



Senate

General Assembly

File No. 166

February Session, 2000

Substitute Senate Bill No. 443

Senate, March 22, 2000

The Committee on Insurance and Real Estate reported through SEN. BOZEK of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning Statutory Accounting Procedures.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-70 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 When adopting accounting rules, the commissioner shall follow
4 those accounting procedures and practices [prescribed by] published
5 in the National Association of Insurance Commissioners [accounting
6 practices and procedures manual] Accounting Practices and
7 Procedures Manual, version effective January 1, 2001, and subsequent
8 revisions, and the National Association of Insurance Commissioners
9 [annual statement instructions handbook] Annual Statement
10 Instructions Manual, subject to any deviations [he] the commissioner
11 may prescribe.

12 Sec. 2. Section 38a-71 of the general statutes is repealed and the
13 following is substituted in lieu thereof:

14 (a) As used in this section:

15 (1) "Qualified assets" means:

16 (A) Investments, securities, properties and loans permitted or
17 authorized by law, and the income due thereon;

18 (B) The net amount of uncollected and deferred premiums for a life
19 insurer which carries the full annual mean tabular reserve liability;

20 (C) Premiums in the course of collection, other than for life
21 insurance, not more than ninety days past due, [less commissions
22 payable on the premiums,] with the ninety-day limitation being
23 inapplicable to premiums payable directly or indirectly by the United
24 States government or any of its instrumentalities;

25 (D) Instalment premiums, other than life insurance premiums, in
26 accordance with the regulations adopted by the commissioner in
27 accordance with the provisions of chapter 54, or in the absence of these
28 regulations then in accordance with practices formulated or adopted
29 by the National Association of Insurance Commissioners;

30 (E) Notes and similar written obligations which are not past due,
31 taken for premiums other than life insurance premiums, on policies
32 permitted to be issued on that basis, to the extent of the unearned
33 premium reserves carried on the policies;

34 (F) Amounts recoverable or receivable from reinsurers under a
35 reinsurance contract;

36 (G) Tangible components of health care delivery systems for health
37 care centers governed by sections 38a-175 to 38a-192, inclusive, with
38 the cost of these assets having a finite useful life being depreciated in
39 full over periods provided by regulations adopted by the
40 commissioner in accordance with the provisions of chapter 54;

41 (H) Electronic data processing equipment and [mechanical
42 machines constituting a data processing and accounting system]
43 operating software, the cost of which is depreciated in full over a
44 period not to exceed [five] three years;

45 (I) Tangible components of the service delivery systems of legal
46 service corporations governed by sections 38a-230 to 38a-245,
47 inclusive, as amended, with the cost of these assets having a finite
48 useful life being depreciated in full over periods provided by
49 regulations adopted by the commissioner in accordance with the
50 provisions of chapter 54;

51 (J) Cash or currency; and

52 (K) Other assets authorized by regulations adopted by the
53 commissioner in accordance with the provisions of chapter 54.

54 (2) "Minimum capital and minimum surplus" means the capital and
55 surplus that must constantly be maintained by a stock insurance
56 company as required by section 38a-72.

57 (3) "Surplus" means [the excess of qualified assets over the sum of
58 paid-in capital and liabilities] total statutory surplus less capital stock,
59 adjusted for the par value of any treasury stock, calculated in
60 accordance with the National Association of Insurance Commissioners
61 Accounting Practices and Procedures Manual, version effective
62 January 1, 2001, and subsequent revisions. Except for assessable
63 mutuals, the minimum surplus of a mutual insurer is essentially the
64 same as the minimum required capital requirement which applies to
65 stock-insurers.

66 (4) "Capital" means the capital stock component of statutory
67 surplus, as defined in the National Association of Insurance
68 Commissioners Accounting Practices and Procedures Manual, version
69 effective January 1, 2001, and subsequent revisions.

70 (b) Each insurer authorized to do business in this state shall
71 maintain qualified assets in the amount equal to the total of the
72 insurer's (1) liabilities, and (2) minimum capital [or] and minimum
73 surplus required under section 38a-72.

74 Sec. 3. Subsection (b) of section 38a-72 of the general statutes is
75 repealed and the following is substituted in lieu thereof:

76 (b) Except with respect to the transaction of life and health
77 insurance, companies desiring to transact more than one of the above
78 forms of insurance shall meet the total minimum requirements, as to
79 capital and surplus, of all forms to be transacted except that a company
80 transacting all lines permitted to be combined need have no more than
81 two million dollars capital and two million dollars [paid-in] surplus in
82 the aggregate. Companies that transact both life and health insurance
83 need have no more than one million dollars capital and two million
84 dollars [paid-in] surplus in the aggregate. The commissioner may
85 license any such company to write additional forms of insurance when
86 the amount of capital and surplus of such company is sufficient by
87 recognized insurance standards to protect the public interest. [He] The
88 commissioner may also license any mutual insurance company to
89 write any or all forms of insurance when the [net] surplus of such
90 company is at least as great as the capital and surplus requirements for
91 companies with capital stock.

92 Sec. 4. Subsection (d) of section 38a-72 of the general statutes is
93 repealed and the following is substituted in lieu thereof:

94 (d) No insurance company shall be licensed to transact business in
95 this state or remain so licensed unless (1) its surplus funds bear a
96 reasonable relationship to its liabilities based upon the type, volume
97 and nature of insurance business transacted, and (2) risk-based capital
98 related to its total adjusted capital is adequate for the types of business
99 transacted. As used in this section, "total adjusted capital" means the
100 sum of [statutory] capital and surplus of an insurer, its asset valuation

101 reserves, and any other item in the nature of capital as deemed
102 appropriate by the commissioner. "Risk-based capital" means the
103 [statutory] capital and surplus adjusted to recognize the level of risk
104 inherent in its business, including (A) risk with respect to the insurer's
105 assets, (B) the risk of adverse insurance experience with respect to the
106 insurer's liabilities and obligations, (C) the interest rate risk with
107 respect to the insurer's business, and (D) all other business risks and
108 such other relevant risks as the commissioner may determine. The
109 commissioner shall adopt such reasonable regulations, in accordance
110 with the provisions of chapter 54, as are deemed proper to implement
111 the purposes of this section, including but not limited to, provisions
112 concerning: The preparation and filing of reports by insurers of risk-
113 based capital levels and the calculation thereof; the preparation and
114 filing of comprehensive financial plans when such capital levels are
115 reduced below minimum threshold levels; the confidentiality of such
116 reports and plans; and the regulatory corrective actions the
117 commissioner may take in the event minimum risk-based capital levels
118 are not maintained, or the insurer's financial plans filed with the
119 commissioner are deficient, or the insurer fails to otherwise comply
120 with the provisions of the regulations promulgated.

121 Sec. 5. Section 38a-80 of the general statutes is repealed and the
122 following is substituted in lieu thereof:

123 Each domestic, foreign and alien insurance company which, in this
124 state, makes insurance upon the health of individuals or which, in this
125 state, insures persons against bodily injury or death by accident, or any
126 person, firm or corporation against loss or damage on account of the
127 bodily injury or death by accident of any person for which loss or
128 damage such person, firm or corporation is responsible, shall maintain
129 a premium reserve on all such policies in force, whether issued in this
130 state or elsewhere, [equal to the unearned portion of the gross
131 premiums charged for covering the risks] calculated in accordance
132 with the accounting requirements of the National Association of

133 Insurance Commissioners Accounting Practices and Procedures
134 Manual, version effective January 1, 2001, and subsequent revisions.

135 Sec. 6. Section 38a-92c of the general statutes is repealed and the
136 following is substituted in lieu thereof:

137 (a) Each licensed financial guaranty insurance corporation shall
138 establish and maintain a contingency reserve [computed] calculated in
139 accordance with [this section] the accounting requirements of the
140 National Association of Insurance Commissioners Accounting
141 Practices and Procedures Manual, version effective January 1, 2001,
142 and subsequent revisions.

143 [(b) With respect to all financial guaranties written prior to and in
144 force as of July 1, 1989:

145 (1) The financial guaranty insurance corporation shall establish and
146 maintain a contingency reserve consistent with the requirements
147 applicable for municipal bond insurance policies which were in effect
148 prior to July 1, 1989, in an amount equal to fifty per cent of earned
149 premiums on those policies.

150 (2) To the extent that the financial guaranty insurance corporation's
151 contingency reserves maintained as of July 1, 1989, are less than those
152 required for municipal bond insurance policies pursuant to
153 subdivision (1) of this subsection, the corporation shall have until
154 January 1, 1994, to bring its reserves into compliance.

155 (c) With respect to financial guaranties of municipal obligation
156 bonds, special revenue bonds, investment grade industrial
157 development bonds and utility first mortgage obligations written on or
158 after July 1, 1989:

159 (1) The financial guaranty insurance corporation shall establish and
160 maintain a contingency reserve in accordance with subdivision (3) of
161 this subsection for all those insured issues in each calendar year for

162 each category listed in subdivision (2) of this subsection;

163 (2) The total contingency reserve required shall be the greater of
164 fifty per cent of premiums written for each such category or the
165 following amount prescribed for each such category: (A) Municipal
166 obligation bonds, 0.55 per cent of principal guaranteed; (B) special
167 revenue bonds, 0.85 per cent of principal guaranteed; (C) investment
168 grade industrial development bonds secured by collateral or with a
169 remaining term at the date of insurance of seven years or less and
170 utility first mortgage obligations, 1.0 per cent of principal guaranteed;
171 and (D) all other investment grade industrial development bonds, 1.5
172 per cent of principal guaranteed; and

173 (3) Contributions to the contingency reserve required by
174 subdivision (2) of this subsection, equal to one-eightieth of the total
175 reserve required, shall be made each quarter for twenty years,
176 provided contributions may be discontinued so long as the total
177 reserve for all categories listed in subparagraphs (A) to (D), inclusive,
178 of subdivision (2) of this subsection exceeds the percentages contained
179 in said subparagraphs (A) to (D), inclusive, when applied against
180 unpaid principal.

181 (d) With respect to all other financial guaranties written on or after
182 July 1, 1989:

183 (1) The financial guaranty insurance corporation shall establish and
184 maintain a contingency reserve in accordance with subdivision (3) of
185 this subsection for all those insured issues in each calendar year for
186 each such category listed in subdivision (2) of this subsection;

187 (2) The total contingency reserve required shall be the greater of
188 fifty per cent of premiums written for each such category or the
189 following amount prescribed for each such category: (A) Investment
190 grade obligations, secured by collateral, or with a remaining term at
191 the date of insurance of seven years or less, 1.0 per cent of principal

192 guaranteed; (B) other investment grade obligations, 1.5 per cent of
193 principal guaranteed; (C) noninvestment grade obligations secured by
194 collateral, 2.0 per cent of principal guaranteed; (D) other
195 noninvestment grade obligations, 2.5 per cent of principal guaranteed;
196 and

197 (3) Contributions to the contingency reserve required by
198 subparagraphs (A) and (B) of subdivision (2) of this subsection, equal
199 to one-sixtieth of the total reserve required, shall be made each quarter
200 for fifteen years, and contributions to the contingency reserve required
201 by subparagraphs (C) and (D) of subdivision (2) of this subsection,
202 equal to one-fortieth of the total reserve required, shall be made each
203 quarter for ten years provided, contributions may be discontinued so
204 long as the total reserve for all categories listed in subparagraphs (A)
205 to (D), inclusive, of subdivision (2) of this subsection exceeds the
206 percentage contained in said subparagraphs (A) to (D), inclusive, when
207 applied against unpaid principal.

208 (e) Contingency reserves required in subsections (b), (c) and (d) of
209 this section may be established and maintained net of reinsurance,
210 provided the reinsurance agreement requires that the reinsurer shall,
211 on or after the effective date of the reinsurance, establish and maintain
212 a reserve in an amount equal to the amount by which the financial
213 guaranty insurance corporation reduces its contingency reserve.

214 (f) The contingency reserves may be released thereafter in the same
215 manner in which they were established and withdrawals therefrom, to
216 the extent of any excess amounts as set forth in subdivisions (1) or (2)
217 of this subsection, may be made from the earliest contributions to such
218 reserves remaining therein as follows:

219 (1) With the prior written approval of the commissioner, if the
220 actual incurred losses for the year, in the case of the categories of
221 guaranties subject to subsection (c) of this section, exceeds thirty-five
222 per cent of earned premiums, or if the actual incurred losses for the

223 year, in the case of the categories of guaranties subject to subsection (d)
224 of this section, exceeds sixty-five per cent of earned premiums; or

225 (2) Upon thirty days prior written notice to the commissioner,
226 provided the contingency reserve has been in existence for forty
227 quarters for reserves subject to subsection (c) of this section, and thirty
228 quarters for reserves subject to subsection (d) of this section, upon
229 demonstration that the amount carried is in excess of required
230 amounts or excessive in relation to the financial guaranty insurance
231 corporation's outstanding obligations.]

232 [(g)] (b) A financial guaranty insurance corporation may invest the
233 contingency reserve in tax and loss bonds or similar securities
234 purchased pursuant to Section 832 (e) of the Internal Revenue Code or
235 any successor provision, only to the extent of the tax savings resulting
236 from the deduction for federal income tax purposes of a sum equal to
237 the annual contributions to the contingency reserve. The contingency
238 reserve shall otherwise be invested only in classes of securities or types
239 of investments permitted by this title.

240 Sec. 7. Section 38a-92d of the general statutes is repealed and the
241 following is substituted in lieu thereof:

242 (a) Each financial guaranty insurance corporation shall establish and
243 maintain reserves against unpaid losses and loss expense. [The case
244 basis method or some other method may be prescribed by the
245 commissioner. Such method shall be used to determine loss reserves,
246 which shall include a reserve for claims reported and unpaid net of
247 collateral. A deduction from loss reserves shall be allowed for the time
248 value of money by application of a discount rate equal to the average
249 rate of return on the admitted assets of the financial guaranty
250 insurance corporation as of the date of the computation of that reserve.
251 The discount rate shall be adjusted at the end of each calendar year. In
252 addition a reserve component for incurred but not reported claims
253 shall be reasonably estimated if deemed necessary by the financial

254 guaranty insurance corporation, or following an examination or
255 actuarial analysis, by the commissioner.] Such reserves shall be
256 calculated in accordance with the accounting requirements of the
257 National Association of Insurance Commissioners Accounting
258 Practices and Procedures Manual, version effective January 1, 2001,
259 and subsequent revisions.

260 (b) Except as otherwise permitted by the commissioner, no
261 deduction shall be made for anticipated salvage in computing case
262 basis loss reserves, unless that salvage is held by or under the control
263 of the financial guaranty insurance corporation and would qualify as
264 an admitted asset under this title or unless that salvage constitutes or is
265 secured by a letter of credit which is approved by the commissioner or
266 complies with the criteria set forth in subsection (4) of section 38a-92a.

267 (c) If the insured principal and interest on a defaulted issue of
268 obligations due and payable during any three years following the date
269 of default exceed ten per cent of the financial guaranty insurance
270 corporation's capital, surplus and contingency reserves, its reserves so
271 established shall be supported by a report from an independent
272 actuarial firm or other source acceptable to the commissioner.

273 Sec. 8. Section 38a-92e of the general statutes is repealed and the
274 following is substituted in lieu thereof:

275 Each licensed financial guaranty insurance corporation shall
276 establish and maintain an unearned premium reserve [, net of
277 reinsurance, with respect to all financial guaranty insurance premiums.
278 Where financial guaranty insurance premiums are paid on an
279 instalment basis, an unearned premium reserve shall be established
280 and maintained, net of reinsurance, computed on a monthly pro rata
281 basis. All other financial guaranty insurance premiums written shall be
282 earned in proportion with the expiration of exposure or by such other
283 methods as may be approved by the commissioner] calculated in
284 accordance with the accounting requirements of the National

285 Association of Insurance Commissioners Accounting Practices and
286 Procedures Manual, version effective January 1, 2001, and subsequent
287 revisions.

288 Sec. 9. Subparagraph (B) of subdivision (2) of subsection (a) of
289 section 38a-92m of the general statutes is repealed and the following is
290 substituted in lieu thereof:

291 (B) An insurer licensed in this state to transact surety insurance or
292 reinsurance, but not financial guaranty insurance pursuant to sections
293 38a-92 to 38a-92n, inclusive, or accredited as a reinsurer in this state as
294 provided in subsection (c) of section 38a-85 if the insurer or reinsurer
295 meets all of the following criteria: (i) Has and maintains combined
296 capital and surplus of at least fifty million dollars; (ii) establishes and
297 maintains the reserves required in section 38a-92c, except that if the
298 reinsurance agreement is nonproportional, the contribution to the
299 contingency reserve shall be equal to fifty per cent of the quarterly
300 [earned] written insurance premium; (iii) complies with the provisions
301 of subsection (b) of section 38a-92i, except that its maximum aggregate
302 assumed total net liability shall be one-half that permitted for a
303 financial guaranty insurance corporation. For the purpose of
304 determining compliance, the reinsurer, unless at the time of cession
305 and thereafter it is rated in one of the two top generic rating
306 classifications by a securities rating agency acceptable to the
307 commissioner, shall be limited to using ten per cent of its capital and
308 surplus in making this calculation; (iv) complies with the provisions of
309 section 38a-92j; and (v) assumes, together with all other reinsurers
310 subject to this subparagraph, less than fifty per cent of the ceding
311 insurer's total liability after deducting any reinsurance ceded to any
312 insurers pursuant to subparagraph (A) of this subdivision.

313 Sec. 10. Section 38a-136 of the general statutes is repealed and the
314 following is substituted in lieu thereof:

315 (a) Transactions within a holding company system to which an

316 insurance company subject to registration under section 38a-135 is a
317 party shall be subject to the following requirements: (1) The terms shall
318 be fair and reasonable; (2) charges or fees for services performed shall
319 be reasonable; (3) expenses incurred and payment received shall be
320 allocated to the insurance company in conformity with customary
321 insurance accounting practices consistently applied; (4) the books,
322 accounts and records of each party shall be so maintained as to clearly
323 and accurately disclose the precise nature and details of the
324 transactions, including such accounting information as is necessary to
325 support the reasonableness of the charges or fees to the respective
326 parties; and (5) the insurance company's surplus [with respect to
327 policyholders] shall be reasonable in relation to such company's
328 outstanding liabilities and adequate to its financial needs.

329 (b) The following transactions involving a domestic insurance
330 company and any person in its holding company system may not be
331 entered into unless the insurance company has notified the
332 commissioner in writing of its intention to enter into such transaction
333 at least thirty days prior thereto, or such shorter period as the
334 commissioner may permit, and the commissioner either has approved
335 or not disapproved it within such period:

336 (1) Sales, purchases, exchanges, loans or extensions of credit,
337 guarantee or investments provided such transactions are equal to or
338 exceed: (A) With respect to nonlife insurance companies, the lesser of
339 three per cent of the insurance company's admitted assets or twenty-
340 five per cent of surplus; [as regards policyholders;] or (B) with respect
341 to life insurance companies, three per cent of the insurance company's
342 admitted assets; each as of the thirty-first day of December next
343 preceding;

344 (2) Loans or extensions of credit to any person who is not an
345 affiliate, where the insurance company makes such loans or extensions
346 of credit with the agreement or understanding that the proceeds of

347 such transactions, in whole or in substantial part, are to be used to
348 make loans or extensions of credit to, to purchase assets of, or to make
349 investments in, any affiliate of the insurance company making such
350 loans or extensions of credit, provided such transactions are equal to or
351 exceed: (A) With respect to nonlife insurance companies, the lesser of
352 three per cent of the insurance company's admitted assets or twenty-
353 five per cent of surplus; [as regards policyholders;] or (B) with respect
354 to life insurance companies, three per cent of the insurance company's
355 admitted assets; each as of the thirty-first day of December next
356 preceding;

357 (3) Reinsurance agreements or modifications thereto in which the
358 reinsurance premium or a change in the insurance company's liabilities
359 equals or exceeds five per cent of the insurance company's surplus, [as
360 regards policyholders,] as of the thirty-first day of December next
361 preceding, including those agreements which may require as
362 consideration the transfer of assets from an insurance company to a
363 nonaffiliate, if an agreement or understanding exists between the
364 insurance company and nonaffiliate that any portion of such assets
365 will be transferred to one or more affiliates of the insurance company;

366 (4) All material management agreements, service contracts and cost-
367 sharing arrangements; and

368 (5) Any material transactions, specified by regulation, which the
369 commissioner determines may adversely affect the interests of the
370 insurance company's policyholders. Nothing contained in this section
371 shall be deemed to authorize or permit any transactions which, in the
372 case of an insurance company not a member of the same holding
373 company system, would be otherwise contrary to law.

374 (c) A domestic insurance company may not enter into transactions
375 which are part of a plan or series of like transactions with persons
376 within the holding company system if the purpose of those separate
377 transactions is to avoid the statutory threshold amount and thus avoid

378 the review that would otherwise occur. If the commissioner
379 determines that such separate transactions were entered into over any
380 twelve-month period for such purpose, [he] the commissioner may
381 exercise [his] authority under section 38a-140.

382 (d) The commissioner, in reviewing transactions pursuant to
383 subsection (b) of this section, shall consider whether the transactions
384 comply with the standards set forth in subsection (a) of this section
385 and whether they may adversely affect the interests of policyholders.

386 (e) Except as may be exempted pursuant to regulations adopted by
387 the commissioner or otherwise waived by the commissioner, the
388 commissioner shall be notified within thirty days of any material
389 investment of the domestic insurance company in any one corporation
390 if the total investment in such corporation by the insurance company
391 holding company system exceeds ten per cent of such corporation's
392 voting securities.

393 (f) No insurance company subject to registration under section 38a-
394 135 shall pay any extraordinary dividend or make any other
395 extraordinary distribution to its stockholders until the commissioner
396 has approved such payment or until thirty days after the commissioner
397 has received notice from such company of the declaration thereof
398 within which period [he] the commissioner has not disapproved such
399 payment, whichever is sooner. For the purposes of this subsection, an
400 extraordinary dividend or distribution is any dividend or distribution
401 of cash or other property, whose fair market value together with that
402 of other dividends or distributions made within the preceding twelve
403 months, exceeds the greater of (1) ten per cent of such insurance
404 company's surplus [with respect to policyholders] as of the thirty-first
405 day of December last preceding, or (2) the net gain from operations of
406 such insurance company, if such company is a life insurance company,
407 or the net income, if such company is not a life insurance company, for
408 the twelve-month period ending the thirty-first day of December last

409 preceding, but shall not include pro rata distributions of any class of
410 the insurance company's own securities. Notwithstanding any other
411 provision of law, an insurance company may declare an extraordinary
412 dividend or distribution which is conditional upon the commissioner's
413 approval thereof, but such a declaration shall confer no rights upon
414 stockholders until (1) the commissioner has approved the payment of
415 such dividend or distribution or (2) thirty days have elapsed without
416 [his] the commissioner's disapproval thereof as provided in this
417 subsection, whichever is sooner.

418 (g) For purposes of sections 38a-129 to 38a-140, inclusive, in
419 determining whether an insurance company's surplus [as regards to
420 policyholders] is reasonable in relation to the insurance company's
421 outstanding liabilities and adequate to its financial needs, the
422 following factors, in addition to others, shall be considered: (1) The
423 size of the insurance company as measured by its assets, capital and
424 surplus, reserves, premium writings, insurance in force and other
425 appropriate criteria; (2) the extent to which the insurance company's
426 business is diversified among the several lines of insurance; (3) the
427 number and size of risks insured in each line of business; (4) the nature
428 of the geographical dispersion of the insurance company's insured
429 risks; (5) the nature and extent of the insurance company's reinsurance
430 program; (6) the quality, diversification and liquidity of the insurance
431 company's investment portfolio; (7) the recent past and projected
432 future trend in the size of the insurance company's surplus; [as regards
433 policyholders;] (8) the surplus [as regards policyholders] maintained
434 by other comparable insurance companies; (9) the adequacy of the
435 insurance company's reserves; (10) the quality of the company's
436 earnings and the extent to which the reported earnings include
437 extraordinary items; and (11) the quality and liquidity of investments
438 in affiliates. The commissioner may discount any such investment or
439 treat any such investment as a disallowed asset for purposes of
440 determining the adequacy of surplus [as regards policyholders]
441 whenever in [his] the commissioner's judgment such investment

442 warrants.

443 (h) (1) Any domestic insurance company which is affiliated with an
444 insurance holding company system shall report for informational
445 purposes to the Insurance Commissioner all dividends and other
446 distributions to securityholders within five business days following the
447 declaration and at least ten days, commencing from the date of receipt
448 by the Insurance Department, prior to payment thereof.

449 (2) No dividend or other distribution may be paid when the surplus
450 of the insurance company is less than the surplus required by section
451 38a-72 for the kind or kinds of business authorized to be transacted by
452 such company, nor when the payment of a dividend or other
453 distribution would reduce its surplus to less than such amount.

454 (3) Except as otherwise provided by law, no dividend or other
455 distribution exceeding an amount equal to an insurance company's
456 earned surplus may be paid without the Insurance Commissioner's
457 prior approval. For purposes of this subsection, "earned surplus"
458 means "unassigned funds-surplus", as defined in the annual report of
459 the insurance company which was most recently submitted pursuant
460 to section 38a-53, reduced by twenty-five per cent of unrealized
461 appreciation in value or revaluation of assets or unrealized profits on
462 investments, as defined in such report.

463 (i) (1) Any domestic insurance company of which control has been
464 acquired pursuant to section 38a-130 shall be required to submit to a
465 financial examination and a market conduct examination within thirty
466 days after such acquisition in accordance with procedures set forth by
467 the examiner's handbook of the National Association of Insurance
468 Commissioners and such regulations as the commissioner may adopt.

469 (2) No domestic insurance company of which control has been
470 acquired pursuant to section 38a-130 shall, without the prior approval
471 of the commissioner: (A) Pay or propose to pay any dividend during

472 the period of two years from the date of acquisition of control of such
473 insurance company; (B) acquire or enter into an agreement or
474 understanding to acquire control, during the period of three years after
475 the date of acquisition of control of such insurance company, of any
476 other person or persons whose assets exceed twenty-five million
477 dollars; (C) provide or propose to provide directly or indirectly, during
478 the period of three years after the date of acquisition of control of such
479 insurance company, any loans, advances, guarantees, pledges or other
480 financial assistance; or (D) engage in any material transaction with any
481 person during the period of three years after the date of acquisition of
482 such insurance company. For purposes of this subsection, a "material
483 transaction" shall include, but not be limited to, any transfer or
484 encumbrance of assets not in the ordinary course of business which,
485 together with all other transfers or encumbrances made within the
486 preceding twelve months, exceeds in value the greater of (i) ten per
487 cent of such insurance company's surplus [with respect to
488 policyholders] as of the December thirty-first last preceding, or (ii) the
489 net gain from operations of such insurance company, if such company
490 is a life insurance company, or the net investment income of such
491 company, if such company is not a life insurance company, for the
492 twelve-month period ending the December thirty-first last preceding.

493 (3) The commissioner shall, upon a written request from the
494 controlled domestic insurance company and, upon public hearing after
495 notice to all interested parties, determine whether any limitations
496 contained in subdivision (2) of this subsection shall be continued, or
497 whether and on what conditions they may be waived. Such
498 determination shall be predicated on the results of the examinations
499 provided in subdivision (1) of this subsection and such further
500 examinations, if any, the commissioner may require concerning the
501 adequacy of the insurance company's reserves, the effect any proposed
502 transaction will have on the insurance company's surplus, its cash flow
503 needs and its ability to satisfy any reasonably anticipated obligations
504 in the foreseeable future, and any other effect the proposed transaction

505 would have on the financial stability or solvency of the insurance
506 company and the quality and liquidity of its assets. All fees and
507 expenses relating to such examinations shall be paid by the insurance
508 company.

509 (4) Nothing in this subsection shall be interpreted to prohibit any
510 transactions between a domestic insurance company and any of its
511 subsidiaries in the ordinary course of business.

512 Sec. 11. Subsection (b) of section 38a-193 of the general statutes, as
513 amended by section 4 of public act 99-9, is repealed and the following
514 is substituted in lieu thereof:

515 (b) Every health care center shall, when determining liabilities,
516 include an amount estimated in the aggregate to provide for any
517 unearned premium and for the payment of all claims for health care
518 expenditures which have been incurred, whether reported or
519 unreported, which are unpaid and for which such organization is or
520 may be liable, and to provide for the expense of adjustment or
521 settlement of such claims. Such liabilities shall be [computed]
522 calculated in accordance with those accounting procedures and
523 practices prescribed by the National Association of Insurance
524 Commissioners Accounting Practices and Procedures Manual, version
525 effective January 1, 2001, and subsequent revisions and the National
526 Association of Insurance Commissioners Annual Statement
527 Instructions, subject to any deviations prescribed by the commissioner.

528 Sec. 12. Subsection (a) of section 38a-444 of the general statutes is
529 repealed and the following is substituted in lieu thereof:

530 (a) For purposes of this section: (1) "Policy" means all contracts of
531 life insurance which provide for policy loans, certificates insuring
532 persons against loss of life issued by a fraternal benefit society and
533 annuity contracts which provide for such loans; [(2) the term "policy
534 loan" means any loan made under a policy or any premium loan made

535 under a policy to pay one or more premiums that were not paid to the
536 life insurer as they became due] (2) "policy loan" means a loan to a
537 policyholder, under the provisions of an insurance contract, that is
538 secured by the cash surrender value or collateral assignment of the
539 related policy or contract. "Policy loan" includes: (A) Cash loans,
540 including loans resulting from early payment benefits or accelerated
541 payment benefits, on contracts when the terms of the contract specify
542 that such payments are policy loans secured by the policy, and (B)
543 automatic premium loans, which are loans made in accordance with
544 policy provisions whereby delinquent premium payments are
545 automatically paid from the cash value at the end of the established
546 grace period for premium payments; (3) [the term] "policyholder"
547 includes the owner of the policy or the person designated to pay
548 premiums as shown in the records of the life insurer; (4) "published
549 monthly average" means: (A) Moody's Corporate Bond Yield Average-
550 Monthly Average Corporates as published by Moody's Investors
551 Service, Inc. or any successor thereto; or (B) in the event that Moody's
552 Corporate Bond Yield Average-Monthly Average Corporates is no
553 longer published, a substantially similar average, established by the
554 Insurance Commissioner in regulations [he] the commissioner may
555 adopt in accordance with the provisions of chapter 54; (5) the rate of
556 interest permitted under this section on policy loans includes the rate
557 of interest charged on reinstatement of policy loans for the period
558 during and after any lapse of a policy.

559 Sec. 13. Section 38a-610 of the general statutes is repealed and the
560 following is substituted in lieu thereof:

561 (a) A society may create, maintain and operate charitable,
562 benevolent or educational institutions for the benefit of its members
563 and their families and dependents and for the benefit of children
564 insured by the society. For such purpose it may own, hold or lease
565 personal property or real property located within or without this state,
566 with necessary buildings thereon.

567 (b) Such property shall be reported in every annual statement [but
568 shall not be allowed as an admitted asset] of the society in accordance
569 with the National Association of Insurance Commissioners Accounting
570 Practices and Procedures Manual, version effective January 1, 2001,
571 and subsequent revisions. Maintenance, treatment and proper
572 attendance in any such institution may be furnished free or a
573 reasonable charge may be made therefor, but no such institution shall
574 be operated for profit. The society shall maintain a separate accounting
575 of any income and disbursements under this section and report them
576 in its annual statement.

577 (c) No society shall own or operate funeral homes or undertaking
578 establishments.

INS Committee Vote: Yea 18 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Insurance

Municipal Impact: None

Explanation

State Impact:

There will be no fiscal impact for the Department of Insurance as a result of the passage of this bill. The bill updates Connecticut's statutory accounting rules for insurance. The bill requires the Insurance Commissioner to use the accounting rules published in the updated January 1, 2001 version of the National Association of Insurance Commissioner's Accounting Practices and Procedures Manual.

OLR Bill Analysis

sSB 443

AN ACT CONCERNING STATUTORY ACCOUNTING PROCEDURES.**SUMMARY:**

This bill updates Connecticut's statutory accounting rules for insurance. It requires the insurance commissioner to use the accounting rules published in the updated January 1, 2001 version of the National Association of Insurance Commissioner's (NAIC) Accounting Practices and Procedures Manual (APPM) and Annual Statement Instructions Manual (ASIM) when analyzing the financial statement that insurers must file with him annually. To implement this change, the bill eliminates obsolete or otherwise inconsistent financial reporting provisions of the General Statutes.

Specifically, the bill requires to be reported and calculated in accordance with the updated version's accounting rules the following: (1) certain reserves and loss adjustment expenses, (2) money set aside to cover unearned premium and incurred claims, and (3) the value of real or personal property owned, held or leased by fraternal benefits societies.

The bill makes other changes to comply with the updated accounting rules. It adds operating software to the definition of "qualified asset", modifies the term "surplus," reduces from five to three years the time period to depreciate the cost of electronic data processing equipment, and includes operating software in the depreciation schedule.

Finally, the bill revises the definition of "policy loan", adds a definition for "capital", and makes technical changes.

EFFECTIVE DATE: October 1, 2000

PREMIUM AND LIABILITY RESERVES***Accident and Health Insurance***

The bill requires domestic, out-of state, and foreign insurers that insure (1) the health of individuals; (2) people against bodily injury or death caused by accident; or (3) people, firms, or corporations against loss or damage on account of bodily injury or death by accident of any person for which such person, firm, or corporation is responsible to calculate the premium reserve they must maintain for all such policies in force in accordance with the January 1, 2001 APPM.

Current law requires insurers to maintain premium reserves equal to the unearned portion of the gross premium charged for covering the risk.

HMO Liability

The bill requires HMOs to determine their liability in accordance with the January 1, 2001 APPM. HMO liability includes estimated aggregate amounts for unearned premium; payment of incurred health care claims, whether reported or not; unpaid health care claims for which the HMO is or may be liable; and loss adjustment expense.

Current law requires HMOs to calculate their liability in accordance with older versions of the APPM and ASIM.

CONTINGENCY RESERVE

The bill requires financial guaranty insurers to establish and maintain a contingency reserve calculated in accordance with the January 1, 2001 version of APPM.

Current law requires the reserve to be maintained at the greater of 50% of premiums written for each investment class or a set percentage of guaranteed principal as follows: (1) 1% for investment grade obligations secured by collateral or with a remaining term of seven years or less, (2) 1.5% for other investment grade obligations, (3) 2% for noninvestment grade obligations secured by collateral, and (4) 2.5% for other noninvestment grade obligations.

Under current law, contributions to the contingency reserve must be made every quarter as follows: (1) for 15 years in an amount that

equals one-sixtieth of the total reserve for investment grade obligations secured by collateral and other investment grade obligations and (2) for 10 years in an amount equal to one-fortieth of the total reserve for noninvestment grade obligations secured by collateral and other noninvestment grade obligations. Contributions may be discontinued if the total reserve for each investment class exceeds the percentage amounts specified when applied against unpaid principal.

UNPAID LOSS AND LOSS EXPENSE RESERVE

The bill requires financial guaranty insurers to calculate the reserve for unpaid loss and loss expense in accordance with the January 1, 2001 APPM.

Current law specifies that the insurance commissioner may use the basis or some other method to determine loss reserves. The loss reserve must include a reserve for claims reported and unpaid minus any collateral and allow for the time value of money determined by use of a discount rate equal to the average rate of return on the insurer's admitted assets as of the computation date of the reserve. The discount rate must be adjusted at the end of each calendar year. The reserve must also include a component for incurred but not reported claims if deemed necessary by the insurer or following an examination or actuarial analysis by the commissioner.

UNEARNED PREMIUM RESERVE

The bill requires financial guaranty insurers to establish and maintain an unearned premium reserve calculated in accordance with the January 1, 2001 APPM.

Current law requires them to calculate the unearned premium reserve minus reinsurance with respect to all unearned premiums. When premiums are paid in installments, the reserve must be computed on a monthly pro rata basis net of reinsurance. Written premiums are earned in proportion with the expiration of exposure or by some other method approved by the commissioner.

VALUE OF REAL AND PERSONAL PROPERTY

The bill requires fraternal benefit societies that own, hold, or lease personal or real property for charitable, benevolent, or educational purposes for the benefit of their members, their families, and dependents and children insured by the society to report the property on the society's annual statement in accordance with the January 1, 2001 APPM and, it allows them to claim the property as an admitted asset.

Current law prohibits societies from claiming the property as an admitted asset.

SURPLUS

The bill defines "surplus" to include total statutory surplus less capital stock, adjusted for the par value of any treasury stock, calculated in accordance with the January 1, 2001 APPM.

Current law defines "surplus" as the excess of qualified assets over the sum of paid-in-capital and liabilities.

POLICY LOAN

The bill defines "policy loan" as a loan to a policyholder, under the provisions of an insurance contract that is secured by the cash surrender value or collateral assignment of the policy or contract. It includes (1) cash loans, including those resulting from early payment of benefits, when the contract specifies that such payments are policy loans secured by the policy and (2) automatic premium loans made in accordance with policy provisions that allow delinquent premium payments to be automatically paid from the policy's cash value at the end of the premium payment grace period.

Current law defines a "policy loan" as any loan or any premium loan made under a policy to pay one or more premiums that were not paid when due.

CAPITAL

Finally, the bill adds a definition of "capital." It defines it as the capital stock component of statutory surplus as that is defined in the January

1, 2001 version of APPM.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0