

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



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

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

July 2007

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STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

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

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

**DIED BETWEEN
HOUSES**

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

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

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

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

Committee Amendment "A" (H-71)

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

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

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

PUBLIC 447

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

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

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

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

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

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

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

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

Committee Amendment "A" (H-285)

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

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Senate Amendment "A" (S-161)

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

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

Senate Amendment "B" (S-173)

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

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

Senate Amendment "C" (S-241)

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

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

Senate Amendment "D" (S-309)

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

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

Enacted Law Summary

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

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

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

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

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

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

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

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

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

LD 439 An Act To Reform the Dirigo Health Program

ONTP

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

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

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

LD 456 An Act To Protect Holders of Small Bank Accounts

**ACCEPTED ONTP
REPORT**

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