from the First Regular Session by joint order, H.P. 1369, after being recommitted before adjournment sine die of the First Regular Session.

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.

Committee Amendment "A" (H-667)

This amendment is the minority report of the committee. The amendment clarifies that assessments collected to support the Maine Individual High-risk Reinsurance Pool Association are first deposited in a dedicated fund administered by the Superintendent of Insurance and then transferred to the association. The amendment also clarifies the timing of the transfers to the association. The amendment removes 2 Legislators from the board of the association and adds 2 additional members appointed by insurers. The amendment also changes dates in the bill to reflect the timeline based on enactment of the bill during the Second Regular Session of the 123rd Legislature.

Committee Amendment "A" was not adopted.

House Amendment "A" (H-977)

This amendment accomplishes the following.

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1. It changes the funding mechanism for the Maine Individual High-risk Reinsurance Pool Association established in the bill from a 2% assessment on gross direct premiums of health maintenance organizations to a maximum assessment of \$2 per person covered under health insurance policies.
2. Under the bill, a carrier is permitted to vary the premium rate due to the geographic area of the individual. This amendment prohibits a carrier from varying the premium rate due to geographic area. In addition, unlike the bill, which set out different maximum rate differentials for the different allowable variance factors, this amendment provides that the premium rate may not deviate above or below the community rate filed by the carrier by more than 40%.
3. This amendment changes the definition of "dependent" for purposes of the Maine Individual High-risk Reinsurance Pool Association to correspond with the definition of "dependent child" as used in the law governing health insurance contracts.
4. Committee Amendment "A" provides that a carrier that offered individual health plans prior to January 1, 2009 may close its individual book of business sold prior to January 1, 2009 and may establish a separate community rate for individuals applying for coverage under an individual health plan after January 1, 2009. This amendment changes those dates to January 1, 2010.
5. This amendment amends the provision concerning reimbursement of insurers to change the applicable dates to January 1, 2010.

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

LD 2066 An Act To Clarify the Laws Governing the Extension of Health Care Coverage to Dependents

PUBLIC 514

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW	OTP-AM	H-710

Public Law 2007, chapter 115 enacted last session requires that, if an insurer provides coverage for dependents, the insurer must offer to extend such coverage until the dependent is 25 years of age. LD 2066 clarifies that law so that it is not necessary for the dependent to be currently insured by that insurer for that insurer to offer coverage until the dependent is 25 years of age. In addition, the bill amends the definition of "dependent child" to eliminate the requirement that the child is not provided coverage under any other individual or group health insurance policy or health maintenance organization contract or under a federal or state government program. LD 2066 also requires insurers to provide notice of the availability of coverage until the dependent is 25 years of age. Finally, the bill requires insurers to hold a special open enrollment period during which a covered individual may elect to enroll a dependent child.

Committee Amendment "A" (H-710)

This amendment replaces the bill. As in the bill, the amendment clarifies that it is not necessary that the dependent be currently insured by that insurer for that insurer to be required to offer coverage until the dependent is 25 years of age. The amendment also includes the change in the bill that amends the definition of "dependent child" to eliminate the requirement that the child is not provided coverage under any other individual or group health insurance policy or health maintenance organization contract or under a federal or state government program.

The amendment also requires insurers to provide notice of the availability of extended coverage for dependents upon renewal or at least once annually. This notice requirement is repealed on January 1, 2012. Finally, the amendment eliminates the section in the bill that would have required insurers to hold a special open enrollment period.

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Enacted Law Summary

Public Law 2007, chapter 514 amends the law enacted last session that requires insurers that provide coverage to dependents to offer an extension of health coverage until the dependent is 25 years of age. Public Law 2007, chapter 514 clarifies that it is not necessary that the dependent be currently insured by that insurer for that insurer to be required to offer coverage until the dependent is 25 years of age. The law amends the definition of "dependent child" to eliminate the requirement that the child is not provided coverage under any other individual or group health insurance policy or health maintenance organization contract or under a federal or state government program.

Public Law 2007, chapter 514 also requires insurers to provide notice of the availability of extended coverage for dependents upon renewal or at least once annually. This notice requirement is repealed on January 1, 2012.

LD 2091 An Act To Protect Life Insurance Consumers

PUBLIC 543

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRAUTIGAM	OTP-AM	H-774

LD 2091 amends the Viatical and Life Settlements Act. The bill expands the definition of a "viatical settlement contract" to more specifically exempt from the definition those premium finance transactions and other transactions that are not settlement contracts. The bill extends from 2 to 5 years the general waiting period for settlements and expands the specified exceptions under which policyholders could settle their policies and not be subject to the 5-year settlement waiting period. The bill also specifically requires disclosure to a viator that a viatical settlement broker exclusively represents the viator.

Committee Amendment "A" (H-774)

This amendment replaces the bill and makes the following changes to the Viatical and Life Settlements Act.

1. It repeals the definition of "settlement contract" and enacts a new definition of "settlement contract".
2. It designates entering into stranger-originated life insurance a fraudulent viatical or life settlement act and defines "stranger-originated life insurance".
3. It designates failing to disclose to the insurer when requested by the insurer that the prospective insured has undergone a life expectancy evaluation by a person other than the insurer a fraudulent viatical or life settlement act.
4. It extends the prohibition on settlement of a policy to any time prior to, or at the time of application for, the issuance of a policy.

The amendment also requires the Superintendent of Insurance to review other state and model laws relating to viatical and life settlements and make recommendations, including recommendations for legislation, by March 1, 2009 related to the solicitation of life insurance for the purpose of settling policies, the use of premium finance agreements in association with viatical and life settlements and the disclosures made to viators and owners of life insurance policies. The amendment gives the Joint Standing Committee on Insurance and Financial Services authority to submit legislation to the 124th Legislature based on the superintendent's recommendations.

Enacted Law Summary

Public Law 2007, chapter 543 makes changes to the Viatical and Life Settlements Act. The law repeals the definition of "settlement contract" and enacts a new definition of "settlement contract". The law designates entering into stranger-originated life insurance a fraudulent viatical or life settlement act and defines "stranger-originated life insurance". The law also designates as a fraudulent viatical or life settlement act the failure to disclose to the insurer

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upon request that the prospective insured has undergone a life expectancy evaluation by a person other than the insurer. And the law extends the prohibition on settlement of a policy to any time prior to, or at the time of application for, the issuance of a policy.

Public Law 2007, chapter 543 also requires the Superintendent of Insurance to review other state and model laws relating to viatical and life settlements and make recommendations, including recommendations for legislation, by March 1, 2009 related to the solicitation of life insurance for the purpose of settling policies, the use of premium finance agreements in association with viatical and life settlements and the disclosures made to viators and owners of life insurance policies.

LD 2092 An Act To Amend the Public Works Contractors' Surety Bond Law of 1971

PUBLIC 500

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM MAJ ONTP MIN	H-696

LD 2092 amends the Public Works Contractors' Surety Bond Law of 1971 by increasing from \$100,000 to \$250,000 the threshold limit for a contract for the construction, alteration or repair of any public building or other public improvement or public work for which a person must provide a performance bond and a payment bond. The bill also allows, at the discretion of the State or other contracting authority, the person to provide an irrevocable letter of credit instead of either or both the performance bond and the payment bond.

Committee Amendment "A" (H-696)

This amendment is the majority report of the committee and replaces the bill. The amendment increases from \$100,000 to \$125,000 the threshold limit for a public works contract for which a contractor must provide a performance bond and a payment bond. The bill would have increased the threshold limit to \$250,000. The amendment adds language requiring that bonds include the name and contact information for the surety company that issued the bond. The amendment also requires that any action by any person to collect on a performance bond or payment bond be taken in the county where the construction, alteration or repair of the public building or other public improvement or public work is located.

As in the bill, the amendment allows, at the discretion of the contracting authority, a person to provide an irrevocable letter of credit instead of either or both the performance bond and payment bond. The amendment clarifies that the letter of credit must be issued by a federally insured financial institution and requires the financial institution or its parent company to meet certain financial standards to qualify.

Enacted Law Summary

Public Law 2007, chapter 500 amends the Public Works Contractors' Surety Bond Law of 1971 which requires that contractors post a performance bond and a payment bond for certain public works construction projects. The law increases from \$100,000 to \$125,000 the threshold limit for a public works contract for which a contractor must provide a performance bond and a payment bond. The law requires that performance and payment bonds include the name and contact information for the surety company that issued the bond. At the discretion of the contracting authority, the law permits a person to provide an irrevocable letter of credit instead of either or both the performance bond and payment bond.

Public Law 2007, chapter 500 also requires that any action by any person to collect on a performance bond or payment bond be taken in the county where the construction, alteration or repair of the public building or other public improvement or public work is located.

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LD 2109 An Act Relating to Insurance Coverage for Colorectal Cancer Early Detection

PUBLIC 516

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAZUREK	OTP-AM MAJ ONTP MIN	H-697

LD 2109 requires health insurance policies, contracts and certificates to provide coverage for colorectal cancer screening. The provisions of this bill apply to all policies, contracts and certificates issued or renewed on or after January 1, 2009.

Committee Amendment "A" (H-697)

This amendment replaces the bill and is the majority report of the committee. The amendment requires health insurance policies, contracts and certificates to provide coverage for colorectal cancer screening recommended by health care providers in accordance with guidelines published by the American Cancer Society. The amendment clarifies that, if a colonoscopy is provided as the screening procedure and a lesion is discovered and removed, the health care provider must bill the insurer for a screening colonoscopy as the primary procedure. The provisions of the amendment apply to all policies, contracts and certificates issued or renewed on or after January 1, 2009.

Enacted Law Summary

Public Law 2007, chapter 516 requires health insurance policies, contracts and certificates to provide coverage for colorectal cancer screening recommended by health care providers in accordance with guidelines published by the American Cancer Society. The law also provides that, if a colonoscopy is provided as the screening procedure and a lesion is discovered and removed, the health care provider must bill the insurer for a screening colonoscopy as the primary procedure.

Public Law 2007, chapter 516 applies to all individual and group policies, contracts and certificates issued or renewed on or after January 1, 2009.

LD 2125 An Act Relating to Mortgage Lending and Credit Availability

PUBLIC 471
EMERGENCY

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

Public Law 2007, chapter 273 enacted into law, effective January 1, 2008, changes to the truth in lending laws of the Maine Consumer Credit Code to protect homeowners from predatory lending practices. LD 2125 clarifies that law by doing the following.

1. It amends definitions in the current law such as "nontraditional mortgage," "points and fees" and "residential mortgage loan" and adds other definitions to aid in the implementation and enforcement of the law.
2. It specifies that a subprime mortgage loan is a type of residential mortgage loan.
3. It specifies what reasonable alternatives may be used by a creditor to verify a borrower's income, requires the determination to be documented and removes language that allowed the creditor to consider and disregard statements submitted by or on behalf of the borrower regarding the borrower's income.
4. It provides an exemption from the general civil liability law for those residential mortgage loans that are subject to the penalties imposed specifically for violations of the law regarding residential mortgage loans,

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5. It specifies that the restriction on flipping a loan only applies to a residential mortgage loan when making a subprime mortgage loan.
6. It corrects several cross-references.

LD 2125 was considered by the Legislature without reference to committee.

Enacted Law Summary

Public Law 2007, chapter 471 makes changes to clarify certain provisions of Public Law 2007, chapter 273 enacted into law, effective January 1, 2008, relating to predatory lending practices.

1. The law amends the definitions of "nontraditional mortgage," "points and fees" and "residential mortgage loan" and adds other definitions.
2. The law specifies that a subprime mortgage loan is a type of residential mortgage loan.
3. The law specifies what reasonable alternatives may be used by a creditor to verify a borrower's income, requires the determination to be documented and removes language that allowed the creditor to consider and disregard statements submitted by or on behalf of the borrower regarding the borrower's income.
4. The law provides an exemption from the general civil liability law for those residential mortgage loans that are subject to the penalties imposed specifically for violations of the law regarding residential mortgage loans.
5. The law specifies that the restriction on flipping a loan only applies to a residential mortgage loan when making a subprime mortgage loan.

Public Law 2007, chapter 471 was enacted as an emergency measure and made retroactive to January 1, 2008.

LD 2139 Resolve, Directing the Bureau of Financial Institutions To Study Data Security Breaches in the State

RESOLVE 152

Sponsor(s)
CUMMINGS

Committee Report
OTP-AM

Amendments Adopted
H-698

LD 2139 directs the Department of Professional and Financial Regulation, Bureau of Financial Institutions to study the effect of data security breaches on Maine banks and credit unions, including the damages suffered as a result of these breaches, and report its findings to the Legislature no later than February 1, 2009.

Committee Amendment "A" (H-698)

This amendment replaces the resolve. The amendment directs the Department of Professional and Financial Regulation, Bureau of Financial Institutions to study the effect of data security breaches on Maine banks and credit unions, including the response of banks and credit unions and the actual costs and expenses incurred as a result of such breaches. The resolve requires the Bureau of Financial Institutions to submit its findings to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters by December 1, 2008.

Enacted Law Summary

Resolve 2007, chapter 152 directs the Department of Professional and Financial Regulation, Bureau of Financial Institutions to study the effect of data security breaches on Maine banks and credit unions, including the response of banks and credit unions and the actual costs and expenses incurred as a result of such breaches. The resolve requires the Bureau of Financial Institutions to submit its findings to the joint standing committee of the Legislature having

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jurisdiction over insurance and financial services matters by December 1, 2008.

LD 2157 An Act To Implement the Recommendations of the Joint Standing Committee on Insurance and Financial Services Regarding Reporting on Lyme Disease and Other Tick-borne Illnesses

PUBLIC 561

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ OTP-AM MIN	S-480

LD 2157 is a recommendation of the majority of the Joint Standing Committee on Insurance and Financial Services, and is the result of the committee's study and review of issues regarding Lyme disease and other tick-borne illnesses, which took place between the First Regular Session and Second Regular Session of the 123rd Legislature. The bill requires the Department of Health and Human Services, Maine Center for Disease Control and Prevention to report annually beginning February 1, 2009 to the Legislature on the incidence of Lyme disease and other tick-borne illnesses in the State, the recommended treatment guidelines for Lyme disease, medical studies on the treatment of Lyme disease and other tick-borne illnesses and the activities of the Maine Center for Disease Control and Prevention focused on education, prevention and treatment of Lyme disease and other tick-borne illnesses. The bill also requires that health insurers and the Superintendent of Insurance report annually on health insurance claims for the treatment Lyme disease and other tick-borne illnesses, including information on the number of approved claims, claim denials and the outcome of both internal and external appeals processes.

Committee Amendment "A" (S-480)

This amendment is the majority report of the committee. The amendment clarifies the required information in the annual report to be submitted by the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

Committee Amendment "B" (S-481)

This amendment replaces the bill and is the recommendation of the minority of the committee. Part A of the amendment requires health insurance companies to provide coverage for the treatment of Lyme disease. The mandated coverage applies to all individual and group health insurance policies issued or renewed on or after January 1, 2009.

Part B of the amendment requires the Department of Health and Human Services, Maine Center for Disease Control and Prevention to develop a public health curriculum for the awareness and prevention of Lyme disease and other tick-borne illnesses in elementary schools in the State. Part B also requires the Department of Inland Fisheries and Wildlife and the Maine Center for Disease Control and Prevention to develop a wildlife management program to control the prevalence of ticks that transmit Lyme disease in the State. This Part also adds an appropriations and allocations section.

Committee Amendment "B" was not adopted.

Enacted Law Summary

Public Law 2007, chapter 561 requires the Department of Health and Human Services, Maine Center for Disease Control and Prevention to report annually beginning February 1, 2009 to the Legislature on the incidence of Lyme disease and other tick-borne illnesses in the State, the recommended treatment guidelines for Lyme disease, medical studies on the treatment of Lyme disease and other tick-borne illnesses and the activities of the Maine Center for Disease Control and Prevention focused on education, prevention and treatment of Lyme disease and other tick-borne illnesses.

Public Law 2007, chapter 561 also requires that health insurers and the Superintendent of Insurance report annually

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to the Legislature on health insurance claims for the treatment Lyme disease and other tick-borne illnesses, including information on the number of approved claims, claim denials and the outcome of both internal and external appeals processes.

LD 2162 **Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation** **RESOLVE 160
EMERGENCY**

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

LD 2162 provides for legislative review of portions of Chapter 850: Health Plan Accountability, a major substantive rule of the Department of Professional and Financial Regulation.

Enacted Law Summary

Resolve 2007, chapter 160 authorizes final adoption of portions of Chapter 850: Health Plan Accountability, a major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance.

Resolve 2007, chapter 160 was enacted as an emergency measure effective March 21, 2008.

LD 2189 **An Act To Protect Homeowners from Equity Stripping during Foreclosure** **PUBLIC 596**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST SULLIVAN	OTP-AM	H-892

LD 2189 enacts measures designed to protect homeowners from equity stripping during foreclosures. Equity stripping, also known as equity skimming or foreclosure rescue, is often considered a predatory lending practice because the transactions involve companies that take title to or other mortgage interest in foreclosed properties in exchange for allowing the homeowners to remain in the properties as tenants as long as payments are made. If payments are not made, foreclosed homeowners can lose their homes and are also stripped of any equity held in the home prior to the foreclosure. This bill requires a business that engages in these transactions as a foreclosure purchaser to be licensed as a supervised lender before conducting business in this State and to meet other statutory requirements.

The bill requires that a foreclosure purchaser must ensure that title is transferred back to the homeowner or that the foreclosure purchaser make a payment to the homeowner of at least 82% of the fair market value of the property within 150 days of when the homeowner is evicted or voluntarily gives back possession of the home. The bill requires that foreclosure purchasers verify that a foreclosed homeowner has a reasonable ability to make the payments needed to take back title to the home. The bill provides that there is a rebuttable presumption of a reasonable ability to pay if a homeowner's monthly payments for housing expenses and principal and interest payments do not exceed 60% of the owner's monthly gross income. The bill requires that the foreclosed homeowner receive counseling on the advisability of the transaction.

The bill also requires that the foreclosure purchaser provide a written contract and certain notices and disclosures to the homeowner. The bill gives a homeowner the right to cancel the transaction within 5 business days. The bill prohibits a foreclosure purchaser from making false, deceptive or misleading statements to homeowners and from using unfair or commercially unreasonable terms as part of foreclosure purchase transactions.

The bill gives administrative enforcement authority to the Bureau of Consumer Credit Protection within the

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Department of Professional and Financial Regulation and imposes civil and criminal penalties for violations of the bill's provisions. The bill also gives a foreclosed homeowner the right to bring a private cause of action against a foreclosure purchaser for violations.

Committee Amendment "A" (H-892)

This amendment makes the following changes to the bill.

1. It removes the requirement in the bill that foreclosure purchasers be licensed as supervised lenders. Under the amendment, foreclosure purchasers must be licensed and those licensing requirements must be substantially similar to the requirements for supervised lenders.
2. It clarifies that the Superintendent of Financial Institutions is responsible for regulating banks and credit unions to the extent that they engage in the business of foreclosure purchasing.
3. It adds a definition of "bona fide purchaser."
4. It adds references to land installment contracts and bonds for deeds in those instances where the bill refers to contracts for deeds.
5. It removes cross-references to federal law and instead cross-references state law related to mortgage lending.
6. It requires that foreclosed homeowners be provided with a copy of the foreclosure reconveyance contract at least 3 business days prior to execution and requires that a memorandum of the contract be filed with the registry of deeds in the county in which the property is located.
7. It requires that the notice of cancellation be provided in 12-point type rather than 10-point type.
8. It corrects a spelling error.
9. It prohibits door-to-door solicitation by foreclosure purchasers.
10. It makes a violation of the provisions of the Foreclosure Purchasers Act, enacted in the bill, subject to enforcement as a violation of the Maine Unfair Trade Practices Act and incorporates a cross-reference to the improvident transfer laws.
11. It clarifies that a foreclosed homeowner may be awarded actual and consequential damages and costs, including reasonable attorney's fees, in a private action brought for a violation of the Foreclosure Purchasers Act.
12. It extends rule-making authority to the Superintendent of Consumer Credit Protection and the Superintendent of Financial Institutions.
13. It also requires that the Superintendent of Consumer Credit Protection, in consultation with the Superintendent of Financial Institutions, review the laws regulating foreclosure purchasers and make recommendations by March 1, 2009 as to whether changes are needed.

Enacted Law Summary

Public Law 2007, chapter 596 enacts measures designed to protect homeowners from equity stripping during foreclosures. Equity stripping, also known as equity skimming or foreclosure rescue, describes certain lending transactions when a company takes title to or another mortgage interest in foreclosed properties in exchange for allowing the homeowners to remain in the properties as tenants as long as payments are made. Public Law 2007, chapter 596 requires a business that engages in these transactions as a foreclosure purchaser to be licensed before conducting business in this State and to meet other statutory requirements.

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The law requires that a foreclosure purchaser must ensure that title is transferred back to the homeowner or that the foreclosure purchaser make a payment to the homeowner of at least 82% of the fair market value of the property within 150 days of when the homeowner is evicted or voluntarily gives back possession of the home. The law requires that foreclosure purchasers verify that a foreclosed homeowner has a reasonable ability to make the payments needed to take back title to the home. The law provides that there is a rebuttable presumption of a reasonable ability to pay if a homeowner's monthly payments for housing expenses and principal and interest payments do not exceed 60% of the owner's monthly gross income. The law requires that the foreclosed homeowner receive counseling on the advisability of the transaction.

The law also requires that the foreclosure purchaser provide a written contract and certain notices and disclosures to the homeowner. The law requires that foreclosed homeowners be provided with a copy of the foreclosure reconveyance contract at least 3 business days prior to execution and requires that a memorandum of the contract be filed with the registry of deeds in the county in which the property is located. The law gives a homeowner the right to cancel the transaction within 5 business days.

The law prohibits a foreclosure purchaser from making false, deceptive or misleading statements to homeowners; from using unfair or commercially unreasonable terms as part of foreclosure purchase transactions; and from using door-to-door solicitation.

The law gives regulatory authority to the Bureau of Consumer Credit Regulation except with regard to banks and credit unions which are regulated by the Bureau of Financial Institutions. The law imposes civil and criminal penalties for violations and also authorizes the Attorney General to bring an action under the Maine Unfair Trade Practices Act for violations. The law also gives a foreclosed homeowner the right to bring a private cause of action against a foreclosure purchaser for violations.

Public Law 2007, chapter 596 also requires that the Superintendent of Consumer Credit Protection, in consultation with the Superintendent of Financial Institutions, review the laws regulating foreclosure purchasers and make recommendations by March 1, 2009 to the Joint Standing Committee on Insurance and Financial Services as to whether changes are needed.

LD 2200 An Act To Ensure Full Payment of Annuity Death Benefits

PUBLIC 544

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKANE SULLIVAN	OTP-AM	H-772

LD 2200 requires, for variable annuity contracts, that the death benefit be calculated the day the benefit request, including appropriate proof of death, is received and be paid within one business day of that date. Current law allows an insurer to calculate the benefit as of the date of death of the insured, but not pay the benefit until much later, a delay that could result in a loss of value to the annuity during the period the benefit is calculated and paid. The intent of this bill is to reduce the loss in value to the beneficiary of the variable annuity policy by reducing the time period between calculation and payment of the benefit.

Committee Amendment "A" (H-772)

This amendment replaces the bill. The amendment permits a variable annuity contract to include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to the greater of the sum of the premiums or stipulated payments paid under the contract and the value of the contract at the time of death. The amendment prohibits the payment of any other amount to the beneficiary. The amendment also requires that the payment on death must be made in accordance with the prompt pay law. The provision applies to variable annuity contracts delivered or issued for delivery on or after January 1, 2009.

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Enacted Law Summary

Public Law 2007, chapter 544 permits a variable annuity contract to include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to the greater of the sum of the premiums or stipulated payments paid under the contract and the value of the contract at the time of death. The law prohibits the payment of any other amount to the beneficiary. The law also requires that the payment on death must be made in accordance with the prompt pay law.

Public Law 2007, chapter 544 applies to variable annuity contracts delivered or issued for delivery on or after January 1, 2009.

LD 2224 An Act To Require Legislators and Their Dependents To Be Enrolled in Dirigo Health **ONTP**

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

LD 2224 was introduced by the Joint Standing Committee on Insurance and Financial Services pursuant to its authority under Resolve 2007, chapter 112. The bill requires that Legislators and their dependents be enrolled in the same manner as an eligible business in the Dirigo Health Program. Under current law, Legislators may enroll in group health coverage through the state employee health plan.

LD 2247 An Act To Continue Maine's Leadership in Covering the Uninsured **PUBLIC 629**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE SULLIVAN	OTP-AM A ONTP B OTP-AM C	H-1013 BRAUTIGAM H-914 S-640 SULLIVAN S-644 MITCHELL

LD 2247 makes changes to the laws governing individual health insurance and to the laws regarding funding for the Dirigo Health Program.

Part A authorizes the Superintendent of Insurance to approve a pilot project to authorize health insurance carriers to offer individual health insurance products for young people under the age of 30.

Part B establishes a reinsurance association for the individual health insurance market, without placing individuals in a separate risk association or providing coverage under different health plans than those available in the individual market. Beginning July 1, 2009, insurance carriers offering individual health plans that have a medical loss ratio of at least 70% must be reimbursed for 50% of the aggregate claims paid between \$75,000 and \$250,000 for an individual's covered benefits on a state fiscal year basis. The Part also requires individual premium rates charged by a carrier during a rating period to not exceed 2.5 times the lowest individual rate charged by the carrier.

Part B also 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 Association pursuant to Title 24-A, chapter 54, the total number of individuals enrolled in any health insurance product regulated by the Department of Professional and Financial Regulation, Bureau of Insurance and the numbers of previously uninsured individuals who have enrolled in any health insurance product regulated by the Bureau of Insurance.

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Part B also allows a carrier that offered individual health plans prior to July 1, 2009 to close its book of business and establish a separate community rate for those individuals applying for coverage under an individual health plan on or after July 1, 2009. A carrier must merge the closed book with its open book by July 1, 2012 or when the number of subscribers remaining in a carrier's closed individual book of business is less than 25 percent of the carrier's individual health plan subscriber total as of June 30, 2009, whichever is earlier. The Superintendent of Insurance shall develop rules regarding notice requirements and experience pooling in a carrier's open book of business to ensure the availability of affordable options for individuals transitioning from the closed book of business.

Part C removes limitations on the ability of Dirigo Health to adjust the subsidy to individuals to ensure affordability.

Part D makes permanent 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 were reauthorized in Public Law 2005, chapter 394, section 4.

Part E makes changes to the funding for the Dirigo Health Program. The Part repeals the savings offset payment and replaces it with a health access surcharge of 1.8% on paid claims. Part E also increases the tax on cigarettes from \$2.00 to \$2.50 a pack and equalizes the rate of tax on all other tobacco products by a change in the taxation of "little cigars" from the tobacco products tax to the cigarette tax and an increase in the tobacco products tax from 20% to 78% of the wholesale price on cigars, pipe tobacco and other smoking tobacco.

Part E also requires that all of the revenues from the surcharge and the cigarette tax increases be credited to the Dirigo Health Enterprise Fund to support both the Dirigo Health Program and the Maine Individual Reinsurance Association. Twenty percent of monthly deposits received by the Dirigo Health Enterprise Fund will be transferred to the association.

Part F requires that Dirigo Health submit quarterly reports on information regarding enrollment in the Dirigo Health Program. This Part also repeals the Dirigo Health Risk Pool.

Part G corrects cross-references to reflect the changes made in the bill.

Committee Amendment "A" (H-914)

Committee Amendment "A" makes the following changes to the bill.

The amendment preserves the current law with regard to rating on the basis of geographic area at 20% above or below the community rate. The amendment otherwise permits premium rates to vary on the basis of age and geographic area in combination to a ratio of 2.5 to 1 from the highest premium rate to the lowest premium rate as proposed in the bill. The amendment also requires that the Bureau of Insurance, Consumer Health Care Division provide assistance to individuals who are in the closed book of business as a result of the rating provisions in the bill to facilitate the transition to alternative health coverage in the open book of business.

The amendment also makes changes to the provisions of the bill relating to cigarette and tobacco taxes. The amendment removes the language in the bill reclassifying little cigars as cigarettes and adds a definition of "little cigar." It adds a definition of "roll-your-own tobacco." The amendment also changes the rate of tax on all other tobacco products to a cigarette tax equivalent of \$2.50 per pack by taxing little cigars and roll-your-own tobacco the same as cigarettes and by adjusting the rate of tax on smokeless tobacco and on other cigars, pipe tobacco and other smoking tobacco in proportion to the increase in the cigarette tax.

In addition, the amendment also makes technical corrections and adds an appropriations and allocations section to the bill.

Committee Amendment "B" (H-915)

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This amendment makes the following changes to the bill.

The amendment modifies the provision in the bill that authorizes the Superintendent of Insurance to approve pilot projects to offer health insurance products for people under the age of 30. The amendment authorizes the superintendent to approve pilot projects that do not comply with statutory and regulatory requirements for certain mandated benefits, geographic access standards and standard plans if determined to be appropriate to establish affordable and attractive products.

The amendment replaces the reinsurance provision in Part B of the bill. The amendment establishes a reinsurance program for the individual health insurance market but makes 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 program at the time a policy is issued. The amendment requires carriers to account for the impact of the reinsurance program in rates for individual health plans filed for approval with the Superintendent of Insurance. The amendment imposes a 2% assessment on direct premium of health maintenance organizations to partially fund the costs of the reinsurance program.

The amendment also modifies the community rating provisions in the individual health insurance market to permit premium rates to vary up to 40% above or below the community rate. The amendment retains the provisions in the bill that allow a carrier to close its individual book of business and establish a separate community rate for those individuals applying for coverage under an individual health plan on or after July 1, 2009. As in the bill, a carrier must merge the closed book with its open book by July 1, 2012 or when the number of subscribers remaining in a carrier's closed individual book of business is less than 25 percent of the carrier's individual health plan subscriber total as of June 30, 2009, whichever is earlier.

The amendment clarifies Part C of the bill by making clear that the Board of Directors of Dirigo Health has authority to vary the amount of the subsidy granted to eligible individuals and eligible employees to ensure affordability.

The amendment makes changes to Part E in the bill related to funding for the Dirigo Health Program. The amendment repeals the savings offset payment and replaces it with a health access surcharge not to exceed 1.7% on paid claims. The amendment requires that the amount of the surcharge be reduced annually by 0.1% until the surcharge amount is 1.0% paid claims. The amendment directs all of the revenue from the health access surcharge to support subsidies for the Dirigo Health Program. The amendment removes the provisions in Part E of the bill that would have increased the tax on cigarettes from \$2.00 to \$2.50 a pack and equalized the rate of tax on all other tobacco products.

The amendment makes no changes to Parts D, F and G of the bill and also adds an appropriations and allocations section to the bill.

Committee Amendment "B" was not adopted.

Senate Amendment "A" (S-636)

This amendment strikes Committee Amendment "A" and instead does the following.

1. The amendment repeals the guaranteed issuance and community rating law for individual health plans effective April 1, 2009 and allows carriers to treat their pre-April 1, 2009 book of business separately from their post-April 1, 2009 book of business. It makes changes to the continuity of coverage laws to allow underwriting when someone switches carriers in the individual market.

2. The amendment creates the Comprehensive Chronic Care Pool Association. The purpose of the association is to spread the cost of individuals that require chronic care among all health insurers. The amendment funds the chronic care pool through an assessment on insurers. An individual insured through the chronic care pool may be charged a

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premium up to 150% of the average premium rates charged by carriers for similar health insurance plans. The amendment requires the State to submit an application to the Federal Government for federal assistance to create a chronic care pool.

3. The amendment also removes the requirement that carriers offer standardized plans as defined in Bureau of Insurance Rule Chapter 750 in the individual market.
4. The amendment repeals the community rating law for small group health plans effective January 1, 2010 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.
5. The amendment 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.
6. The amendment repeals the savings offset payment used to fund subsidies for individuals, sole proprietors and employees of small employers enrolled in the Dirigo Health Program with an effective date of July 1, 2008 or the effective date of the Act, whichever occurs later.
7. The amendment requires that Dirigo Health submit quarterly reports on information regarding enrollment in the Dirigo Health Program.
8. The amendment corrects cross-references to reflect the repeal of the savings offset payment and adds an appropriations and allocations section.

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

Senate Amendment "A" (S-641)

This amendment strikes Committee Amendment "B" and instead does the following.

1. The amendment repeals the guaranteed issuance and community rating law for individual health plans effective April 1, 2009 and allows carriers to treat their pre-April 1, 2009 book of business separately from their post-April 1, 2009 book of business. It makes changes to the continuity of coverage laws to allow underwriting when someone switches carriers in the individual market.
2. The amendment creates the Comprehensive Chronic Care Pool Association. The purpose of the association is to spread the cost of individuals that require chronic care among all health insurers. The amendment funds the chronic care pool through an assessment on insurers. An individual insured through the chronic care pool may be charged a premium up to 150% of the average premium rates charged by carriers for similar health insurance plans. The amendment requires the State to submit an application to the Federal Government for federal assistance to create a chronic care pool.
3. The amendment also removes the requirement that carriers offer standardized plans as defined in Bureau of Insurance Rule Chapter 750 in the individual market.
4. The amendment repeals the community rating law for small group health plans effective January 1, 2010 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.
5. The amendment 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.

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6. The amendment repeals the savings offset payment used to fund subsidies for individuals, sole proprietors and employees of small employers enrolled in the Dirigo Health Program with an effective date of July 1, 2008 or the effective date of the Act, whichever occurs later.
7. The amendment requires that Dirigo Health submit quarterly reports on information regarding enrollment in the Dirigo Health Program.
8. The amendment corrects cross-references to reflect the repeal of the savings offset payment.

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

Senate Amendment "B" (S-637)

This amendment strikes Committee Amendment "A" and instead does the following.

1. This amendment establishes a reinsurance pool for the individual health insurance market and is modeled on a similar reinsurance pool in Idaho. The amendment requires a maximum assessment of \$2 per person covered under health insurance policies.
2. The amendment also expands the community rating bands in the individual health insurance market for policies issued or renewed on or after January 1, 2010. The amendment prohibits a carrier from varying the premium rate due to geographic area. In addition, this amendment provides that the premium rate may not deviate above or below the community rate filed by the carrier by more than 40% on the basis of age, health status, occupation or industry or tobacco use. Under current law, a carrier may not vary the premium rate on the basis of health status. The amendment provides that a carrier that offered individual health plans prior to January 1, 2010 may close its individual book of business sold prior to January 1, 2010 and may establish a separate community rate for individuals applying for coverage under an individual health plan after January 1, 2010.
3. The amendment repeals the savings offset payment used to fund subsidies for individuals, sole proprietors and employees of small employers enrolled in the Dirigo Health Program, with an effective date of July 1, 2008 or the effective date of the Act, whichever occurs later.
4. The amendment requires that Dirigo Health submit quarterly reports on information regarding enrollment in the Dirigo Health Program.
5. The amendment corrects cross-references to reflect the repeal of the savings offset payment and adds an appropriations and allocations section.

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

Senate Amendment "B" (S-642)

This amendment strikes Committee Amendment "B" and instead does the following.

1. This amendment establishes a reinsurance pool for the individual health insurance market and is modeled on a similar reinsurance pool in Idaho. The amendment requires a maximum assessment of \$2 per person covered under health insurance policies.
2. The amendment also expands the community rating bands in the individual health insurance market for policies issued or renewed on or after January 1, 2010. The amendment prohibits a carrier from varying the premium rate due to geographic area. In addition, this amendment provides that the premium rate may not deviate above or below the community rate filed by the carrier by more than 40% on the basis of age, health status, occupation or industry or tobacco use. Under current law, a carrier may not vary the premium rate on the basis of health status. The

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amendment provides that a carrier that offered individual health plans prior to January 1, 2010 may close its individual book of business sold prior to January 1, 2010 and may establish a separate community rate for individuals applying for coverage under an individual health plan after January 1, 2010.

3. The amendment repeals the savings offset payment used to fund subsidies for individuals, sole proprietors and employees of small employers enrolled in the Dirigo Health Program, with an effective date of July 1, 2008 or the effective date of the Act, whichever occurs later.
4. The amendment requires that Dirigo Health submit quarterly reports on information regarding enrollment in the Dirigo Health Program.
5. The amendment corrects cross-references to reflect the repeal of the savings offset payment.

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

House Amendment "B" (H-1013)

This amendment removes the tax on tobacco products as proposed in the bill and Committee Amendment "A," as a source of funding for the Dirigo Health program.

House Amendment "C" (H-1014)

This amendment makes the following changes. It reduces the percentage of revenue that must be transferred from the Dirigo Health Enterprise Fund to the Maine Individual Reinsurance Association from 20% to 17.6%. The intended effect of this reduction is to reduce the amount in the Reserve Association Reserve by approximately \$3,400,000.

Part F increases the excise tax on malt beverages, except for manufacturers of less than 100,000 barrels annually, from 25 cents per gallon to 54 cents per gallon. Part F also increases, except for manufacturers of less than 20,000 gallons annually, the excise tax on wine manufactured or distributed in this State from 30 cents per gallon to 65 cents per gallon.

Part G imposes a new tax on syrup used to make soft drinks at the rate of \$4 per gallon of syrup and 42 cents per gallon of bottled soft drinks and soft drinks produced using powder.

Part H changes the rate of taxation for tobacco products as follows. The rate of tax on tobacco products intended for smoking, except for cigarettes, little cigars and roll-your-own tobacco, is increased from 20% of the wholesale price to 25% of the wholesale price. The tax on little cigars and roll-your-own tobacco is taxed at a rate equivalent to a tax on cigarettes of \$2.00 per pack and the tax on smokeless tobacco is changed from an ad valorem rate of 78% of the wholesale price to a weight-based tax of \$2.02 per ounce, with a minimum tax of \$2.02 per package.

Part I transfers \$3,400,000 from the Fund for a Healthy Maine to the Dirigo Health Enterprise Fund.

Part J requires the Joint Standing Committee on Health and Human Services to meet and consider the structure, accountability and appropriate level of legislative and independent oversight of the Fund for a Healthy Maine and submit a report to the Joint Standing Committee on Appropriations and Financial Affairs. This Part also allows a bill to be submitted to the 124th Legislature regarding the findings of the Joint Standing Committee on Health and Human Services.

Part K adds an appropriations and allocations section.

House Amendment "C" was not adopted.

Senate Amendment "C" (S-640)

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Senate Amendment "C" to Committee Amendment "A" makes the following changes.

It reduces the percentage of revenue that must be transferred from the Dirigo Health Enterprise Fund to the Maine Individual Reinsurance Association from 20% to 18.8% and delays the transfer for one year.

Part F increases the excise tax on malt beverages, except for manufacturers of less than 100,000 barrels annually, from 25 cents per gallon to 54 cents per gallon. Part F also increases, except for manufacturers of less than 20,000 gallons annually, the excise tax on wine manufactured or distributed in this State from 30 cents per gallon to 65 cents per gallon.

Part G imposes a new tax on syrup used to make soft drinks at the rate of \$4 per gallon of syrup and 42 cents per gallon of bottled soft drinks and soft drinks produced using powder.

Part H transfers \$5,000,000 from the Fund for a Healthy Maine to the Dirigo Health Enterprise Fund and requires the State Budget Officer to adjust the amount of funding for each program receiving funds from the Fund for a Healthy Maine. The part also authorizes the State Controller to provide an advance of up to \$3,600,000 to the Dirigo Health Enterprise Fund. The funds must be returned to the General Fund no later than June 30, 2009.

Part I requires the Joint Standing Committee on Health and Human Services to meet and consider the structure, accountability and appropriate level of legislative and independent oversight of the Fund for a Healthy Maine and submit a report to the Joint Standing Committee on Appropriations and Financial Affairs.

Part J authorizes the Superintendent of Insurance to approve pilot projects to offer health insurance products for people under 30 years of age. The superintendent is authorized to approve pilot projects that do not comply with statutory and regulatory requirements for certain mandated benefits, geographic access standards and standard plans if determined to be appropriate to establish affordable and attractive products.

Part K adds an appropriations and allocations section.

House Amendment "A" (H-1012)

House Amendment "A" to Committee Amendment "A" permits out-of-state health insurers, which are referred to as regional insurers in the amendment, 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 amendment defines the out-of-state health insurers as those insurers authorized to transact individual or small 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 amendment 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.

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

House Amendment "A" (H-1015)

This amendment requires the Joint Standing Committee on Health and Human Services to meet and consider the structure, accountability and appropriate level of legislative and independent oversight of the Fund for a Healthy Maine and submit a report to the Joint Standing Committee on Appropriations and Financial Affairs. This amendment also allows a bill to be submitted to the 124th Legislature regarding the findings of the Joint Standing Committee on Health and Human Services.

House Amendment "A" was not adopted.

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House Amendment "B" (H-1013)

This amendment removes the tax on tobacco products as proposed in the bill and Committee Amendment "A," as a source of funding for the Dirigo Health program.

Senate Amendment "A" (S-644)

This amendment strikes out the pilot project provision from the bill.

Enacted Law Summary

Public Law 2007, chapter 629 makes changes to the laws governing individual health insurance and to the laws relating to funding for the Dirigo Health Program.

Part A establishes a reinsurance association for the individual health insurance market, without placing individuals in a separate risk association or providing coverage under different health plans than those available in the individual market. Beginning July 1, 2009, insurance carriers offering individual health plans that have a medical loss ratio of at least 70% must be reimbursed for 50% of the aggregate claims paid between \$75,000 and \$250,000 for an individual's covered benefits on a state fiscal year basis. Funds to support the reinsurance association will be transferred from the Dirigo Health Enterprise Fund from revenues from the surcharge on paid claims and tax increases on beer and wine and soft drinks and syrup established in the law.

Part A permits individual premium rates to vary on the basis of age and geographic area in combination to a ratio of 2.5 to 1 from the highest premium rate to the lowest premium rate; however, the law preserves the requirement that a carrier may not vary rates on the basis of geographic area alone by more than 1.5 times the lowest individual rate charged by the carrier. Part A also allows a carrier that offered individual health plans prior to July 1, 2009 to close its book of business and establish a separate community rate for those individuals applying for coverage under an individual health plan on or after July 1, 2009. A carrier must merge the closed book with its open book by July 1, 2012 or when the number of subscribers remaining in a carrier's closed individual book of business is less than 25 percent of the carrier's individual health plan subscriber total as of June 30, 2009, whichever is earlier. The law requires that the Bureau of Insurance, Consumer Health Care Division provide assistance to individuals who are in the closed book of business as a result of the rating provisions in the bill to facilitate the transition to alternative health coverage in the open book of business. In addition, the Superintendent of Insurance shall develop rules regarding notice requirements and experience pooling in a carrier's open book of business to ensure the availability of affordable options for individuals transitioning from the closed book of business.

Part A also 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 Association pursuant to Title 24-A, chapter 54, the total number of individuals enrolled in any health insurance product regulated by the Department of Professional and Financial Regulation, 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 B removes limitations on the ability of Dirigo Health to adjust the subsidy to individuals to ensure affordability.

Part C makes permanent 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 were reauthorized in Public Law 2005, chapter 394, section 4.

Part D makes changes to the funding for the Dirigo Health Program. The Part repeals the savings offset payment and replaces it with a health access surcharge of 1.8% on paid claims. Part D also requires that all of the revenues from the surcharge and the tax increases on beer and wine and soft drinks and syrup be credited to the Dirigo Health Enterprise Fund to support both the Dirigo Health Program and the Maine Individual Reinsurance Association. 18.8 % of the monthly deposits received by the Dirigo Health Enterprise Fund must be transferred to the reinsurance

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association.

Part E increases the excise tax on malt beverages, except for manufacturers of less than 100,000 barrels annually, from 25 cents per gallon to 54 cents per gallon. Part E also increases, except for manufacturers of less than 20,000 gallons annually, the excise tax on wine manufactured or distributed in this State from 30 cents per gallon to 65 cents per gallon. The revenue from the tax increases on beer and wine must be transferred on a monthly basis to the Dirigo Health Enterprise Fund. Part E takes effect August 1, 2008.

Part F imposes a new tax on syrup used to make soft drinks at the rate of \$4 per gallon of syrup and 42 cents per gallon of bottled soft drinks and soft drinks produced using powder. The revenue from the tax must be transferred on a monthly basis to the Dirigo Health Enterprise Fund. Part F takes effect August 1, 2008.

Part G transfers \$5,000,000 from the Fund for a Healthy Maine to the Dirigo Health Enterprise Fund and requires the State Budget Officer to adjust the amount of funding for each program receiving funds from the Fund for a Healthy Maine. Part G also authorizes the State Controller to provide an advance of up to \$3,600,000 to the Dirigo Health Enterprise Fund. The funds must be returned to the General Fund no later than June 30, 2009.

Part H requires the Joint Standing Committee on Health and Human Services to meet and consider the structure, accountability and appropriate level of legislative and independent oversight of the Fund for a Healthy Maine and submit a report to the Joint Standing Committee on Appropriations and Financial Affairs by October 1, 2008.

Part I authorizes the Superintendent of Insurance to approve pilot projects to offer health insurance products for people under 30 years of age. The superintendent is authorized to approve pilot projects that do not comply with statutory and regulatory requirements for certain mandated benefits, geographic access standards and standard plans if determined to be appropriate to establish affordable and attractive products.

Parts J and K add appropriations and allocations sections.

Part L requires that Dirigo Health submit quarterly reports on information regarding enrollment in the Dirigo Health Program. This Part also repeals the Dirigo Health Risk Pool.

Part M corrects cross-references.

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SUBJECT INDEX

Banking and Credit Unions

Enacted

LD 2139 Resolve, Directing the Bureau of Financial Institutions To Study RESOLVE 152
Data Security Breaches in the State

Dirigo Health

Not Enacted

LD 2224 An Act To Require Legislators and Their Dependents To Be ONTP
Enrolled in Dirigo Health

Insurance, Health

Enacted

LD 658 An Act To Protect the Health of Infants PUBLIC 595

LD 1072 Resolve, To Conduct an Updated Study of the Feasibility of RESOLVE 216
Establishing a Single-payor Health Care System in the State

LD 2066 An Act To Clarify the Laws Governing the Extension of Health PUBLIC 514
Care Coverage to Dependents

LD 2109 An Act Relating to Insurance Coverage for Colorectal Cancer Early PUBLIC 516
Detection

LD 2162 Resolve, Regarding Legislative Review of Portions of Chapter 850: RESOLVE 160
Health Plan Accountability, a Major Substantive Rule of the EMERGENCY
Department of Professional and Financial Regulation

LD 2247 An Act To Continue Maine's Leadership in Covering the Uninsured PUBLIC 629

Not Enacted

LD 1047 An Act To Lower the Cost of Health Insurance ACCEPTED
ONTP REPORT

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

LD 1294 An Act To Establish a Health Care Bill of Rights DIED BETWEEN
HOUSES

LD 1667 An Act To Require Health Insurers To Provide Coverage for ONTP
Nutritional Wellness and Prevention

LD 1687	An Act To Increase Health Insurance Coverage for Front-line Direct Care Workers Providing Long-term Care	ONTP
LD 1760	An Act To Restore Competition to Maine's Health Insurance Market	ACCEPTED ONTP REPORT

Insurance, Regulation and Practices

Enacted

LD 2091	An Act To Protect Life Insurance Consumers	PUBLIC 543
LD 2200	An Act To Ensure Full Payment of Annuity Death Benefits	PUBLIC 544

Miscellaneous

Enacted

LD 2092	An Act To Amend the Public Works Contractors' Surety Bond Law of 1971	PUBLIC 500
LD 2157	An Act To Implement the Recommendations of the Joint Standing Committee on Insurance and Financial Services Regarding Reporting on Lyme Disease and Other Tick-borne Illnesses	PUBLIC 561

Not Enacted

LD 1203	An Act To Amend the Laws Respecting Assignments for the Benefit of Creditors	ONTP
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Mortgage Lending

Enacted

LD 2125	An Act Relating to Mortgage Lending and Credit Availability	PUBLIC 471 EMERGENCY
LD 2189	An Act To Protect Homeowners from Equity Stripping during Foreclosure	PUBLIC 596

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

Summary of Committee Actions

I. BILLS AND PAPERS CONSIDERED	<u>Number</u>	<u>% of Comm Activity</u>	<u>% of All Bills/Papers</u>
A. Bills referred to Committee			
<i>Bills referred and voted out</i>	11	55.0%	2.0%
<u><i>Bills Carried Over from previous session</i></u>	<u>9</u> ¹	<u>45.0%</u>	<u>1.6%</u>
Total Bills referred	20	100.0%	3.6%
B. Bills reported out by law or joint order	0	0.0%	0.0%
Total Bills considered by Committee	20	100.0%	3.6%
Orders and Resolutions referred to Committee			
<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%
<u><i>Orders and Resolutions Carried Over</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Orders and Resolutions Referred	0	0.0%	0.0%
II. COMMITTEE REPORTS	Number	% of this Committee's Reports	% of All Committee Reports
A. Unanimous committee reports			
<i>Ought to Pass</i>	1	5.0%	0.2%
<i>Ought to Pass as Amended</i>	5	25.0%	0.9%
<i>Ought to Pass as New Draft</i>	0	0.0%	0.0%
<u><i>Ought Not to Pass</i></u>	<u>5</u>	<u>25.0%</u>	<u>0.9%</u>
Total unanimous reports	11	55.0%	2.1%
B. Divided committee reports			
<i>Two-way reports</i>	8	40.0%	1.5%
<i>Three-way reports</i>	1	5.0%	0.2%
<u><i>Four-way reports</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total divided reports	9	45.0%	1.7%
Total committee reports	20	100.0%	3.8%
III. CONFIRMATION HEARINGS	1	N/A	N/A
IV. FINAL DISPOSITION	Number	% of Comm Bills/Papers	% of All Bills/Papers
A. Bills and Papers enacted or finally passed			
<i>Joint Study Orders</i>	0	0.0%	0.0%
<i>Public laws</i>	9	45.0%	1.6%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	3	15.0%	0.5%
<u><i>Constitutional Resolutions</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	12	60.0%	2.1%
B. Resolves to authorize major substantive rules			
<i>Rules authorized without legislative changes</i>	1	100.0%	4.5%
<i>Rules authorized with legislative changes</i>	0	0.0%	0.0%
<u><i>Rules not authorized by the Legislature</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total number of rules reviewed	1	100.0%	4.5%
C. Bills vetoed or held by Governor			
<i>Vetoed over-riden</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>
Total	0	0.0%	0.0%

¹ The number of carry overs includes one bill, LD 1667, that was carried over in the HHS committee and was re-referred to the IFS committee.
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.