

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



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

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

July 2009

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*Joint Standing Committee on Insurance and Financial Services*

**LD 4 An Act To Remove the Age Restriction for Serving as a Corporator of a Mutual Financial Institution**

**PUBLIC 19**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COURTNEY	OTP-AM	S-5

This bill repeals the section of law that requires a corporator of a mutual financial institution to retire from membership on the board of corporators upon reaching 72 years of age.

**Committee Amendment "A" (S-5)**

This amendment replaces the bill. As in the bill, the amendment repeals the requirement that a corporator of a mutual financial institution must retire at 72 years of age. The amendment also clarifies that the governing body of a mutual financial institution may, in its bylaws, set limits on membership terms and tenure of corporators.

**Enacted Law Summary**

Public Law 2009, chapter 19 repeals the requirement that a corporator of a mutual financial institution must retire at 72 years of age and clarifies that the governing body of a mutual financial institution may, in its bylaws, set limits on membership terms and tenure of corporators.

**LD 20 An Act To Require Insurance Companies To Cover the Cost of Prosthetics**

**Carried Over**

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

This bill requires health insurance policies, contracts and certificates to provide coverage for prosthetics. The provisions of this bill apply to all policies, contracts and certificates issued or renewed on or after January 1, 2010.

LD 20 has been carried over to the next special or regular session of the 124th Legislature pursuant to joint order, H.P. 1053.

**LD 21 An Act To Encourage the Diagnosis and Treatment of Autism Spectrum Disorders**

**ONTP**

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

This bill requires health insurance policies, contracts and certificates to provide coverage for diagnostic testing and screening for autism spectrum disorders. The provisions of this bill apply to all policies, contracts and certificates issued or renewed on or after January 1, 2010.

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A related bill, LD 1198, An Act to Reform Insurance Coverage To Include Diagnosis for Autism Spectrum Disorders, has been carried over to the next special or regular session of the 124th Legislature pursuant to joint order, H.P. 1053.

**LD 62      An Act To Ensure an Adequate Time Frame within Which To Rebuild a Home      ONTP**

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

This bill prohibits an insurer of a home from requiring the homeowner to begin rebuilding the insured home in less than 36 months from the date of the loss by fire.

**LD 103      An Act To Ensure Protection from Harassment for Purchasers of Real Property through Auction      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P BRYANT B	ONTP	

This bill requires the owner of real property that is to be sold by auction, and the auctioneer who will conduct the auction, to provide an opportunity for any person who owns personal property located on the real property to claim that personal property before the auction. Personal property that is claimed in this manner is not included in the auction of the real property, and the auctioneer must make that clear at the beginning of the auction. If the person who claims the personal property has not removed it by the date of the auction, the person is responsible for removing the personal property as soon as possible or within a time period established by the agreement of the person and the new owner of the real property.

**LD 123      An Act Regarding the Electronic Submission of Filings      PUBLIC 14**

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

This bill amends the Maine Insurance Code to require that rate and form filings be made electronically in a format required by the Superintendent of Insurance.

### **Enacted Law Summary**

Public Law 2009, chapter 14 amends the Maine Insurance Code to require that rate and form filings be made electronically in a format required by the Superintendent of Insurance.

*Joint Standing Committee on Insurance and Financial Services*

**LD 148 An Act To Provide Notice of Foreclosures to Tenants**

**ONTP**

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

This bill requires mortgagees to provide notice of foreclosure proceedings to all occupants of mortgaged premises subject to the foreclosure action by mailing a copy of the complaint to the physical address of the mortgaged premises. The notice must be mailed no less than 14 calendar days after the foreclosure proceeding is commenced.

While LD 148 was voted "Ought Not to Pass", a related substantive provision requiring notice of foreclosure judgments to tenants was incorporated into LD 1418, An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures. See LD 1418, which was enacted as Public Law 2009, chapter 402.

**LD 157 An Act To Enhance Oversight of Fraternal Benefit Societies**

**PUBLIC 13**

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

This bill gives the Superintendent of Insurance similar administrative and enforcement authority over fraternal benefit societies as the superintendent currently has relating to nonfraternal entities such as insurers and multiple employer welfare arrangements. The superintendent's current authority is significantly restricted and inadequate to ensure compliance with Maine law by such entities authorized to operate in Maine. The bill also amends the definition of "insurer" to include fraternal benefit societies. In addition, the bill brings Maine law more up to date with the regulation of fraternal benefit societies in other states.

**Enacted Law Summary**

Public Law 2009, chapter 13 gives the Superintendent of Insurance similar administrative and enforcement authority over fraternal benefit societies as the superintendent currently has relating to nonfraternal entities such as insurers and multiple employer welfare arrangements. The superintendent's current authority is significantly restricted and inadequate to ensure compliance with Maine law by such entities authorized to operate in Maine. The law also amends the definition of "insurer" to include fraternal benefit societies. In addition, the changes bring Maine law more up to date with the regulation of fraternal benefit societies in other states.

**LD 165 An Act To Supervise and Regulate Real Estate Settlement Agents and Exchange Facilitators in Order To Protect Consumers**

**PUBLIC 61**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PILON BOWMAN	OTP-AM	H-40

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This bill regulates those entities that operate as escrow agencies. The bill requires escrow agencies to be licensed by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and requires agencies to demonstrate financial responsibility by obtaining fidelity bonds, surety bonds and insurance. The bill also requires escrow agencies to maintain certain records of escrow transactions and prohibits certain practices for the protection of consumers.

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

This amendment replaces the bill. In section 1, the amendment regulates those entities that operate as exchange facilitators, requiring those entities to be licensed by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and to demonstrate financial responsibility by obtaining fidelity bonds or surety bonds and insurance. In section 2, the amendment requires residential mortgage settlement agencies to register with the Bureau of Consumer Credit Protection. The amendment gives the Superintendent of Consumer Credit Protection authority to examine a settlement agency and investigate complaints alleging a violation of existing laws, such as the federal Real Estate Settlement Procedures Act of 1974, the Funded Settlement Act and the Maine Consumer Credit Code, for the protection of consumers. The amendment also adds an appropriations and allocations section.

## **Enacted Law Summary**

Public Law 2009, chapter 61 provides for the regulation of exchange facilitators and residential mortgage settlement agencies.

In section 1, the law regulates those entities that operate as exchange facilitators, requiring those entities to be licensed by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and to demonstrate financial responsibility by obtaining fidelity bonds or surety bonds and insurance. Exchange facilitators are defined as those entities that facilitate a tax-deferred real estate transaction in accordance with Section 1031 of the federal Internal Revenue Code.

In section 2, the law requires residential mortgage settlement agencies to register with the Bureau of Consumer Credit Protection. The law gives the Superintendent of Consumer Credit Protection authority to examine a settlement agency and investigate complaints alleging a violation of existing laws, such as the federal Real Estate Settlement Procedures Act of 1974, the Funded Settlement Act and the Maine Consumer Credit Code, for the protection of consumers.

## **LD 191      An Act Regarding Insurance Copayments for Short-term Prescriptions**

**ONTP**

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

This bill requires an individual or group health insurer, a health maintenance organization that provides health coverage for prescription drugs and a 3rd-party administrator or pharmaceutical benefits manager to adjust the copayment to accommodate a short-term prescription. The copayment must be proportional. The bill requires the Superintendent of Insurance to adopt routine technical rules that include a penalty provision. The penalty provision must require an insurer that does not comply with the requirements and rules to pay a contribution to the Unused Pharmaceutical Disposal Program Fund established under the Maine Revised Statutes, Title 22, section 2700, subsection 5. As part of the rule-making process, notice must be given to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters. The requirements apply to policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after

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January 1, 2010.

## LD 216 An Act To Amend the Law Governing Property Insurance on a Primary Residence

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P SMITH D	ONTP	

This bill allows a homeowner to insure the primary residence of the homeowner for an alternative insured value, which is less than the actual cash value of the residence. It requires the execution of a rider that meets the requirements of the Superintendent of Insurance to indicate the homeowner's choice of insuring at the alternative insured value. The bill also requires the superintendent to adopt routine technical rules to establish the approved form for the alternative insured value rider.

## LD 234 An Act To Expand Access to Oral Health Care

PUBLIC 307

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JONES SULLIVAN	OTP-AM MAJ ONTP MIN	H-433

This bill requires dental insurers and health insurers and health maintenance organizations that include coverage for dental services in their policies and contracts to provide coverage for dental services performed by an independent practice dental hygienist if those services would be covered under the policy or contract and those services are within the lawful scope of practice of the independent practice dental hygienist. The bill applies to all individual and group policies and contracts issued or renewed on or after January 1, 2010.

### Committee Amendment "A" (H-433)

This amendment is the majority report of the committee. The amendment requires the Department of Professional and Financial Regulation, Bureau of Insurance to submit a report related to the experience of carriers with the mandate requiring coverage for dental services performed by a licensed independent practice dental hygienist. The report must be submitted by February 1, 2013. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters is authorized to report out a bill to the First Regular Session of the 126th Legislature.

### Enacted Law Summary

Public Law 2009, chapter 307 requires dental insurers and health insurers and health maintenance organizations that include coverage for dental services in their policies and contracts to provide coverage for dental services performed by an independent practice dental hygienist if those services would be covered under the policy or contract and those services are within the lawful scope of practice of the independent practice dental hygienist. The law applies to all individual and group health insurance policies and contracts issued or renewed on or after January 1, 2010.

Public Law 2009, chapter 307 also requires the Department of Professional and Financial Regulation, Bureau of Insurance to submit a report related to the experience of carriers with the mandate requiring coverage for dental services performed by a licensed independent practice dental hygienist. The report must be submitted by February 1, 2013. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters is authorized to report out a bill to the First Regular Session of the 126th Legislature.

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**LD 255      An Act To Allow Persons Licensed for the Practice of Manicuring To Provide Treatment for Diabetics      ONTP**

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

This bill is a concept draft pursuant to Joint Rule 208. The bill proposes to allow a person licensed for the practice of manicuring to perform pedicures for a person with diabetes as a medical treatment covered by health insurance.

**LD 257      An Act To Establish the Health Technology Clinical Committee      Carried Over**

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

This bill requires the Maine Quality Forum to establish a health technology assessment program to make determinations as to which health technologies and health care services will be included as covered benefits in publicly funded health care plans. The bill establishes the Health Technology Clinical Committee, a 5-member committee of health care providers, to conduct the assessments and make the coverage determinations based on reviews of scientific evidence.

LD 257 has been carried over to the next special or regular session of the 124th Legislature pursuant to joint order, H.P. 1053.

**LD 274      An Act To Require That Insurance Contracts Include a Plain Language Summary      ONTP**

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

This bill requires separate plain language summaries, signed by the insured and a representative of the insurer, for individual life insurance, health insurance and property insurance policies and contracts issued, renewed or delivered on or after the effective date of these provisions.

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**LD 290      An Act To Allow Maine Residents To Purchase Health Insurance from  
Out-of-state Insurers**

**ACCEPTED ONTP  
REPORT**

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

This bill permits out-of-state health insurers, which are referred to as regional insurers in the bill, to offer their individual and group health plans for sale in this State if certain requirements of Maine law are met, including minimum capital and surplus and reserve requirements, disclosure and reporting requirements and grievance procedures. The bill defines regional insurers as those insurers authorized to transact individual or group health insurance in one of the following states: Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont. 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. The bill takes effect January 1, 2010.

**Committee Amendment "A" (H-169)**

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

1. It removes language from the bill that would have authorized out-of-state health insurers to offer group health plans for sale in the State, and retains language that authorizes out-of-state health insurers to offer individual health plans for sale in the State.
2. It clarifies that the out-of-state insurer must respond to any consumer complaints raised to the Department of Professional and Financial Regulation, Bureau of Insurance.
3. It clarifies that the term "health insurance" does not include accidental injury, specified disease, hospital indemnity, dental, vision, disability income, long-term care, Medicare supplement or other limited benefit health insurance.
4. It adds an appropriations and allocations section.

Committee Amendment "A" was not adopted.

**LD 323      An Act To Improve Transparency in the Health Insurance Markets**

**ONTP**

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

This bill amends the Maine Insurance Code to require that health insurers provide updated information to group enrollees regarding the status of their employer-sponsored insurance coverage when a notice of termination for nonpayment has been issued, post on their publicly accessible websites current versions of their individual and small group policies that have the most residents of the State enrolled and send clear explanations of benefits to explain

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the services and payments made by insurance companies on behalf of their policyholders.

While LD 323 was voted "Ought Not to Pass", the substantive provisions of the bill are included in LD 1205, An Act to Establish the Health Care Bill of Rights. See LD 1205, which was enacted as Public Law 2009, chapter 439.

**LD 377      An Act To Amend the Procedure for Foreclosure Regarding Timing and Sale** **ONTP**

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

This bill allows a court upon a showing of good cause to extend a deadline for a notice of sale or conducting a public sale in a foreclosure action.

While LD 377 was voted "Ought Not to Pass", the substantive provision in the bill was incorporated into LD 1418, An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures. See LD 1418, which was enacted as Public Law 2009, chapter 402.

**LD 390      An Act To Clarify Guaranteed Fund Protection for Deferred Compensation Accounts** **PUBLIC 118  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCORMICK	OTP-AM	S-58

This bill is a concept draft pursuant to Joint Rule 208. The purpose of this bill is to clarify how a guaranteed fund would protect certain deferred compensation investments following the insolvency of a deferred compensation provider.

### **Committee Amendment "A" (S-58)**

This amendment replaces the concept draft. The amendment provides that the annuity contracts issued to individuals participating in governmental retirement benefit plans are protected through the Maine Life and Health Insurance Guaranty Association whether those annuities are allocated or unallocated. The amendment also specifies that the financial interest of participants in those plans is protected up to \$250,000 in the aggregate in present value of annuity benefits. The amendment adds an emergency preamble and provides that the Act applies to an insolvency of an insurance company that is a member of the Maine Life and Health Insurance Guaranty Association that occurs on or after the date the Act is approved.

### **Enacted Law Summary**

Public Law 2009, chapter 118 provides that the annuity contracts issued to individuals participating in governmental retirement benefit plans are protected through the Maine Life and Health Insurance Guaranty Association whether those annuities are allocated or unallocated. The law also specifies that the financial interest of participants in those plans is protected up to \$250,000 in the aggregate in present value of annuity benefits.

Public Law 2009, chapter 118 was enacted as an emergency measure effective May 11, 2009; however, the law applies to an insolvency of an insurance company that is a member of the Maine Life and Health Insurance Guaranty Association that occurs on or after May 11, 2009.

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**LD 392      An Act To Reduce Minimum Participation to 60% for Group Health Insurance      ONTP**

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

Under current law, a carrier's minimum participation requirements for a small group health plan may not exceed 75%. This bill reduces the minimum participation requirement to 60%.

**LD 425      An Act To Require Private Insurance Coverage for Certain Services for Children with Disabilities      Carried Over**

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

This bill requires individual and group health insurance policies and health maintenance organization contracts to provide coverage for children's early intervention services after a referral from a primary care provider for children from birth to 3 years of age if the child has an identified developmental disability or delay as described in the federal Individuals with Disabilities Education Act, Part C. The bill limits coverage to \$3,200 per year per child up to a maximum of \$9,600 by the child's 3rd birthday. The bill applies to all policies, contracts and certificates issued or renewed on or after January 1, 2010.

LD 425 has been carried over to the next special or regular session of the 124th Legislature pursuant to joint order, H.P. 1053.

**LD 446      An Act To Protect Consumers from Credit Card and Debit Card Holds      ACCEPTED ONTP REPORT**

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

This bill prohibits a merchant from placing a hold on the credit or funds available to a consumer using a credit card or debit card in excess of the actual transaction amount unless the merchant reduces the hold to the actual transaction amount within one hour of the completion of the sale. A fine of \$250 for the first violation and \$1,000 for subsequent violations is provided.

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LD 503 An Act To Regulate Foreclosure Negotiators

PUBLIC 327

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWMAN	OTP-AM	S-216

This bill clarifies that businesses acting as foreclosure negotiators relating to residential mortgages are subject to the laws regulating debt management service providers, but exempts those businesses from certain provisions of current law, such as the requirements to provide credit counseling services and to provide the consumer with certain internal business records. In addition, since foreclosure negotiators arrange for the purchase of property, the bill establishes a 7-day period during which an agreement may be cancelled as opposed to the current law's ongoing right to cancel, which is tailored to the activities of traditional debt management service providers. The bill retains consumer protections such as the requirement to register with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, post a surety bond to ensure compliance and accountability with the law and provide written agreements to consumers. The bill has an effective date of January 1, 2010.

### Committee Amendment "A" (S-216)

This amendment replaces the bill. The amendment clarifies that a business acting as a foreclosure negotiator relating to a residential mortgage is subject to the laws regulating debt management service providers but exempts that business from certain provisions of current law, such as the requirements to provide credit counseling services and to provide the consumer with certain internal business records. In addition, since a foreclosure negotiator arranges for the purchase of property, the amendment provides that an agreement may be cancelled until the date of the transfer of the property. The amendment requires that a foreclosure negotiator notify a consumer with contact information for a housing counselor and advise the consumer about whether the consumer will be liable for any deficiency resulting from the transfer. The amendment also gives a consumer the right to recover consequential damages for violations.

The amendment retains consumer protections such as the requirement to register with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, post a surety bond to ensure compliance and accountability with the law and provide written agreements to a consumer.

### Enacted Law Summary

Public Law 2009, chapter 327 clarifies that a business acting as a foreclosure negotiator relating to a residential mortgage is subject to the laws regulating debt management service providers but exempts that business from certain provisions of current law, such as the requirements to provide credit counseling services and to provide the consumer with certain internal business records. The law does not exempt foreclosure negotiators from provisions in current law protecting consumers such as the requirement to register with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, post a surety bond to ensure compliance and accountability with the law and provide written agreements to a consumer.

Public Law 2009, chapter 327 requires that a foreclosure negotiator notify a consumer with contact information for a housing counselor and advise the consumer about whether the consumer will be liable for any deficiency resulting from the transfer. In addition, since a foreclosure negotiator arranges for the purchase of property, the law provides that an agreement may be cancelled until the date of the transfer of the property. The law also gives a consumer the right to recover consequential damages for violations.

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**LD 511      An Act To Support Pretrial Diversion Programs for Issuers of Worthless Checks**

**PUBLIC 99**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL	OTP-AM	H-105

This bill amends the definition of "debt" in the Maine Fair Debt Collection Practices Act to give district attorneys the option of using check diversion programs. Public Law 2007, chapter 214 added language that limited the check diversion options available to district attorneys. This bill strikes that language.

**Committee Amendment "A" (H-105)**

This amendment replaces the bill. The amendment excludes from the definition of "debt collector" those pretrial diversion programs for issuers of worthless checks operated under the supervision of state or district attorneys' offices, while applying conditions and protections found in the federal Fair Debt Collection Practices Act. It requires that a private entity operating a pretrial diversion program for issuers of worthless checks register with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection. The amendment also requires the Superintendent of Consumer Credit Protection to review the contract between the private entity and the state or district attorney and the form communications used by private entities before granting a registration. It also adds an appropriations and allocations section.

**Enacted Law Summary**

Public Law 2009, chapter 99 excludes from the definition of "debt collector" those pretrial diversion programs for issuers of worthless checks operated under the supervision of state or district attorneys' offices, while applying conditions and protections found in the federal Fair Debt Collection Practices Act. The law requires that a private entity operating a pretrial diversion program for issuers of worthless checks register with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection. The law also requires the Superintendent of Consumer Credit Protection to review the contract between the private entity and the state or district attorney and the form communications used by private entities before granting a registration.

**LD 606      An Act To Enable the Maine Employers' Mutual Insurance Company To Better Serve the Needs of All Employers**

**PUBLIC 32**

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

Current law permits the Maine Employers' Mutual Insurance Company to offer employment practices liability insurance to its policyholders that have an average of 100 or fewer employees. This bill removes that limitation and allows the company to offer that insurance to its policyholders regardless of the number of employees employed by the policyholder.

**Enacted Law Summary**

Current law permits the Maine Employers' Mutual Insurance Company to offer employment practices liability insurance to its policyholders that have an average of 100 or fewer employees. Public Law 2009, chapter 32 removes that limitation and allows the company to offer that insurance to its policyholders regardless of the number

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of employees employed by the policyholder.

### LD 616 An Act To Strengthen the Board of the Maine Insurance Guaranty Association

PUBLIC 116

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCCORMICK	OTP-AM	S-59

This bill ensures that a majority of the Maine Insurance Guaranty Association board is made up of Maine-domiciled property and casualty companies.

#### Committee Amendment "A" (S-59)

The amendment replaces the bill. The amendment provides that at least 3 of the 7 members of the Maine Insurance Guaranty Association board represent Maine-domiciled property and casualty companies, instead of at least 4 members as proposed in the bill. The amendment also requires a board member to resign if the member insurer ceases writing new business in the State.

#### Enacted Law Summary

Public Law 2009, chapter 116 provides that at least 3 of the 7 members of the Maine Insurance Guaranty Association board represent Maine-domiciled property and casualty companies. The law also requires a board member to resign if the member insurer ceases writing new business in the State.

### LD 641 An Act To Notify Municipal Assessors of Foreclosure Actions

ONTP

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

This bill requires notice to be sent to the municipal assessor of a foreclosure of a property in that municipality upon commencement of the foreclosure and 60 days prior to the completion of the foreclosure. The notice must contain the address and identifying information of the property, the name of the deed holder of the foreclosed property and the name and address of the new deed holder of the property once the foreclosure is completed.

While LD 641 was voted "Ought Not to Pass", a related substantive provision requiring a mortgagee to notify the municipal assessor within 3 days of filing a copy of a foreclosure complaint or a clerk's certificate of the filing of the foreclosure with the registry of deeds was incorporated into LD 1418, An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures. See LD 1418, which was enacted as Public Law 2009, chapter 402.

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**LD 688      An Act To Equalize Annuity and Structured Settlement Annuity Benefits with Life Insurance under the Maine Life and Health Insurance Guaranty Association**

**PUBLIC 77  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWMAN	OTP-AM	S-40

This bill increases the maximum benefit the Maine Life and Health Insurance Guaranty Association may be obligated to cover from \$100,000 to \$300,000 for net cash surrender and net cash withdrawal benefits for life insurance, annuity benefits and structured settlement annuities. The aggregate of \$300,000 in benefits with respect to one life contract and a structured settlement annuity remain the same.

**Committee Amendment "A" (S-40)**

This amendment replaces the bill. The amendment increases the maximum benefit the Maine Life and Health Insurance Guaranty Association may be obligated to cover from \$100,000 to \$250,000 for annuity benefits and structured settlement annuities. The bill proposed an increase to \$300,000. The amendment does not include any increase in the maximum benefit for net cash surrender and net cash withdrawal benefits for life insurance, which was proposed in the bill. The amendment also adds an emergency preamble and clause and provides that it applies to an insolvency of an insurance company who is a member of the Maine Life and Health Insurance Guaranty Association that occurs on or after the effective date of the Act.

**Enacted Law Summary**

Public Law 2009, chapter 77 increases the maximum benefit the Maine Life and Health Insurance Guaranty Association may be obligated to cover from \$100,000 to \$250,000 for annuity benefits and structured settlement annuities.

Public Law 2009, chapter 77 was enacted as an emergency measure effective May 4, 2009; however, the law provides that it applies to an insolvency of an insurance company who is a member of the Maine Life and Health Insurance Guaranty Association that occurs on or after May 4, 2009.

**LD 715      An Act To Enable the Use of Credit Cards for Governmental Transactions**

**PUBLIC 113**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT P MARRACHE	OTP-AM	H-100

This bill allows a county, municipality or quasi-municipal corporation to impose a surcharge for the use of a credit card to pay for taxes, fines, fees and services provided as long as the amount of the surcharge is disclosed to the consumer prior to payment and the amount does not exceed the costs incurred by the governmental entity for providing the credit card payment option.

**Committee Amendment "A" (H-100)**

This amendment replaces the bill. The amendment allows a county, municipality or quasi-municipal corporation and the Judicial Department to impose a surcharge for the use of a credit card or debit card to pay for taxes, fines and

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services provided as long as the surcharge is disclosed to the consumer prior to payment and the amount does not exceed the costs incurred by the governmental entity. The amendment clarifies that a surcharge may be imposed for the use of a debit card if the governmental entity is charged a fee associated with debit card transactions. The amendment requires that the governmental entity disclose to the consumer that the consumer can avoid the surcharge by paying by cash, check or other means not a credit card or debit card. The amendment also clarifies that the governmental entity has no liability to the credit card or debit card company or card processor for nonpayment of credit card or debit card charges by the consumer.

### **Enacted Law Summary**

Public Law 2009, chapter 113 allows a county, municipality or quasi-municipal corporation and the Judicial Department to impose a surcharge for the use of a credit card or debit card to pay for taxes, fines and services provided as long as the surcharge is disclosed to the consumer prior to payment and the amount does not exceed the costs incurred by the governmental entity. The law requires that the governmental entity disclose to the consumer that the consumer can avoid the surcharge by paying by cash, check or other means not a credit card or debit card.

Public Law 2009, chapter 113 permits a surcharge to be imposed for the use of a debit card if the governmental entity is charged a fee associated with debit card transactions. The law also clarifies that the governmental entity has no liability to the credit card or debit card company or card processor for nonpayment of credit card or debit card charges by the consumer.

### **LD 728 An Act To Protect Homeowners in Foreclosure Proceedings**

**ONTP**

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

This bill extends the period of redemption in residential foreclosure proceedings initiated on or after October 1, 2009 on any mortgage to one year. The bill also requires the use of alternative dispute resolution in foreclosures.

### **LD 754 An Act Regarding Subrogation of Medical Payments Coverage**

**PUBLIC 222**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LEGG	OTP-AM MAJ ONTP MIN	H-168

This bill strikes language in the law that allows subrogation or priority over the insured of medical payments in certain instances in a casualty insurance policy for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in the policy in the event the insured is entitled to receive payment.

#### **Committee Amendment "A" (H-168)**

This amendment, which is the majority report of the committee, replaces the bill. The amendment allows subrogation or priority over the insured of medical payments in certain instances in a casualty insurance policy for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in the policy only when an insured's awarded or settled damages exceed \$20,000.

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## Enacted Law Summary

Public Law 2009, chapter 222 allows subrogation or priority over the insured of medical payments in certain instances in a casualty insurance policy for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in the policy only when an insured's awarded or settled damages exceed \$20,000.

**LD 782      An Act To Require Health Insurers To Provide Coverage for  
Nutritional Wellness and Prevention Measures and Products**

**ACCEPTED ONTP  
REPORT**

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

The bill requires that health insurance policies provide coverage for nutritional wellness and prevention measures that are shown to be beneficial to the enrollee and recommended by the enrollee's physician. The bill applies to all individual and group policies issued or renewed on or after January 1, 2010.

**Committee Amendment "A" (H-283)**

This amendment replaces the bill and is the minority report of the committee. The amendment requires health insurance coverage for medically necessary liquid nutrition therapy for persons with chronic illnesses. The amendment applies to all individual and group policies issued or renewed on or after January 1, 2010. The amendment also adds an appropriations and allocations section.

Committee Amendment "A" was not adopted.

**LD 783      An Act To Protect the Privacy of Consumer Financial Information**

**ACCEPTED ONTP  
REPORT**

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

Currently, state law conforms to the opt-out provisions of the federal Gramm-Leach-Bliley Act regarding the disclosure of nonpublic personal information. This bill puts in place an opt-in requirement so that financial services providers, including banks, credit unions, securities firms and mortgage companies, must have permission from individuals before disclosing nonpublic personal information to nonaffiliated 3rd parties. The bill is contingent on approval by voters at a statewide referendum.

**Committee Amendment "A" (H-144)**

This amendment is the minority report of the committee. The amendment clarifies the enforcement authority of regulators within the Department of Professional and Financial Regulation and the Attorney General. The amendment removes certain provisions of the bill to preserve the privacy protections already available to consumers in the Maine Insurance Information and Privacy Protection Act and makes technical changes to conform the language to current law. The amendment also removes the provision in the bill making it contingent upon approval by voters at a statewide referendum.

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Committee Amendment "A" was not adopted.

**LD 825      An Act To Allow the Consecutive Purchase of 6-month Health Insurance Policies** **ONTP**

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

This bill extends the length of time that an insurer may issue individual short-term health insurance as a replacement policy for an additional term of 6 months.

**LD 859      An Act To Control Premium Costs in the Small Group Health Insurance Market** **ONTP**

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

This bill requires a benefits-incurred-to-premiums-earned loss ratio of 78% for one year or 80% over a 3-year average in the small group insurance market.

A related provision to increase the minimum loss ratio in individual and small group health plans was included in LD 1205, An Act to Establish a Health Care Bill of Rights as originally drafted but was not included in LD 1205 as enacted. See LD 1205, which was enacted as Public Law 2009, chapter 439.

**LD 896      An Act To Ensure Adequate Insurance Coverage for Family Child Care Providers** **PUBLIC 185**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODE BOWMAN	OTP-AM MAJ ONTP MIN	H-214

This bill makes it clear that insurers issuing homeowner's insurance policies are not liable under those policies for losses or damages arising out of the services provided by certified family child care providers in an insured's home unless coverage is specifically provided under the policy or a rider providing business liability coverage is attached to the policy. The bill prohibits an insurer from refusing to issue, renew or cancel a policy if the insured can demonstrate satisfactory evidence of liability insurance coverage for the operations of the family child care. The bill also prohibits insurers from restricting coverage under any rider for a family child care provider based on the number of children cared for in the home except as provided in the family child care provider's certification.

**Committee Amendment "A" (H-214)**

This amendment replaces the bill. As in the bill, the amendment prohibits an insurer from refusing to issue or renew or from cancelling a homeowner's policy if the insured can demonstrate satisfactory evidence of liability coverage for the operations of the family child care business. The amendment proposes language to conform to existing

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language used in the Maine property insurance cancellation control laws.

The amendment makes it clear that insurers issuing homeowners policies are not liable under those policies for losses arising out of the family child care business unless coverage is specifically provided under the policy or a rider providing business liability coverage. The amendment also clarifies the circumstances under which a property insurer has no duty to defend or indemnify a family child care provider who has obtained business liability coverage for the operations of the family child care business. The amendment requires the insurer to disclose to family child care providers that the failure to maintain separate insurance coverage for business liability may result in the cancellation or nonrenewal of the homeowners insurance policy.

The amendment removes the provision in the bill that prohibited an insurer from restricting coverage under any rider for a family child care provider based on the number of children cared for in the home except as provided in the family child care provider's certification.

### **Enacted Law Summary**

Public Law 2009, chapter 185 prohibits an insurer from refusing to issue or renew or from cancelling a homeowner's policy if the insured can demonstrate satisfactory evidence of liability coverage for the operations of the family child care business. The law makes it clear that insurers issuing homeowners policies are not liable under those policies for losses arising out of the family child care business unless coverage is specifically provided under the policy or a rider providing business liability coverage. In addition, the law clarifies the circumstances under which a property insurer has no duty to defend or indemnify a family child care provider who has obtained business liability coverage for the operations of the family child care business.

Public Law 2009, chapter 185 also requires the insurer to disclose to family child care providers that the failure to maintain separate insurance coverage for business liability may result in the cancellation or nonrenewal of the homeowners insurance policy.

### **LD 917      An Act To Prevent the Unauthorized or Deceptive Use of the Names of Financial Institutions**

**PUBLIC 103**

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

This bill prohibits the unauthorized or deceptive use of the name of a financial institution, credit union, holding company, affiliate or subsidiary in any advertisement or solicitation. The bill also grants to the Superintendent of Financial Institutions the authority to impose civil penalties and provides financial institutions, credit unions, holding companies, affiliates and subsidiaries with remedies against unauthorized or deceptive uses of their names.

### **Enacted Law Summary**

Public Law 2009, chapter 103 prohibits the unauthorized or deceptive use of the name of a financial institution, credit union, holding company, affiliate or subsidiary in any advertisement or solicitation. The law also grants to the Superintendent of Financial Institutions the authority to impose civil penalties and provides financial institutions, credit unions, holding companies, affiliates and subsidiaries with remedies against unauthorized or deceptive uses of their names.

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**LD 970 An Act To Amend the Laws Governing Notification after a Security Breach Involving Personal Information**

**PUBLIC 161**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST	OTP-AM	H-145

This bill amends the security breach notification laws. The bill makes it clear that the release or use of personal information acquired through a security breach by an unauthorized person constitutes a violation of the law. The bill also requires that any delay for law enforcement purposes in notification to persons affected by a security breach may not be longer than 7 business days.

**Committee Amendment "A" (H-145)**

This amendment clarifies that notification to persons affected by a security breach may not be delayed longer than 7 business days after law enforcement has determined notification will not compromise any criminal investigation. The amendment also provides that the changes to the security breach notification laws apply to a security breach discovered on or after the effective date of the changes.

**Enacted Law Summary**

Public Law 2009, chapter 161 amends the security breach notification laws. The law makes it clear that the release or use of personal information acquired through a security breach by an unauthorized person constitutes a violation of the law. The law also requires that notification to persons affected by a security breach may not be delayed longer than 7 business days after law enforcement has determined notification will not compromise any criminal investigation.

Public Law 2009, chapter 161 provides that the changes to the security breach notification laws apply to a security breach discovered on or after the effective date of the law.

**LD 979 An Act To Require the Disclosure of Insurance Policy Limits to an Injured Party**

**PUBLIC 189**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP-AM MAJ ONTP MIN	S-95

This bill requires an insurer to disclose the liability coverage limits of its insured to a claimant.

**Committee Amendment "A" (S-95)**

This amendment is the majority report of the committee and replaces the bill. The amendment retains the substantive provisions of the bill, but reallocates the language to the appropriate chapter of the Maine Revised Statutes, Title 24-A.

**Enacted Law Summary**

Public Law 2009, chapter 189 requires an insurer to disclose the liability coverage limits of its insured to a claimant.

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

**LD 1001      Resolve, To Require the Office of Employee Health and Benefits To Report on Its Demonstration Project To Provide Access to Fitness Programs for State Employees**

**RESOLVE 78**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PIEH ALFOND	OTP-AM	H-286

This resolve requires the Department of Administrative and Financial Services, Bureau of Human Resources, division of employee health and benefits to contract with a health insurance provider that will offer a health and wellness program for state employees that allows an employee of the State to enroll in a monthly membership with a fitness center of the employee's choice.

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

This amendment replaces the resolve and changes the title. The amendment requires the Executive Director of the Office of Employee Health and Benefits within the Department of Administrative and Financial Services to report on the demonstration project to provide access to fitness programs for state employees. The amendment requires the report to provide information on the number of participating state employees, the number and location of participating fitness centers, the types of fitness services used and the number of visits to fitness centers by state employees and the financial impact on the group health plan. The report must be submitted no later than February 1, 2010. The amendment also authorizes the Joint Standing Committee on Insurance and Financial Services to submit legislation concerning the report to the Second Regular Session of the 124th Legislature.

**Enacted Law Summary**

Resolve 2009, chapter 78 requires the Executive Director of the Office of Employee Health and Benefits within the Department of Administrative and Financial Services to report on the demonstration project to provide access to fitness programs for state employees. The law requires the report to provide information on the number of participating state employees, the number and location of participating fitness centers, the types of fitness services used and the number of visits to fitness centers by state employees and the financial impact on the group health plan. The report must be submitted no later than February 1, 2010. The law also authorizes the Joint Standing Committee on Insurance and Financial Services to submit legislation concerning the report to the Second Regular Session of the 124th Legislature.

**LD 1002      Resolve, To Conduct an Updated Study of the Feasibility of Establishing a Single-payor Health Care System in the State and the Impact of Any Federal Health Care Reform**

**RESOLVE 135**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAUDOIN BOWMAN	OTP-AM MAJ ONTP MIN	H-353 S-330 DIAMOND

This resolve requires the Legislative Council to contract for an update to a 2002 study of the feasibility of establishing a single-payor health plan in the State. The update is contingent on the successful securing of outside funding by August 1, 2009. The updated study must be submitted to the Second Regular Session of the 124th Legislature during which the Joint Standing Committee on Insurance and Financial Services may submit

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legislation based on the updated study.

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

This amendment adds a requirement that the updated study include a preliminary analysis of the impact of any federal health care reform legislation on state legislation to establish a single-payor health care system or other mechanism for universal health care. The amendment also changes the dates contained in the resolve for securing commitments for outside funding from August 1, 2009 to October 1, 2009 and for submitting the report from December 2, 2009 to January 15, 2010. The amendment also adds an appropriations and allocations section.

### **Senate Amendment "A" To Committee Amendment "A" (S-330)**

This amendment strikes the General Fund appropriation from Committee Amendment "A".

### **Enacted Law Summary**

Resolve 2009, chapter 135 requires the Legislative Council to contract for an update to a 2002 study of the feasibility of establishing a single-payor health plan in the State. The updated study must include a preliminary analysis of the impact of any federal health care reform legislation on state legislation to establish a single-payor health care system or other mechanism for universal health care. The update is contingent on the successful securing of outside funding by October 1, 2009. The updated study must be submitted by January 15, 2010 to the Second Regular Session of the 124th Legislature during which the Joint Standing Committee on Insurance and Financial Services may submit legislation based on the updated study.

**LD 1003      Resolve, Directing the Office of Program Evaluation and Government Accountability To Perform a Performance Evaluation and Cost-benefit Analysis of the Dirigo Health Program**

**ONTP**

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

This resolve directs the Office of Program Evaluation and Government Accountability to conduct a performance evaluation and cost-benefit analysis of the Dirigo Health Program from its inception to the present, including studying all legislation, policies, rulemaking, expenses, estimates of the cost of covering the uninsured and of privatizing the program, costs of insurance providers from out of the State, interactions of policyholders with providers and copayments. This resolve requires a report to be submitted to the Joint Standing Committee on Health and Human Services by December 2, 2009.

**LD 1004      An Act Relating to Self-insurance**

**PUBLIC 232**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON W BOWMAN	OTP-AM	H-287

This bill amends the laws relating to workers' compensation group self-insurance reinsurance accounts to clarify that individual self-insurers authorized under Maine law and group self-insurers authorized under the laws of other states may participate in the account.

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## Committee Amendment "A" (H-287)

This amendment makes changes to the laws relating to workers' compensation group self-insurance reinsurance accounts to:

1. Authorize individual self-insurers authorized under Maine law to participate in an account; and
2. Authorize the formation of a protected cell mechanism under which group self-insurers authorized under the laws of other states may participate in an account, similar to the structure currently provided for in the National Association of Insurance Commissioners Protected Cell Company Model Act and in the Maine Revised Statutes, Title 24-A, section 784-A.

The amendment also adds an appropriations and allocations section.

### Enacted Law Summary

Public Law 2009, chapter 232 makes changes to the laws relating to workers' compensation group self-insurance reinsurance accounts. The law authorizes individual self-insurers authorized under Maine law to participate in a group self-insurance reinsurance account. The law also authorizes the formation of a protected cell mechanism under which workers' compensation group self-insurers authorized under the laws of other states may participate in a reinsurance account, similar to the structure currently provided for in the National Association of Insurance Commissioners Protected Cell Company Model Act and in the Maine Revised Statutes, Title 24-A, section 784-A.

## LD 1005    **An Act To Continue Access to Dirigo Choice Health Insurance by Reducing Administrative Costs and Replacing the Savings Offset Payment**

ONTP

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

This bill repeals the savings offset payment used to fund subsidies for the Dirigo Health Program and eliminates the administrative costs associated with the annual adjudicatory hearings. In place of the savings offset payment, the bill establishes a health access surcharge of 2.14% on all paid claims to be paid monthly as a source of funding for Dirigo Health Program subsidies. The bill changes the payment date for savings offset payments that have been previously assessed but not yet paid before the effective date of the bill. The bill also prohibits insurance carriers from including the costs of the health access surcharge used to support the Dirigo Health Program in health insurance premium rates.

While LD 1005 was voted "Ought Not to Pass", a related substantive provision replacing the savings offset payment with a health access surcharge of 2.14% on all paid claims was incorporated into LD 1264, An Act to Stabilize Funding and Enable DirigoChoice To Reach More Uninsured. See LD 1264, which was enacted as Public Law 2009, chapter 359.

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**LD 1040     An Act Relating to Health Benefit Plan Coverage of Chemotherapy**

**ONTP**

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

This bill requires that, if a carrier provides coverage for cancer chemotherapy, the carrier shall provide coverage for a prescribed orally administered cancer medication on a basis no less favorable than intravenously administered or injected cancer medications that are covered benefits.

**LD 1059     Resolve, To Enhance Health Care for Direct Care Workers**

**Carried Over**

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

This resolve requires the Department of Professional and Financial Regulation, Bureau of Insurance to establish a demonstration project named the Direct Care Workforce Health Coverage Working Group to help long-term care service providers unable to afford high-quality health insurance for their direct care workers to receive higher levels of reimbursement for MaineCare services they provide. The project will last 4 years and cost \$500,000. The bureau shall assess if this benefit affects worker retention. The bureau shall report to the joint standing committee of the Legislature having jurisdiction over insurance matters, which may submit legislation.

LD 1059 has been carried over to the next special or regular session of the 124th Legislature pursuant to joint order, H.P. 1053.

**LD 1063     An Act To Provide Consumer Disclosures and Protect Consumer Options in Life Insurance**

**PUBLIC 376**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	OTP-AM	S-200

This bill provides disclosure to certain owners of life insurance policies from the insurance company of the availability of viatical settlement contracts. The bill also describes what constitutes violation of the Viatical and Life Settlements Act by an insurer.

**Committee Amendment "A" (S-200)**

This amendment replaces the bill. The amendment requires additional disclosures to consumers related to viatical and life settlements. The amendment requires the Superintendent of Insurance to develop a brochure informing consumers about their rights as owners of life insurance policies, including the alternatives to the lapse of a life insurance policy. The amendment requires life insurance companies to provide the brochure to consumers who are 60 years of age or older or have a chronic or terminal illness under certain circumstances. The amendment also

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makes technical changes to current law based on recommendations from the Department of Professional and Financial Regulation, Bureau of Insurance.

### **Enacted Law Summary**

Public Law 2009, chapter 376 requires additional disclosures to consumers related to viatical and life settlements. The law requires the Superintendent of Insurance to develop a brochure informing consumers about their rights as owners of life insurance policies, including the alternatives to the lapse of a life insurance policy. The law requires life insurance companies to provide the brochure to consumers who are 60 years of age or older or have a chronic or terminal illness under certain circumstances.

Public Law 2009, chapter 376 also makes technical changes to current law based on recommendations from the Department of Professional and Financial Regulation, Bureau of Insurance.

### **LD 1073 An Act To Provide for Insurance Coverage of Telemedicine Services**

**PUBLIC 169**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY A	OTP-AM	H-146

This bill provides for coverage of health care services delivered through telemedicine. The bill allows for insurer approval of telemedicine networks, allows deductibles, copayments and coinsurance the same as for in-person health services and provides for coverage consistent with in-person health care services. The provisions of the bill apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2010.

### **Committee Amendment "A" (H-146)**

This amendment replaces the bill. The amendment requires that a carrier offering a health plan may not deny coverage for health care services provided through telemedicine if those services would be covered by the carrier were they provided through in-person consultation. The amendment requires that carriers provide coverage for telemedicine in a manner consistent with coverage for health care services provided through in-person consultation and requires that any deductible, copayment or coinsurance for telemedicine may not exceed the deductible, copayment or coinsurance applicable to an in-person consultation.

### **Enacted Law Summary**

Public Law 2009, chapter 169 requires that a carrier offering a health plan may not deny coverage for health care services provided through telemedicine if those services would be covered by the carrier were they provided through in-person consultation. The law requires that carriers provide coverage for telemedicine in a manner consistent with coverage for health care services provided through in-person consultation and requires that any deductible, copayment or coinsurance for telemedicine may not exceed the deductible, copayment or coinsurance applicable to an in-person consultation.

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**LD 1083    An Act Regarding the Payment of Medicare Part B Premiums for Employees Eligible for Medicare**

**PUBLIC 456**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-217

This bill requires the State to pay 100% of the premiums for Medicare Parts B and D for retirees eligible for coverage under the State's group health plan. The bill also requires that the standard health plan offered to eligible retirees must be a companion plan to Medicare coverage.

**Committee Amendment "A" (S-217)**

The amendment replaces the bill. The amendment requires the State to pay 100% of an active employee's premiums for Medicare Part B if an active employee eligible for Medicare elects to enroll in Medicare. The amendment requires the State to continue to pay the Medicare Part B premiums until the employee enrolls as an eligible retiree.

Public Law 2009, chapter 456 requires the State to pay 100% of an active employee's premiums for Medicare Part B if an active employee eligible for Medicare elects to enroll in Medicare. The law requires the State to continue to pay the Medicare Part B premiums until the employee enrolls as an eligible retiree.

**LD 1084    Resolve, To Improve Continuity of Coverage for Participants in Medicare Advantage Plans**

**RESOLVE 59**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-94

This resolve allows a Medicare participant who enrolls in Medicare Part B and elects to enroll in a standardized Medicare supplement plan and subsequently enrolls in a Medicare Advantage plan to maintain continuity in coverage if the member returns to a standardized Medicare supplement plan, if the standardized Medicare supplement plan provides no greater benefits than the Medicare Advantage plan.

**Committee Amendment "A" (S-94)**

This amendment replaces the resolve. The amendment requires the Department of Professional and Financial Regulation, Bureau of Insurance to amend its rules to extend from one year to 3 years the period during which a Medicare beneficiary who is enrolled in a Medicare Advantage plan may return to original Medicare and enroll in a standardized Medicare supplement plan.

**Enacted Law Summary**

Resolve 2009, chapter 59 requires the Department of Professional and Financial Regulation, Bureau of Insurance to amend its rules to extend from one year to 3 years the period during which a Medicare beneficiary who is enrolled in a Medicare Advantage plan may return to original Medicare and enroll in a standardized Medicare supplement plan.

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### **LD 1091 An Act To Reduce the Cost of Health Insurance**

**ONTP**

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

This bill repeals the individual health insurance provisions relating to rating and reinsurance enacted as part of Public Law 2007, chapter 629 because the funding sources for those provisions were repealed by people's veto in November 2008. In their place, the bill makes the following changes to the individual and small group health insurance laws:

1. It amends guaranteed issuance and community rating for individual and small group health plans; and
2. It creates the Maine High-risk Reinsurance Pool Association. The purpose of the association is to provide reinsurance to spread the cost of high-risk individuals and small groups among all health insurers. The bill funds the high-risk reinsurance pool through an assessment on insurers.

### **LD 1125 An Act To Improve the Home Foreclosure Process**

**ONTP**

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

This bill requires that a mortgagee who is initiating a foreclosure action in Superior Court or District Court must include a mortgagor answer form in the documents that are served on the mortgagor with the complaint. The mortgagor answer form must be placed on top of the documents and may serve as the mortgagor's answer to the foreclosure complaint. It must also provide an opportunity for the mortgagor to request mediation, if mediation is available.

While LD 1125 was voted "Ought Not to Pass", a related substantive provision requiring that a one-page form notice serving as both a sample answer and a request for mediation be attached to the front of a foreclosure complaint was incorporated into LD 1418, An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures. See LD 1418, which was enacted as Public Law 2009, chapter 402.

### **LD 1144 An Act To Protect Tenants during Foreclosure**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CORNELL DU HOUX SULLIVAN	ONTP	

This bill requires a mortgagor to notify a tenant of the commencement of foreclosure proceedings against the premises rented by that tenant no later than one week after the commencement of those proceedings by sending a

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notice to the tenant by certified mail, return receipt requested, or by notifying the tenant in person. A mortgagor who fails to provide this notice shall provide one month's rent to the tenant at no cost to the tenant. A mortgagee or any other person may not evict a tenant until 30 days after the completion of the foreclosure proceedings.

While LD 1144 was voted "Ought Not to Pass", a related substantive provision requiring notice of foreclosure judgments to tenants was incorporated into LD 1418, An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures. See LD 1418, which was enacted as Public Law 2009, chapter 402.

**LD 1180    An Act To Clarify and Update the Laws Related to Life and Health Insurance**

**PUBLIC 244  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM	H-288

This bill protects those who switch from one Medicare supplement plan to another from losing protection against medical underwriting or preexisting condition exclusions if during a past period they were covered under a Medicare Advantage plan rather than traditional Medicare with a Medicare supplement plan.

This bill expands the current law regarding notice to parents regarding coverage of dependent children to apply to adult children as well as minors, as long as the adult child consents. It also makes the requirement applicable to health maintenance organizations.

This bill repeals the provisions for special rate hearings on individual, small group, and Medicare supplement insurance. These provisions provide for shifting the burden of proof as to whether rates are excessive from the insurer to the Department of Professional and Financial Regulation, Bureau of Insurance or other party asserting they are excessive if certain conditions are met. Under the bill, the burden of proof remains with the insurer. This bill amends and strengthens the law prohibiting discrimination in insurance based on genetic information. The amendments conform state law to the federal Genetic Information Nondiscrimination Act of 2008.

This bill amends the State's continuity of coverage law with respect to group health insurance to conform to the federal Health Insurance Portability and Accountability Act of 1996. The current law waives medical underwriting and preexisting condition exclusions only to the extent that benefits would have been payable under a prior contract or policy. As amended, medical underwriting and preexisting condition exclusions in group health insurance policies are waived entirely in most cases as long as there was some prior coverage. This bill also specifies, consistent with the federal Health Insurance Portability and Accountability Act of 1996, that when a group policy is replaced by another group policy, the "look-back" period for preexisting exclusions is measured from the date of enrollment in the first policy. In addition, this bill adds a provision to the Maine Insurance Code to require compliance with the federal Children's Health Insurance Program Reauthorization Act of 2009, Section 311.

This bill clarifies the applicability of individual and small group rating laws to group health insurance policies issued to associations and other groups. Coverage of employees of small employers, including those covered through employee leasing companies, is subject to small group rating laws. Coverage of individuals not covered through employment is subject to individual rating laws.

This bill clarifies that rates for individual health insurance and certain small group health insurance are subject to approval by the Superintendent of Insurance. Current law provides for disapproval of rates but does not explicitly refer to approval of rates.

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This bill clarifies that the period of time after which interest is payable on an individual life insurance claim is 2 months.

This bill clarifies that the Standard Nonforfeiture Law for Individual Deferred Annuities applies to certain group annuities.

### **Committee Amendment "A" (H-288)**

This amendment clarifies the description of a type of policy excluded from a state law requiring compliance with the federal Children's Health Insurance Program Reauthorization Act of 2009. The amendment provides for a 2nd election period for persons eligible for federal Consolidated Omnibus Reconciliation Act of 1985 coverage under state law. The amendment combines changes made to the Maine Revised Statutes, Title 24-A, section 2736, subsection 1 by Part C and Part G of the bill to avoid a conflict. The amendment also adds an emergency preamble and emergency clause to the bill.

### **Enacted Law Summary**

Public Law 2009, chapter 244 makes the following changes to clarify and update the Maine Insurance Code related to life and health insurance.

1. The law protects those who switch from one Medicare supplement plan to another from losing protection against medical underwriting or preexisting condition exclusions if during a past period they were covered under a Medicare Advantage plan rather than traditional Medicare with a Medicare supplement plan.
2. The law expands the current law regarding notice to parents regarding coverage of dependent children to apply to adult children as well as minors, as long as the adult child consents. It also makes the requirement applicable to health maintenance organizations.
3. The law repeals the provisions for special rate hearings on individual, small group, and Medicare supplement insurance. These provisions provide for shifting the burden of proof as to whether rates are excessive from the insurer to the Department of Professional and Financial Regulation, Bureau of Insurance or other party asserting they are excessive if certain conditions are met. Under the law, the burden of proof remains with the insurer.
4. The law amends and strengthens the law prohibiting discrimination in insurance based on genetic information. The changes conform state law to the federal Genetic Information Nondiscrimination Act of 2008.
5. The law amends the State's continuity of coverage law with respect to group health insurance to conform to the federal Health Insurance Portability and Accountability Act of 1996. The current law waives medical underwriting and preexisting condition exclusions only to the extent that benefits would have been payable under a prior contract or policy. As amended, medical underwriting and preexisting condition exclusions in group health insurance policies are waived entirely in most cases as long as there was some prior coverage. This law also specifies, consistent with the federal Health Insurance Portability and Accountability Act of 1996, that when a group policy is replaced by another group policy, the "look-back" period for preexisting exclusions is measured from the date of enrollment in the first policy. In addition, this law adds a provision to the Maine Insurance Code to require compliance with the federal Children's Health Insurance Program Reauthorization Act of 2009, Section 311.
6. The law clarifies the applicability of individual and small group rating laws to group health insurance policies issued to associations and other groups. Coverage of employees of small employers, including those covered through employee leasing companies, is subject to small group rating laws. Coverage of individuals not covered through employment is subject to individual rating laws.
7. The law clarifies that rates for individual health insurance and certain small group health insurance are subject to approval by the Superintendent of Insurance. Current law provides for disapproval of rates but does not explicitly refer to approval of rates.

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8. The law clarifies that the period of time after which interest is payable on an individual life insurance claim is 2 months.
9. The law clarifies that the Standard Nonforfeiture Law for Individual Deferred Annuities applies to certain group annuities.
10. The law provides for a 2nd election period for persons eligible for federal Consolidated Omnibus Reconciliation Act of 1985 coverage under state law.

Public Law 2009, chapter 244 was enacted as an emergency measure effective June 3, 2009.

**LD 1194      An Act To Establish a Reinsurance Mechanism To Expand Health Insurance for Individuals and Groups**

**ONTP**

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

This bill repeals the Maine Individual Reinsurance Association enacted as part of Public Law 2007, chapter 629 because the funding source for the association was repealed by people's veto in November 2008. The bill 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 1198      An Act To Reform Insurance Coverage To Include Diagnosis for Autism Spectrum Disorders**

**Carried Over**

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

This bill requires group health insurance policies, contracts and certificates covering fewer than 50 members to provide coverage for the diagnosis and treatment of autism spectrum disorders for persons 21 years of age and under. Initially, coverage is subject to a maximum annual benefit of \$36,000 per year; beginning January 1, 2011, the maximum benefit must be adjusted annually for inflation using the medical care component of the United States Department of Labor Consumer Price Index. The provisions of this bill apply to group policies, contracts and certificates issued or renewed on or after January 1, 2010.

LD 1198 has been carried over to the next special or regular session of the 124th Legislature pursuant to joint order, H.P. 1053.

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**LD 1205     An Act To Establish a Health Care Bill of Rights**

**PUBLIC 439**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT BOWMAN	OTP-AM   MAJ ONTP   MIN	H-446 S-332   BOWMAN

This bill does the following.

1. Part A requires carriers to provide notice to policyholders when a policy has been reinstated and the premium paid following a cancellation notice for nonpayment of premium. It requires carriers to provide notice to plan enrollees regarding any exclusions or limits of coverage for childhood immunizations. Part A also requires carriers to post at least 5 individual and 5 small group health plans on its publicly accessible website for comparison purposes and sets minimum standards for explanation of benefits documents used by carriers.
  
2. Part B establishes standards for provider profiling programs used by carriers.
  
3. Part C requires carriers and health maintenance organizations to include certain information about product offerings in the annual report supplement to the Department of Professional and Financial Regulation, Bureau of Insurance.
  
4. Part D extends the notice period for carriers to notify policyholders of proposed rate increases. It also permits the Attorney General to request a rate hearing regarding proposed rate increases for individual health plans.
  
5. Part E increases the minimum loss ratio for individual and small group health plans to 85%. Part E also requires health maintenance organizations to disclose loss information upon request from contract holders in the same manner as insurance companies. Part E also authorizes the Superintendent of Insurance to adopt rules requiring small group health carriers to offer standardized small group health plans.
  
6. Part F requires the Superintendent of Insurance to undertake market conduct exams of health insurance companies no less frequently than once every 3 years, beginning in 2010.
  
7. Part G requires a carrier replacing a previous carrier to honor any prior authorizations for prescription drugs for an enrollee undergoing a course of treatment until the replacement carrier conducts a review of that prior authorization with the enrollee's prescribing provider.

**Committee Amendment "A" (H-446)**

This amendment is the majority report of the committee and does the following.

1. It amends Part A to require the Superintendent of Insurance, when making rules, to take into consideration national standards and to give the superintendent authority to define standard policy terms by rulemaking. It provides a one-time allocation to cover the costs of rulemaking.
  
2. It amends Part B to establish standards for provider profiling programs used by carriers for out-of-network providers.
  
3. It removes Part C, which requires carriers and health maintenance organizations to include certain information about product offerings in the annual report supplement to the Department of Professional and Financial Regulation,

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Bureau of Insurance.

4. Part C in this amendment permits the Attorney General to request a rate hearing regarding proposed rate increases for individual health plans. It removes the provisions in the bill that extended the notice period for carriers to notify policyholders of proposed rate increases.
5. Part D in this amendment requires a benefits-incurred-to-premiums-earned loss ratio of 78% for one year or 80% over a 3-year average in the small group insurance market. Part D authorizes the Superintendent of Insurance to adopt rules requiring small group health carriers to offer standardized small group health plans. Part D also authorizes the superintendent to study the impact of increases in the loss ratio in the individual market and the consideration of losses in all health insurance markets as part of rate filings.
6. Part D in this amendment clarifies that all rate filings and supporting information filed by carriers are public records except for certain health information protected by state or federal law and information related to the terms and conditions and reimbursement provisions contained in contracts between carriers and third parties.
7. Part E in this amendment requires the Superintendent of Insurance to undertake market conduct examinations of health insurance companies no less frequently than once every 5 years, beginning in 2010. Part E requires all health insurance carriers to be examined at least once by 2015.
8. Part F in this amendment requires a carrier replacing a previous carrier to honor any prior authorizations for prescription drugs for an enrollee undergoing a course of treatment until the replacement carrier conducts a review of that prior authorization with the enrollee's prescribing provider.

LD 1205, as amended, was reviewed by the Joint Standing Committee on Judiciary pursuant to Title 1, Maine Revised Statutes, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **Senate Amendment "B" To Committee Amendment "A" (S-332)**

This amendment makes the following changes.

1. It removes the requirement that carriers provide written notice of reinstatement of a group policy following a cancellation notice for nonpayment of premium. In place of the written notice requirement, this amendment requires carriers to provide a toll-free telephone number that certificate holders can call to determine if the policy has been cancelled or reinstated after payment of the premium.
2. It removes requirements of the bill that the Superintendent of Insurance establish additional requirements for explanation of benefits forms through rulemaking.
3. It removes the provisions that increase the minimum loss ratio for small group health plans.
4. It limits the requirement that a carrier replacing a previous carrier honor any prior authorizations for prescription drugs to a period not to exceed 6 months.
5. It corrects a conflict involving the section concerning the subject of the filing of rate information created by Public Law 2009, chapters 14 and 244 by incorporating the changes made in those laws with the changes proposed in Committee Amendment "A."

### **Senate Amendment "A" To Committee Amendment "A" (S-313)**

This amendment strikes that portion of Committee Amendment "A" that requires a benefits incurred to premiums earned loss ratio of 78% for one year or 80% over a 3-year average in the small group insurance market. This amendment also strikes language from Committee Amendment "A" that specifically exempts from the definition of

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"public records" information in filings that is protected health information required to be kept confidential by state or federal statute and descriptions of certain information in contracts between insurers and 3rd parties.

Senate Amendment "A" was not adopted.

### **Enacted Law Summary**

Public Law 2009, chapter 439 does the following.

1. Part A requires carriers to provide a toll-free telephone number that certificate holders can call to determine if the policy has been cancelled or reinstated after payment of the premium. It requires carriers to provide notice to plan enrollees regarding any exclusions or limits of coverage for childhood immunizations. Part A also requires carriers to post at least 5 individual and 5 small group health plans on its publicly accessible website for comparison purposes and sets minimum standards for explanation of benefits documents used by carriers.
2. Part B establishes standards for provider profiling programs used by carriers.
3. Part C permits the Attorney General to request a rate hearing regarding proposed rate increases for individual health plans.
4. Parts C and D clarify that all rate filings and supporting information filed by carriers are public records except for certain health information protected by state or federal law and information related to the terms and conditions and reimbursement provisions contained in contracts between carriers and third parties.
5. Part D authorizes the Superintendent of Insurance to adopt rules requiring small group health carriers to offer standardized small group health plans. Part D also authorizes the superintendent to study the impact of increases in the loss ratio in the individual market and the consideration of losses in all health insurance markets as part of rate filings.
6. Part E requires the Superintendent of Insurance to undertake market conduct examinations of health insurance companies no less frequently than once every 5 years, beginning in 2010. Part E requires all health insurance carriers to be examined at least once by 2015.
7. Part F requires a carrier replacing a previous carrier to honor any prior authorizations for prescription drugs for an enrollee undergoing a course of treatment until the replacement carrier conducts a review of that prior authorization with the enrollee's prescribing provider. It limits the requirement that a carrier replacing a previous carrier honor any prior authorizations for prescription drugs to a period not to exceed 6 months.

**LD 1206     An Act To Fund the Dirigo Health Program through a High-risk Pool**

**ACCEPTED ONTP  
REPORT**

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

Part A 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 of 1.5:1.

Part A eliminates the Maine Individual Reinsurance Association which lacks funding due to the repeal by people's veto of portions of Public Law 2007, chapter 629, and establishes the Comprehensive Health Insurance Risk Pool

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Association, a high-risk pool for the individual health insurance market. Part A repeals the guaranteed issuance requirement for individual health insurance; the high-risk pool will become the mechanism to provide guaranteed access to individual coverage. The Part requires insurers that provide medical insurance as defined in the bill to pay an assessment of up to \$10 per covered person per month to support the costs of the high-risk pool and subsidy costs for the Dirigo Health Program.

Part A of the bill also authorizes the offering of individual health plans for young adults without the prior approval of the Superintendent of Insurance.

Part B of the bill requires that Dirigo Health apply an asset limit that is 3 times the limit 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. Part B requires Dirigo Health enrollees to complete health assessments as a condition of receiving subsidies. Part B also repeals the savings offset payment as the source of funding for subsidies for the Dirigo Health Program and instead requires the Comprehensive Health Insurance Risk Pool Association to transfer 50% of revenues from insurer assessments to support subsidies.

Part C directs the Office of the Revisor of Statutes to include in the errors bill any sections necessary to correct cross-references to provisions of law repealed in this Act.

### **Committee Amendment "A" (H-465)**

This amendment, which is the minority report of the committee, does the following.

1. The amendment requires that the high-risk pool association develop a standardized health questionnaire to be filled out by individuals to determine eligibility for the high-risk pool. The amendment reduces the maximum assessment to be paid by insurers to support the high-risk pool to \$4 and removes the requirement to transfer 50% of the assessment to the Dirigo Health program.
2. The amendment removes Part B of the bill.
3. This amendment corrects cross-references necessitated by changes made in Part A of the bill as amended by this amendment.

Committee Amendment "A" was not adopted.

### **LD 1264    An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured**

**PUBLIC 359**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT BOWMAN	OTP-AM   MAJ OTP-AM   MIN	H-490

This bill requires the Board of Trustees of Dirigo Health to reach more uninsured and underinsured individuals through a more affordable product and to report to the Joint Standing Committee on Insurance and Financial Services regarding changes to the Dirigo Health Program by January 1, 2010. The bill replaces the savings offset payment, currently assessed at a variable rate up to 4% of paid claims determined each year depending on savings, with a fixed 2.14% access payment on paid claims paid monthly.

### **Committee Amendment "A" (H-490)**

This amendment is the majority report of the committee. The amendment clarifies that access payments apply to claims paid on or after September 1, 2009 and establishes the payment date as 30 days after the end of each month.

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The amendment also establishes an effective date of October 1, 2009 and corrects a technical error.

### **Committee Amendment "B" (H-491)**

This amendment is the minority report of the committee. After the first year the access payment is implemented, it is reduced by 25% the 2nd year, 50% the 3rd year, 75% the 4th year and then eliminated. In addition to the duties included in the bill, the amendment directs the Board of Trustees of Dirigo Health to establish an asset test for eligibility, to require any new enrollees after the redesign of the DirigoChoice product to be uninsured before enrolling and to seek adequate federal funding to support the Dirigo Health Program and the Maine Individual Reinsurance Association.

The amendment expresses the Legislature's intent that the funding provided to Dirigo Health pursuant to the Maine Revised Statutes, Title 24-A, section 6917 be supplemented by the General Fund to maintain enrollment at the same level as on the effective date of the bill. The amendment also establishes an effective date of October 1, 2009. The amendment also adds an appropriations and allocations section.

Committee Amendment "B" was not adopted.

### **Senate Amendment "B" To Committee Amendment "A" (S-293)**

This amendment directs the Board of Trustees of Dirigo Health to change Dirigo Health effective June 30, 2010 in the following ways:

1. Adopt sliding scale vouchers to provide households with access to a range of approved insurance products;
2. Deny subsidies to households with assets exceeding \$50,000;
3. Enroll as new members only those who have been uninsured for at least 6 months;
4. Allow carriers to impose a 6-month waiting period for preexisting conditions; and
5. Adopt policies to offer more affordable products, spread subsidies over more households, emphasize preventive care and disease management, improve population health, reduce costs in the State's health care market and maximize federal initiatives.

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

### **Senate Amendment "A" To Committee Amendment "A" (S-288)**

This amendment removes the effective date of September 1, 2009 and clarifies that access payments apply to claims paid for plan years beginning on or after the date the section takes effect.

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

### **Enacted Law Summary**

Public Law 2009, chapter 359 replaces the savings offset payment, currently assessed at a variable rate up to 4% of paid claims determined each year depending on savings, with a fixed 2.14% access payment on paid claims paid monthly. The law clarifies that access payments apply to claims paid on or after September 1, 2009 and establishes the payment date as 30 days after the end of each month.

Public Law 2009, chapter 359 also requires the Board of Trustees of Dirigo Health to consider making changes to focus on coverage of uninsured and underinsured individuals through a more affordable DirigoChoice product and to report to the Joint Standing Committee on Insurance and Financial Services regarding those changes by January 1, 2010.

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**LD 1285 An Act To Create the Insurance Fraud Division within the Department of Professional and Financial Regulation, Bureau of Insurance**

**ONTP**

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

This bill 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 activities to the Superintendent 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.

**LD 1304 An Act Regarding First-party Automobile and Casualty Insurance**

**ONTP**

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

This bill responds to the opinion of the Maine Supreme Judicial Court in *Jipson v. Liberty Mutual Fire Insurance Company*, 2008 ME 57, 942 A.2d 1213, by making an automobile insurance policyholder's coverage excess coverage instead of gap-filling coverage.

**LD 1305 An Act To Provide for Prompt Resolution of Insurance Claims by Providing for a Direct Remedy by Consumers**

**ONTP**

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

This bill provides a private remedy for consumers who are victims of an unfair claim practice. This bill also allows an injured party to bring a direct action against an insurer under certain circumstances.

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## LD 1326 An Act To Amend the Laws Governing Licensed Financial Service Providers

PUBLIC 243  
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LOVEJOY PERRY J	OTP-AM	H-284

The purpose of this bill is to more equitably allocate regulatory costs of the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection among licensed entities by increasing the cap on loan officer registration fees, permitting recovery of costs of certifying educational courses for providers, increasing loan broker license fees, establishing loan broker and debt management branch office licenses and increasing debt collector license fees.

### Committee Amendment "A" (H-284)

This amendment adds an emergency preamble and emergency clause to the bill.

### Enacted Law Summary

Public Law 2009, chapter 243 is intended to more equitably allocate regulatory costs of the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection among licensed entities by increasing the cap on loan officer registration fees, permitting recovery of costs of certifying educational courses for providers, increasing loan broker license fees, establishing loan broker and debt management branch office licenses and increasing debt collector license fees.

Public Law 2009, chapter 243 was enacted as an emergency measure effective June 3, 2009.

## LD 1343 An Act To Promote Consumer Fairness in Tax Refund Anticipation Loans

PUBLIC 248

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRATT	OTP-AM	H-285

This bill regulates businesses that provide refund anticipation loans or refund anticipation checks associated with tax refunds or tax credits. The bill requires those acting as facilitators of refund anticipation loans to register with the Bureau of Consumer Credit Protection and post bonds for the protection of consumers. The bill requires disclosures to consumers who enter into these transactions and prohibits certain practices by facilitators of refund anticipation loans.

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

This amendment replaces the bill. The amendment regulates businesses that facilitate refund anticipation loans or refund anticipation checks associated with tax refunds or tax credits. The amendment requires those acting as facilitators of refund anticipation loans or refund anticipation checks to register as loan brokers with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and post bonds for the protection of consumers. The bill requires disclosures to consumers who enter into these transactions and prohibits certain practices by facilitators of refund anticipation loans or refund anticipation checks.

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## Enacted Law Summary

Public Law 2009, chapter 248 regulates businesses that facilitate refund anticipation loans or refund anticipation checks associated with tax refunds or tax credits. The law requires those acting as facilitators of refund anticipation loans or refund anticipation checks to register as loan brokers with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection and post bonds for the protection of consumers. The law also requires disclosures to consumers who enter into these transactions and prohibits certain practices by facilitators of refund anticipation loans or refund anticipation checks.

## LD 1358      **Resolve, To Study Implementation of Shared Decision Making To Improve Quality of Care and Reduce Unnecessary Use of Medical Services**

**RESOLVE 104**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-218

This bill requires health insurance carriers and the MaineCare program to implement shared decision making as a strategy for improving the quality of medical care and for controlling the unnecessary utilization of preference-sensitive health care services. Under the bill, the Maine Quality Forum is responsible for determining which medical services are preference-sensitive and for approving protocols and decision-making aids to assist health care providers in consulting with patients. If a provider follows the shared decision-making protocol, the health care provider may use compliance with the protocol as proof of informed consent when relevant to defending a medical malpractice action. The bill requires the Maine Quality Forum and the Maine Health Data Organization to evaluate the shared decision-making program and report to the Legislature by January 31, 2012.

### **Committee Amendment "A" (S-218)**

This amendment replaces the bill with a resolve and changes the title. The amendment requires the Maine Quality Forum to convene an advisory group of stakeholders to develop a plan for implementation of shared decision making as a strategy for improving the quality of medical care and for controlling the unnecessary use of preference-sensitive health care services. The amendment requires the Maine Quality Forum to submit a preliminary report on February 1, 2010 and a final report by February 1, 2011 to the joint standing committees of the Legislature having jurisdiction over health and human services matters and insurance and financial services matters.

## Enacted Law Summary

Resolve 2009, chapter 104 requires the Maine Quality Forum to convene an advisory group of stakeholders to develop a plan for implementation of shared decision making as a strategy for improving the quality of medical care and for controlling the unnecessary use of preference-sensitive health care services. The law requires the Maine Quality Forum to submit a preliminary report on February 1, 2010 and a final report by February 1, 2011 to the joint standing committees of the Legislature having jurisdiction over health and human services matters and insurance and financial services matters.

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**LD 1365     An Act To Establish a Single-payer Health Care System**

**Carried Over**

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

This bill 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.

1. Part A of the bill does the following.

It establishes the Maine Health Care Plan to provide security through high-quality, affordable health care for the people of the State. The plan becomes effective when 2 other New England states enact substantially similar legislation. 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 payroll taxes and payments from the General Fund or any other sources. The Maine Health Care Plan provides a range of benefits, including hospital services, health care services from participating providers, laboratory 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 MaineCare, Medicare, the Dirigo Health Program, the federal Civilian Health and Medical Program of the Uniformed Services, the federal Indian Health Care Improvement Act and workers' compensation. 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.

Part A 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. The agency is also required to contract with a 3rd-party administrator for claims processing and data collection services.

Part A also requires the State Controller to advance \$400,000 to the Maine Health Care Trust Fund on the effective date of the Part, July 1, 2010. This amount must be repaid by the Maine Health Care Agency by June 30, 2012.

2. 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 Council 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 every 6 months beginning July 1, 2010. The committee completes its work when the Maine Health Care Plan becomes effective.

3. 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.

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4. 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 insurance policies and contracts that do not duplicate and are supplemental to the coverage of the Maine Health Care Plan.

5. Part E 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 Legislature is due January 1, 2012.

The Maine Health Care Agency is directed to study the provision of health care services under the MaineCare 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 MaineCare and Medicare programs. A report by the agency is due to the Legislature by March 1, 2011.

6. Part F of the bill clarifies that, throughout the Maine Revised Statutes, the words "payer" and "payor" may be used interchangeably and have the same meaning.

7. Part G of the bill establishes a 7.5% payroll tax on wages and earnings, including self-employed earnings, and dedicates that tax revenue to the Maine Health Care Trust Fund.

LD 1365 has been carried over to the next special or regular session of the 124th Legislature pursuant to joint order, H.P. 1053.

**LD 1366      An Act To Increase Access to Health Care by Providing Insurance Coverage for Telemedicine**

**LEAVE TO WITHDRAW**

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

This bill provides for coverage of health care services delivered through telemedicine. The bill allows deductibles, copayments and coinsurance the same as for in-person health services and provides for coverage consistent with in-person health care services. The provisions of the bill apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2010.

The substantive provisions in LD 1366 are included in LD 1073, An Act to Provide for Insurance Coverage of Telemedicine Services, which was enacted as Public Law 2009, chapter 169.

*Joint Standing Committee on Insurance and Financial Services*

**LD 1397 An Act To Allow Efficient Health Insurance Coverage**

**PUBLIC 357**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST BOWMAN	OTP-AM	H-393

This bill allows carriers to include financial incentives to members to use designated providers and gives the Superintendent of Insurance the authority to approve a financial incentive pilot program similar to the pilot program used by the State Employee Health Plan that allows companies to offer products in which consumers can choose to travel further for improved quality, patient safety and efficiency without adversely affecting quality of care. This bill also enacts again language that is scheduled to be repealed July 1, 2009 regarding limits, including geographic access requirements, on the incentives used by health plans to encourage in-network designated providers.

**Committee Amendment "A" (H-393)**

This amendment makes technical changes to the bill.

**Enacted Law Summary**

Public Law 2009, chapter 357 allows carriers to include financial incentives to members to use designated providers and gives the Superintendent of Insurance the authority to approve a financial incentive pilot program similar to the pilot program used by the State Employee Health Plan that allows companies to offer products in which consumers can choose to travel further for improved quality, patient safety and efficiency without adversely affecting quality of care. This law also enacts again language scheduled to be repealed July 1, 2009 regarding limits, including geographic access requirements, on the incentives used by health plans to encourage in-network designated providers.

**LD 1409 An Act To Make Technical and Supervisory Amendments to the Laws Governing Banking and Consumer Credit**

**PUBLIC 228**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT BOWMAN	OTP-AM	H-289

This bill eases regulatory burdens under Article 6 of the Maine Consumer Credit Code by eliminating the requirement for information concerning creditors and other entities subject to Article 6 that the administrator under the Maine Consumer Credit Code does not need or that can be found elsewhere, and allows the administrator under the Maine Consumer Credit Code to collect only the information considered necessary.

Currently, the filing deadline for financial institutions organized under the laws of this State is semiannually for condition reports and annually for income reports. The bill changes the filing deadlines to quarterly for both condition and income reports.

The bill requires a nondepository trust company to report the total fiduciary assets and income under management, in order to provide a more complete picture of the nondepository trust company's operations.

The bill clarifies that a financial institution that is chartered in a state other than this State may convert to become a financial institution chartered in this State.

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The bill clarifies that 3rd parties may seek judicial review of the activities of a receiver charged with liquidating a financial institution. The proposed amendment creates a review process for receivers that is similar to the review process that currently exists for conservators.

The bill establishes the Superintendent of Financial Institutions as a gatekeeper in deciding which activities are appropriate for state-chartered financial institutions under existing federal parity law. The bill ensures that the superintendent is informed of new activities undertaken by financial institutions and authorizes the superintendent to disapprove of any new activities based on consumer protection and safety and soundness considerations.

The bill establishes the Superintendent of Financial Institutions as a gatekeeper in deciding which activities are appropriate for state-chartered credit unions under existing federal parity law. The bill ensures that the superintendent is informed of new activities undertaken by credit unions and authorizes the superintendent to disapprove of any new activities based on consumer protection and safety and soundness considerations.

The bill allows the option of compensating those who serve on a credit union's board of directors in order to attract and retain well-qualified directors. The bill also contains an annual fee cap to prevent directors from receiving excessive compensation.

The bill clarifies the procedure with respect to the requirement that a credit union having total assets in excess of \$100,000,000 employ an independent public accountant to conduct an annual audit of the credit union.

The bill clarifies that a credit union that is chartered in a state other than this State may convert to become a credit union chartered in this State. The bill also permits a federally chartered credit union located outside of the State to convert to a credit union chartered in this State.

The bill replaces outdated terminology, "subsidiary savings institution," with current terminology, "subsidiary universal bank."

### **Committee Amendment "A" (H-289)**

This amendment does the following.

1. It removes the sections of the bill that proposed changes to the law regarding the permissible activities of state-chartered banks and credit unions under existing federal parity law.
2. It removes the section in the bill authorizing credit unions to compensate members of their boards of directors.
3. It clarifies that members of boards of directors of financial institutions are not liable to shareholders or creditors for consenting in good faith to the appointment of a receiver or conservator for a financial institution or to the acquisition by or combination with a financial institution holding company if grounds exist.

### **Enacted Law Summary**

Public Law 2009, chapter 228 eases regulatory burdens under Article 6 of the Maine Consumer Credit Code by eliminating the requirement for information concerning creditors and other entities subject to Article 6 that the administrator under the Maine Consumer Credit Code does not need or that can be found elsewhere, and allows the administrator under the Maine Consumer Credit Code to collect only the information considered necessary.

Currently, the filing deadline for financial institutions organized under the laws of this State is semiannually for condition reports and annually for income reports. The law changes the filing deadlines to quarterly for both condition and income reports. The law also requires a nondepository trust company to report the total fiduciary assets and income under management, in order to provide a more complete picture of the nondepository trust company's operations.

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The law clarifies that a financial institution that is chartered in another state may convert to become a financial institution chartered in this State.

The law clarifies that 3rd parties may seek judicial review of the activities of a receiver charged with liquidating a financial institution. The proposed amendment creates a review process for receivers that is similar to the review process that currently exists for conservators.

The law clarifies the procedure with respect to the requirement that a credit union having total assets in excess of \$100,000,000 employ an independent public accountant to conduct an annual audit of the credit union.

The law clarifies that a credit union that is chartered in another state or a federally chartered credit union located in another State may convert to become a credit union chartered in this State.

The law replaces outdated terminology, "subsidiary savings institution," with current terminology, "subsidiary universal bank."

**LD 1418      An Act To Preserve Home Ownership and Stabilize the Economy by  
Preventing Unnecessary Foreclosures**

**PUBLIC 402  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT BOWMAN	OTP-AM	H-524 H-547 TREAT

This bill amends the laws pertaining to foreclosures.

1. It establishes the mandatory foreclosure mediation program within the Court Alternative Dispute Resolution Service.
2. It makes violation of provisions of the Maine Consumer Credit Code a violation of the Maine Unfair Trade Practices Act.
3. It requires that the words "judgment of foreclosure and sale," the street address of the real estate involved and the book and page number of the mortgage be on a foreclosure judgment when filed in the registry of deeds.
4. It clarifies that a foreclosure on a rental property does not terminate a tenancy.
5. It describes what a mortgagee must include in a notice of foreclosure to a mortgagor.
6. It requires a mortgagee to provide certain information to the Maine State Housing Authority about foreclosure, which the Maine State Housing Authority shall transmit to the Department of Professional and Financial Regulation.
7. It requires the Maine State Housing Authority to notify a mortgagor who is a party to a foreclosure about the mortgagor's rights and available resources as they relate to the foreclosure as well as the mandatory foreclosure mediation program. It also requires the Maine State Housing Authority to establish a statewide hotline to help mortgagors communicate with housing counselors certified by the United States Department of Housing and Urban Development.
8. It requires the Department of Professional and Financial Regulation to report quarterly on the number of

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foreclosure notifications received to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters.

9. It amends the procedure and notice for foreclosures.

10. It amends the procedure for commencement of foreclosure by civil action.

### **Committee Amendment "A" (H-524)**

This amendment retains the emergency preamble and emergency clause, but replaces the substantive provisions of the bill. The amendment does the following.

1. It establishes a court-supervised mediation process in judicial foreclosure proceedings on owner-occupied residential properties of one to 4 units. The mediation process is modeled after the program used in the State of Connecticut. Beginning July 1, 2009, the amendment allows the Supreme Judicial Court to implement the mediation program first in those judicial districts most affected by foreclosure filings, but requires the program to be implemented throughout the State by January 1, 2010. The mediation program applies to judicial foreclosure filings made after January 1, 2010 except in those judicial districts where the mediation program is implemented by the court on July 1, 2009. The court is authorized to establish fees to support the mediation program.

2. It makes violation of provisions of the Maine Consumer Credit Code related to mortgage lending a violation of the Maine Unfair Trade Practices Act.

3. It requires that the words "judgment of foreclosure and sale," the street address of the real estate involved and the book and page number of the mortgage be on a foreclosure judgment when filed in the registry of deeds.

4. It requires notice to municipalities and owners of mobile home parks after foreclosure judgments.

5. It requires at least 90 days' notice to tenants in judicial foreclosure proceedings and at least 21 days' notice to tenants in nonjudicial foreclosure proceedings.

6. It describes what a mortgagee must include in a notice of foreclosure to a mortgagor.

7. It requires a mortgagee to provide certain information to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection about foreclosure and requires reporting on a quarterly basis to the Legislature related to foreclosures.

8. It requires the Bureau of Consumer Credit Protection to notify a mortgagor who is a party to a foreclosure about the mortgagor's rights and available resources as they relate to the foreclosure as well as the foreclosure mediation program. It also requires the Bureau of Consumer Credit Protection to coordinate an outreach program in consultation with the Maine State Housing Authority and to establish a statewide hotline to help mortgagors communicate with housing counselors certified by the United States Department of Housing and Urban Development.

9. It amends the procedure and notice for foreclosures.

10. It amends the procedure for commencement of foreclosure by civil action.

11. It allows a court upon a showing of good cause to extend a deadline for a notice of sale or conducting a public sale in a foreclosure action.

12. It removes the exemption under the real estate transfer tax laws for foreclosure sales and deeds in lieu of foreclosure and directs those tax revenues to the Bureau of Consumer Credit Protection to fund the agency's

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additional duties.

13. It adds an appropriations and allocations section.

LD 1418, as amended, was reviewed by the Joint Standing Committee on Judiciary pursuant to Title 1, Maine Revised Statutes, section 434, which requires review and evaluation of new exceptions to laws governing public records.

### **House Amendment "A" To Committee Amendment "A" (H-547)**

This amendment makes the following changes to Committee Amendment "A":

1. It corrects a technical error;
2. It clarifies that the foreclosure mediation program applies to owner-occupied residential property with no more than 4 units that is the primary residence of the owner-occupant;
3. It requires the Maine Supreme Judicial Court to submit a report by February 15, 2013 evaluating the foreclosure mediation program. The amendment requires the court to report on the number of foreclosure mediations conducted and the results of foreclosure mediation and make recommendations as to whether the foreclosure mediation program should be modified, continued or repealed. The amendment authorizes the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters to report out a bill based on the report to the First Regular Session of the 126th Legislature; and
4. The amendment also fixes a subsection number to have the subsection numbers read consecutively with existing law.

### **Enacted Law Summary**

Public Law 2009, chapter 402 establishes a court-supervised mediation process in judicial foreclosure proceedings on owner-occupied residential properties of one to 4 units that are the primary residences of the owner-occupants. The mediation process is modeled after the program used in the State of Connecticut. Beginning July 1, 2009, the law allows the Supreme Judicial Court to implement the mediation program first in those judicial districts most affected by foreclosure filings, but requires the program to be implemented throughout the State by January 1, 2010. The mediation program applies to judicial foreclosure filings made after January 1, 2010 except in those judicial districts where the mediation program is implemented by the court on July 1, 2009. The court is authorized to establish fees to support the mediation program. The law also requires the Maine Supreme Judicial Court to submit a report by February 15, 2013 evaluating the foreclosure mediation program and authorizes the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters to report out a bill based on the report to the First Regular Session of the 126th Legislature.

The law makes violation of provisions of the Maine Consumer Credit Code related to mortgage lending a violation of the Maine Unfair Trade Practices Act.

The law requires that the words "judgment of foreclosure and sale," the street address of the real estate involved and the book and page number of the mortgage be on a foreclosure judgment when filed in the registry of deeds.

The law requires notice to municipalities and owners of mobile home parks after foreclosure judgments.

The law requires at least 90 days' notice to tenants in judicial foreclosure proceedings and at least 21 days' notice to tenants in nonjudicial foreclosure proceedings.

The law describes what a mortgagee must include in a notice of foreclosure to a mortgagor.

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The law requires a mortgagee to provide certain information to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection about foreclosure and requires reporting on a quarterly basis to the Legislature related to foreclosures. The law requires the Bureau of Consumer Credit Protection to notify a mortgagor who is a party to a foreclosure about the mortgagor's rights and available resources as they relate to the foreclosure as well as the foreclosure mediation program. It also requires the Bureau of Consumer Credit Protection to coordinate an outreach program in consultation with the Maine State Housing Authority and to establish a statewide hotline to help mortgagors communicate with housing counselors certified by the United States Department of Housing and Urban Development.

The law amends the procedure for commencement of foreclosure by civil action and amends the procedure and notice for foreclosures. The law also allows a court upon a showing of good cause to extend a deadline for a notice of sale or conducting a public sale in a foreclosure action.

The law removes the exemption under the real estate transfer tax laws for foreclosure sales and deeds in lieu of foreclosure and directs those tax revenues to the Bureau of Consumer Credit Protection to fund the agency's additional duties.

Public Law 2009, chapter 402 was enacted as an emergency measure effective June 15, 2009.

**LD 1436     An Act To Create Economic Development in the State by Modernizing  
the State's Captive Insurance Laws**

**PUBLIC 335**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ALFOND	OTP-AM	S-220

The bill makes changes to the State's laws regulating captive insurance companies to encourage the formation of new captive insurance companies in the State. The changes in the bill are modeled after laws relating to captive insurance companies in Vermont, which has the highest number of captive insurance companies in the United States.

**Committee Amendment "A" (S-220)**

The amendment makes technical changes to the bill.

**Enacted Law Summary**

Public Law 2009, chapter 335 makes changes to the State's laws regulating captive insurance companies to encourage the formation of new captive insurance companies in the State. The changes in the law are modeled after laws relating to captive insurance companies in Vermont, which has the highest number of captive insurance companies in the United States.

**LD 1439     An Act To Conform State Mortgage Laws with Federal Laws**

**PUBLIC 362  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWMAN	OTP-AM   A OTP-AM   B OTP-AM   C	H-532   PRIEST S-221

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

Part A of this bill amends several mortgage lending provisions of the Maine Consumer Credit Code to correct inconsistencies within the law and to conform state law to federal developments that took place during calendar year 2008, including mandatory guidance from federal bank regulators; amendments to the mortgage provisions of federal truth-in-lending laws; and congressional enactment of a federal foreclosure relief law that contained additional changes to federal lending provisions.

Part B of the bill enables the State to participate in the national loan originator registration program that is also required by the recent federal foreclosure relief law.

Part C corrects cross-references.

### **Committee Amendment "A" (S-221)**

This amendment makes clarifying changes in Part A of the bill to retain existing provisions in Maine law not intended to be changed in the bill. The amendment also removes the presumption of compliance provision in the section of the bill relating to a creditor's obligation to verify a consumer's ability to repay a higher-priced mortgage loan.

The amendment makes changes to Part B of the bill to provide for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The amendment clarifies the requirements for licensing related to an applicant's criminal history and credit history. The amendment also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

### **Committee Amendment "B" (S-222)**

This amendment makes clarifying changes in Part A of the bill to retain existing provisions in Maine law not intended to be changed in the bill.

The amendment makes changes to Part B of the bill to provide for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The amendment clarifies the requirements for licensing related to an applicant's criminal history and credit history. The amendment also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

Committee Amendment "B" was not adopted.

### **Committee Amendment "C" (S-223)**

This amendment strikes Part A of the bill and retains only those provisions relating to conforming defined terms in Maine law with federal law.

This amendment makes changes to Part B of the bill to provide for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The amendment clarifies the requirements for licensing related to an applicant's criminal history and credit history. The amendment also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

Committee Amendment "C" was not adopted.

### **Senate Amendment "A" To Committee Amendment "A" (S-251)**

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

Like Committee Amendment "A" this amendment removes the presumption of compliance provision in the section of the bill relating to a creditor's obligation to verify a consumer's ability to repay a higher-priced mortgage loan. This amendment, however, also requires the creditor to evaluate certain information before verifying a consumer's repayment ability.

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

### **Senate Amendment "C" To Committee Amendment "A" (S-277)**

This amendment provides a presumption of compliance with laws that require a creditor to take into account a consumer's repayment ability before extending a higher-priced mortgage to a consumer if a creditor takes certain steps to evaluate a consumer's repayment ability.

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

### **Senate Amendment "B" To Committee Amendment "A" (S-276)**

Committee Amendment "A" removed the presumption of compliance provision in the section of the bill relating to a creditor's obligation to certify a consumer's ability to repay a higher-priced mortgage loan. This amendment restores the provision that establishes the presumption of compliance.

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

### **Senate Amendment "D" To Committee Amendment "A" (S-289)**

This amendment restores the provision that establishes the presumption of compliance if a creditor satisfies certain conditions relating to verification of a consumer's repayment ability that Committee Amendment "A" removed.

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

### **House Amendment "A" To Committee Amendment "A" (H-532)**

This amendment incorporates the changes proposed to Committee Amendment "A" made in Senate Amendment "D." The amendment also adds language from current law that describes the permissible 3rd-party documents a creditor may use as reasonably reliable evidence of a consumer's income or assets.

### **Enacted Law Summary**

Public Law 2009, chapter 362 amends several mortgage lending provisions of the Maine Consumer Credit Code to correct inconsistencies within the law and to conform state law to federal developments that took place during calendar year 2008, including mandatory guidance from federal bank regulators; amendments to the mortgage provisions of federal truth-in-lending laws; and congressional enactment of a federal foreclosure relief law that contained additional changes to federal lending provisions. The law includes a provision that establishes a presumption of compliance with the law if a creditor satisfies certain conditions relating to verification of a consumer's repayment ability for a higher-priced mortgage loan.

Public Law 2009, chapter 362 also enables the State to participate in the national loan originator registration program that is also required by the recent federal foreclosure relief law. The law provides for an exemption from licensing as a mortgage loan originator for nonprofit organizations engaged in financing housing for low-income persons and for retail sellers of manufactured homes to the extent determined by the federal Department of Housing and Urban Development. The law also includes a provision making the duties of good faith and fair dealing apply to mortgage loan originators.

Public Law 2009, chapter 362 was enacted as an emergency measure effective June 11, 2009.

# Joint Standing Committee on Insurance and Financial Services

## LD 1444 An Act To Protect Consumers and Small Business Owners from Rising Health Care Costs

PUBLIC 350

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP-AM MAJ ONTP MIN	S-219

Part A of the bill establishes the Advisory Council on Payment Reform to advise the Maine Health Data Organization and directs the council to develop a comprehensive set of proposed reforms to provide incentives for cost-effective and patient-centered health care.

Part B of the bill directs the Superintendent of Insurance to adopt rules for physician performance measurement, reporting and tiering programs to promote cost-effective and patient-centered care and create an advisory council.

Part C of the bill requires that hospitals and institutions licensed under the Maine Revised Statutes, Title 22, section 1811 that are public charities must provide a certain amount of free health care.

### Committee Amendment "A" (S-219)

This amendment is the majority report of the committee and replaces the bill.

Part A directs the Advisory Council on Health Systems Development to develop recommendations on payment reform.

Part B directs the Superintendent of Insurance to adopt rules for physician performance measurement, reporting and tiering programs. The superintendent may consult with the advisory council.

Part C requires that the Department of Health and Human Services post on its publicly accessible website the federal Internal Revenue Service Form 990 and forms already filed by hospitals with the department within 30 days of the effective date of the bill, as amended.

### Enacted Law Summary

Public Law 2009, chapter 350 does the following.

Part A directs the Advisory Council on Health Systems Development to develop recommendations on payment reform.

Part B directs the Superintendent of Insurance to adopt rules for physician performance measurement, reporting and tiering programs. The superintendent may consult with the advisory council.

Part C requires that the Department of Health and Human Services post on its publicly accessible website the federal Internal Revenue Service Form 990 and forms already filed by hospitals with the department within 30 days of the effective date of the bill, as amended.

*Joint Standing Committee on Insurance and Financial Services*

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Enacted

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LD 970	An Act To Amend the Laws Governing Notification after a Security Breach Involving Personal Information	PUBLIC 161
LD 1326	An Act To Amend the Laws Governing Licensed Financial Service Providers	PUBLIC 243 EMERGENCY
LD 1343	An Act To Promote Consumer Fairness in Tax Refund Anticipation Loans	PUBLIC 248

Not Enacted

LD 446	An Act To Protect Consumers from Credit Card and Debit Card Holds	ACCEPTED ONTP REPORT
LD 783	An Act To Protect the Privacy of Consumer Financial Information	ACCEPTED ONTP REPORT

*Dirigo Health*

Enacted

LD 1264	An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured	PUBLIC 359
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Not Enacted

LD 1003      **Resolve, Directing the Office of Program Evaluation and Government Accountability To Perform a Performance Evaluation and Cost-benefit Analysis of the Dirigo Health Program**      ONTP

LD 1005      **An Act To Continue Access to Dirigo Choice Health Insurance by Reducing Administrative Costs and Replacing the Savings Offset Payment**      ONTP

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**Enacted**

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EMERGENCY

**Not Enacted**

LD 103      **An Act To Ensure Protection from Harassment for Purchasers of Real Property through Auction**      ONTP

LD 148      **An Act To Provide Notice of Foreclosures to Tenants**      ONTP

LD 377      **An Act To Amend the Procedure for Foreclosure Regarding Timing and Sale**      ONTP

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**Enacted**

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LD 1358	<b>Resolve, To Study Implementation of Shared Decision Making To Improve Quality of Care and Reduce Unnecessary Use of Medical Services</b>	<b>RESOLVE 104</b>
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LD 21	<b>An Act To Encourage the Diagnosis and Treatment of Autism Spectrum Disorders</b>	<b>ONTP</b>
LD 191	<b>An Act Regarding Insurance Copayments for Short-term Prescriptions</b>	<b>ONTP</b>
LD 255	<b>An Act To Allow Persons Licensed for the Practice of Manicuring To Provide Treatment for Diabetics</b>	<b>ONTP</b>
LD 257	<b>An Act To Establish the Health Technology Clinical Committee</b>	
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LD 323	<b>An Act To Improve Transparency in the Health Insurance Markets</b>	<b>ONTP</b>
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LD 825	<b>An Act To Allow the Consecutive Purchase of 6-month Health Insurance Policies</b>	<b>ONTP</b>
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LD 1365	An Act To Establish a Single-payer Health Care System	
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*Insurance, Motor Vehicle*

Enacted

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Not Enacted

LD 1304	An Act Regarding First-party Automobile and Casualty Insurance	ONTP
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*Insurance, Regulation and Practices*

Enacted

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LD 1063	An Act To Provide Consumer Disclosures and Protect Consumer Options in Life Insurance	PUBLIC 376
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LD 62	An Act To Ensure an Adequate Time Frame within Which To Rebuild a Home	ONTP
LD 216	An Act To Amend the Law Governing Property Insurance on a Primary Residence	ONTP
LD 274	An Act To Require That Insurance Contracts Include a Plain Language Summary	ONTP
LD 1285	An Act To Create the Insurance Fraud Division within the Department of Professional and Financial Regulation, Bureau of Insurance	ONTP
LD 1305	An Act To Provide for Prompt Resolution of Insurance Claims by Providing for a Direct Remedy by Consumers	ONTP

*Insurance, Workers' Compensation*

Enacted

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LD 1004	An Act Relating to Self-insurance	PUBLIC 232

*Mortgage Lending*

Enacted

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LD 1439	An Act To Conform State Mortgage Laws with Federal Laws	PUBLIC 362 EMERGENCY

*State Employees, Office of Employee Health and Benefits*

Enacted

LD 1001	Resolve, To Require the Office of Employee Health and Benefits To Report on Its Demonstration Project To Provide Access to Fitness Programs for State Employees	RESOLVE 78
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