

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



STATE LAW LIBRARY  
AUGUSTA, MAINE

# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

---

Legislative Document

No. 290

H.P. 230

House of Representatives, February 2, 2009

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

---

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MCKANE of Newcastle.

Cosponsored by Representatives: CROCKETT of Bethel, DAVIS of Sangerville, Senators: COURTNEY of York, DIAMOND of Cumberland, SMITH of Piscataquis, Senator MARRACHÉ of Kennebec and Representatives: BEAUDETTE of Biddeford, BEAUDOIN of Biddeford, PILON of Saco, RICHARDSON of Warren, Senator: McCORMICK of Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §405, sub-§7** is enacted to read:

3 7. Transactions pursuant to individual health insurance covering residents of this  
4 State written by a regional insurer or health maintenance organization duly authorized or  
5 qualified to transact such insurance in the state or country of its domicile if the  
6 superintendent certifies that the regional insurer or health maintenance organization meets  
7 the requirements of section 405-A.

8 **Sec. 2. 24-A MRSA §405-A** is enacted to read:

9 **§405-A. Certification of regional insurers or health maintenance organizations to**  
10 **transact individual and group health insurance**

11 To qualify under this section and section 405, subsection 7, a regional insurer or  
12 health maintenance organization, as described in this section, may not transact individual  
13 or group health insurance in this State by mail, the Internet or otherwise unless the  
14 superintendent has issued a certification that the requirements of this section have been  
15 met. The superintendent shall issue a certification or deny certification within 30 days of  
16 a request. A regional insurer or health maintenance organization shall meet the following  
17 requirements.

18 **1. Regional insurer; authority to transact individual or group health insurance**  
19 **in certain states.** As used in this section, "regional insurer or health maintenance  
20 organization" means an insurer or health maintenance organization that holds a valid  
21 certificate of authority to transact individual or group health insurance in one of the  
22 following states: Connecticut, Massachusetts, New Hampshire, Rhode Island and  
23 Vermont.

24 **2. Compliance with laws of state.** Any policy, contract or certificate of individual  
25 or group health insurance offered for sale in this State by a regional insurer or health  
26 maintenance organization must comply with the applicable individual and group health  
27 insurance laws in the state of its domicile, and any such policy must be actively marketed  
28 in that state.

29 **3. Minimum surplus and reserve levels.** The regional insurer or health  
30 maintenance organization shall maintain minimum capital and surplus requirements and  
31 maintain reserves as required by section 410; section 901-A; sections 951 to 958-A;  
32 section 4204, subsection 2-A, paragraph D; and section 4204-A, as applicable.

33 **4. Disclosure and reporting.** The regional insurer or health maintenance  
34 organization shall meet the requirements of section 4302 for reporting plan information  
35 with respect to individual health plans offered for sale in this State and disclose to  
36 prospective enrollees how the health plans differ from individual and group health plans  
37 offered by domestic insurers in a format approved by the superintendent within 90 days  
38 of the effective date of this section. Health plan policies and applications for coverage  
39 must contain the following disclosure statement or a substantially similar statement:  
40 "This policy is issued by a regional insurer or health maintenance organization and is

1 governed by the laws and regulations of [state of regional insurer or health maintenance  
2 organization's state of domicile]. This policy may not be subject to all the insurance laws  
3 and rules of the State of Maine, including coverage of certain health care services or  
4 benefits mandated by Maine law. Before purchasing this policy, you should carefully  
5 review the terms and conditions of coverage under this policy, including any exclusions  
6 or limitations of coverage."

7 **5. Grievance procedures.** The regional insurer or health maintenance organization  
8 shall meet the requirements of section 4303, subsection 4 for grievance procedures with  
9 respect to health plans offered for sale in this State.

10 **6. Unfair trade practices.** The provisions of chapter 23 apply to the regional  
11 insurer or health maintenance organization permitted to transact health insurance under  
12 this section or section 405.

13 **7. Taxes; assessments.** The regional insurer or health maintenance organization is  
14 subject to applicable taxes or assessments imposed on insurers transacting individual and  
15 group health insurance in this State pursuant to this Title and Title 36.

16 **8. Service of process.** The regional insurer or health maintenance organization shall  
17 designate an agent for receiving service of legal documents and process in the manner  
18 provided in this Title.

19 **9. Compliance with court orders.** The regional insurer or health maintenance  
20 organization shall comply with lawful orders from courts of competent jurisdiction issued  
21 on a voluntary dissolution proceeding or in response to a petition for an injunction by the  
22 superintendent asserting that the regional insurer or health maintenance organization is in  
23 a hazardous financial condition.

24 **10. Participation in guaranty association.** The regional insurer or health  
25 maintenance organization shall participate in an insurance insolvency guaranty  
26 association to which a domestic insurer or health maintenance organization that transacts  
27 individual and group health insurance in this State is required to belong in accordance  
28 with this Title.

29 Except as expressly provided in this section, the requirements of this Title do not  
30 apply to a regional insurer or health maintenance organization permitted to transact health  
31 insurance under this section or section 405.

32 **Sec. 3. 24-A MRSA §405-B** is enacted to read:

33 **§405-B. Domestic insurers; individual and group health insurance approved in**  
34 **other states**

35 Notwithstanding any other provision of this Title except as expressly provided, a  
36 domestic insurer or health maintenance organization may offer for sale in this State an  
37 individual or group health plan duly authorized for sale in another state by a parent or  
38 subsidiary of the domestic insurer if the following requirements are met.

1 1. Certificate of authority from state of domicile. The parent or subsidiary of the  
2 domestic insurer or health maintenance organization must hold a valid certificate of  
3 authority to transact individual health insurance in one of the following states:  
4 Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont.

5 2. Compliance with laws of state of domicile. Any policy, contract or certificate of  
6 individual or group health insurance offered for sale in this State by a domestic insurer or  
7 health maintenance organization must comply with the applicable individual and group  
8 health insurance laws in the state of domicile of the parent or subsidiary, and any such  
9 policy must be actively marketed in that state.

10 3. Disclosure and reporting. The domestic insurer or health maintenance  
11 organization shall meet the requirements of section 4302 for reporting plan information  
12 with respect to individual and group health plans offered for sale in this State and disclose  
13 to prospective enrollees how the individual and group health plans of the parent or  
14 subsidiary differ from individual and group health plans offered by domestic insurers in a  
15 format approved by the superintendent within 90 days of the effective date of this section.  
16 Health plan policies and applications for coverage must contain the following disclosure  
17 statement or a substantially similar statement: "This policy is issued by a domestic insurer  
18 or health maintenance organization but is governed by the laws and rules of [state of  
19 domicile of parent or subsidiary of domestic insurer], which is the state of domicile of the  
20 parent or subsidiary of the domestic insurer or health maintenance organization. This  
21 policy may not be subject to all the insurance laws and rules of the State of Maine,  
22 including coverage of certain health care services or benefits mandated by Maine law.  
23 Before purchasing this policy, you should carefully review the terms and conditions of  
24 coverage under this policy, including any exclusions or limitations of coverage."

25 4. Grievance procedures. The domestic insurer or health maintenance organization  
26 shall meet the requirements of section 4303, subsection 4 for grievance procedures with  
27 respect to health plans offered for sale in this State.

28 **Sec. 4. Effective date.** This Act takes effect January 1, 2010.

29 **SUMMARY**

30 This bill permits out-of-state health insurers, which are referred to as regional  
31 insurers in the bill, to offer their individual and group health plans for sale in this State if  
32 certain requirements of Maine law are met, including minimum capital and surplus and  
33 reserve requirements, disclosure and reporting requirements and grievance procedures.  
34 The bill defines regional insurers as those insurers authorized to transact individual or  
35 group health insurance in one of the following states: Connecticut, Massachusetts, New  
36 Hampshire, Rhode Island and Vermont. It also permits Maine health insurers to offer  
37 individual health plans of out-of-state parent or subsidiary health insurers if similar  
38 requirements are met. If out-of-state health plans are offered for sale in this State, the bill  
39 requires that prospective enrollees be provided adequate disclosure of how the plans  
40 differ from Maine health plans in a format approved by the Superintendent of Insurance.  
41 The bill takes effect January 1, 2010.