



General Assembly

February Session, 2000

Raised Bill No. 443

LCO No. 1883

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

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 Section 38a-70 of the general statutes is repealed and the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 Section 38a-71 of the general statutes is repealed and the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, with the cost of these assets having a finite useful life being
48 depreciated in full over periods provided by regulations adopted by
49 the commissioner in accordance with the provisions of chapter 54;

50 (J) Cash or currency; and

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

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

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

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

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

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74 repealed and the following is substituted in lieu thereof:

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

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

93 (d) No insurance company shall be licensed to transact business in
94 this state or remain so licensed unless (1) its surplus funds bear a
95 reasonable relationship to its liabilities based upon the type, volume
96 and nature of insurance business transacted, and (2) risk-based capital
97 related to its total adjusted capital is adequate for the types of business
98 transacted. As used in this section, "total adjusted capital" means the
99 sum of [statutory] capital and surplus of an insurer, its asset valuation
100 reserves, and any other item in the nature of capital as deemed
101 appropriate by the commissioner. "Risk-based capital" means the
102 [statutory] capital and surplus adjusted to recognize the level of risk
103 inherent in its business, including (A) risk with respect to the insurer's
104 assets, (B) the risk of adverse insurance experience with respect to the
105 insurer's liabilities and obligations, (C) the interest rate risk with
106 respect to the insurer's business, and (D) all other business risks and
107 such other relevant risks as the commissioner may determine. The

108 commissioner shall adopt such reasonable regulations, in accordance
109 with the provisions of chapter 54, as are deemed proper to implement
110 the purposes of this section, including but not limited to, provisions
111 concerning: The preparation and filing of reports by insurers of risk-
112 based capital levels and the calculation thereof; the preparation and
113 filing of comprehensive financial plans when such capital levels are
114 reduced below minimum threshold levels; the confidentiality of such
115 reports and plans; and the regulatory corrective actions the
116 commissioner may take in the event minimum risk-based capital levels
117 are not maintained, or the insurer's financial plans filed with the
118 commissioner are deficient, or the insurer fails to otherwise comply
119 with the provisions of the regulations promulgated.

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

122 Each domestic, foreign and alien insurance company which, in this
123 state, makes insurance upon the health of individuals or which, in this
124 state, insures persons against bodily injury or death by accident, or any
125 person, firm or corporation against loss or damage on account of the
126 bodily injury or death by accident of any person for which loss or
127 damage such person, firm or corporation is responsible, shall maintain
128 a premium reserve on all such policies in force, whether issued in this
129 state or elsewhere, [equal to the unearned portion of the gross
130 premiums charged for covering the risks] calculated in accordance
131 with the accounting requirements of the National Association of
132 Insurance Commissioners Accounting Practices and Procedures
133 Manual, version effective January 1, 2001, and subsequent revisions.

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

136 (a) Each licensed financial guaranty insurance corporation shall
137 establish and maintain a contingency reserve computed in accordance
138 with [this section] the accounting requirements of the National
139 Association of Insurance Commissioners Accounting Practices and

140 Procedures Manual, version effective January 1, 2001, and subsequent
141 revisions.

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

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

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

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

158 (1) The financial guaranty insurance corporation shall establish and
159 maintain a contingency reserve in accordance with subdivision (3) of
160 this subsection for all those insured issues in each calendar year for
161 each category listed in subdivision (2) of this subsection;

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

170 and (D) all other investment grade industrial development bonds, 1.5
171 per cent of principal guaranteed; and

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

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

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

186 (2) The total contingency reserve required shall be the greater of
187 fifty per cent of premiums written for each such category or the
188 following amount prescribed for each such category: (A) Investment
189 grade obligations, secured by collateral, or with a remaining term at
190 the date of insurance of seven years or less, 1.0 per cent of principal
191 guaranteed; (B) other investment grade obligations, 1.5 per cent of
192 principal guaranteed; (C) noninvestment grade obligations secured by
193 collateral, 2.0 per cent of principal guaranteed; (D) other
194 noninvestment grade obligations, 2.5 per cent of principal guaranteed;
195 and

196 (3) Contributions to the contingency reserve required by
197 subparagraphs (A) and (B) of subdivision (2) of this subsection, equal
198 to one-sixtieth of the total reserve required, shall be made each quarter
199 for fifteen years, and contributions to the contingency reserve required
200 by subparagraphs (C) and (D) of subdivision (2) of this subsection,

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

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

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

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

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

231 [(g)] (b) A financial guaranty insurance corporation may invest the

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

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

241 (a) Each financial guaranty insurance corporation shall establish and
242 maintain reserves against unpaid losses and loss expense. [The case
243 basis method or some other method may be prescribed by the
244 commissioner. Such method shall be used to determine loss reserves,
245 which shall include a reserve for claims reported and unpaid net of
246 collateral. A deduction from loss reserves shall be allowed for the time
247 value of money by application of a discount rate equal to the average
248 rate of return on the admitted assets of the financial guaranty
249 insurance corporation as of the date of the computation of that reserve.
250 The discount rate shall be adjusted at the end of each calendar year. In
251 addition a reserve component for incurred but not reported claims
252 shall be reasonably estimated if deemed necessary by the financial
253 guaranty insurance corporation, or following an examination or
254 actuarial analysis, by the commissioner.] Such reserves shall be
255 determined in accordance with the accounting requirements of the
256 National Association of Insurance Commissioners Accounting
257 Practices and Procedures Manual, version effective January 1, 2001,
258 and subsequent revisions.

259 (b) Except as otherwise permitted by the commissioner, no
260 deduction shall be made for anticipated salvage in computing case
261 basis loss reserves, unless that salvage is held by or under the control
262 of the financial guaranty insurance corporation and would qualify as
263 an admitted asset under this title or unless that salvage constitutes or is

264 secured by a letter of credit which is approved by the commissioner or
265 complies with the criteria set forth in subsection (4) of section 38a-92a.

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

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

274 Each licensed financial guaranty insurance corporation shall
275 establish and maintain an unearned premium reserve [, net of
276 reinsurance, with respect to all financial guaranty insurance premiums.
277 Where financial guaranty insurance premiums are paid on an
278 instalment basis, an unearned premium reserve shall be established
279 and maintained, net of reinsurance, computed on a monthly pro rata
280 basis. All other financial guaranty insurance premiums written shall be
281 earned in proportion with the expiration of exposure or by such other
282 methods as may be approved by the commissioner] calculated in
283 accordance with the with the accounting requirements of the National
284 Association of Insurance Commissioners Accounting Practices and
285 Procedures Manual, version effective January 1, 2001, and subsequent
286 revisions.

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

290 (B) An insurer licensed in this state to transact surety insurance or
291 reinsurance, but not financial guaranty insurance pursuant to sections
292 38a-92 to 38a-92n, inclusive, or accredited as a reinsurer in this state as
293 provided in subsection (c) of section 38a-85 if the insurer or reinsurer
294 meets all of the following criteria: (i) Has and maintains combined

295 capital and surplus of at least fifty million dollars; (ii) establishes and
296 maintains the reserves required in section 38a-92c, except that if the
297 reinsurance agreement is nonproportional, the contribution to the
298 contingency reserve shall be equal to fifty per cent of the quarterly
299 [earned] written insurance premium; (iii) complies with the provisions
300 of subsection (b) of section 38a-92i, except that its maximum aggregate
301 assumed total net liability shall be one-half that permitted for a
302 financial guaranty insurance corporation. For the purpose of
303 determining compliance, the reinsurer, unless at the time of cession
304 and thereafter it is rated in one of the two top generic rating
305 classifications by a securities rating agency acceptable to the
306 commissioner, shall be limited to using ten per cent of its capital and
307 surplus in making this calculation; (iv) complies with the provisions of
308 section 38a-92j; and (v) assumes, together with all other reinsurers
309 subject to this subparagraph, less than fifty per cent of the ceding
310 insurer's total liability after deducting any reinsurance ceded to any
311 insurers pursuant to subparagraph (A) of this subdivision.

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

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

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

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

343 (2) Loans or extensions of credit to any person who is not an
344 affiliate, where the insurance company makes such loans or extensions
345 of credit with the agreement or understanding that the proceeds of
346 such transactions, in whole or in substantial part, are to be used to
347 make loans or extensions of credit to, to purchase assets of, or to make
348 investments in, any affiliate of the insurance company making such
349 loans or extensions of credit, provided such transactions are equal to or
350 exceed: (A) With respect to nonlife insurance companies, the lesser of
351 three per cent of the insurance company's admitted assets or twenty-
352 five per cent of surplus; [as regards policyholders;] or (B) with respect
353 to life insurance companies, three per cent of the insurance company's
354 admitted assets; each as of the thirty-first day of December next
355 preceding;

356 (3) Reinsurance agreements or modifications thereto in which the
357 reinsurance premium or a change in the insurance company's liabilities
358 equals or exceeds five per cent of the insurance company's surplus, [as
359 regards policyholders,] as of the thirty-first day of December next

360 preceding, including those agreements which may require as
361 consideration the transfer of assets from an insurance company to a
362 nonaffiliate, if an agreement or understanding exists between the
363 insurance company and nonaffiliate that any portion of such assets
364 will be transferred to one or more affiliates of the insurance company;

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

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

373 (c) A domestic insurance company may not enter into transactions
374 which are part of a plan or series of like transactions with persons
375 within the holding company system if the purpose of those separate
376 transactions is to avoid the statutory threshold amount and thus avoid
377 the review that would otherwise occur. If the commissioner
378 determines that such separate transactions were entered into over any
379 twelve-month period for such purpose, [he] the commissioner may
380 exercise [his] authority under section 38a-140.

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

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

391 voting securities.

392 (f) No insurance company subject to registration under section 38a-
393 135 shall pay any extraordinary dividend or make any other
394 extraordinary distribution to its stockholders until the commissioner
395 has approved such payment or until thirty days after the commissioner
396 has received notice from such company of the declaration thereof
397 within which period [he] the commissioner has not disapproved such
398 payment, whichever is sooner. For the purposes of this subsection, an
399 extraordinary dividend or distribution is any dividend or distribution
400 of cash or other property, whose fair market value together with that
401 of other dividends or distributions made within the preceding twelve
402 months, exceeds the greater of (1) ten per cent of such insurance
403 company's surplus [with respect to policyholders] as of the thirty-first
404 day of December last preceding, or (2) the net gain from operations of
405 such insurance company, if such company is a life insurance company,
406 or the net income, if such company is not a life insurance company, for
407 the twelve-month period ending the thirty-first day of December last
408 preceding, but shall not include pro rata distributions of any class of
409 the insurance company's own securities. Notwithstanding any other
410 provision of law, an insurance company may declare an extraordinary
411 dividend or distribution which is conditional upon the commissioner's
412 approval thereof, but such a declaration shall confer no rights upon
413 stockholders until (1) the commissioner has approved the payment of
414 such dividend or distribution or (2) thirty days have elapsed without
415 [his] the commissioner's disapproval thereof as provided in this
416 subsection, whichever is sooner.

417 (g) For purposes of sections 38a-129 to 38a-140, inclusive, in
418 determining whether an insurance company's surplus [as regards to
419 policyholders] is reasonable in relation to the insurance company's
420 outstanding liabilities and adequate to its financial needs, the
421 following factors, in addition to others, shall be considered: (1) The
422 size of the insurance company as measured by its assets, capital and
423 surplus, reserves, premium writings, insurance in force and other

424 appropriate criteria; (2) the extent to which the insurance company's
425 business is diversified among the several lines of insurance; (3) the
426 number and size of risks insured in each line of business; (4) the nature
427 of the geographical dispersion of the insurance company's insured
428 risks; (5) the nature and extent of the insurance company's reinsurance
429 program; (6) the quality, diversification and liquidity of the insurance
430 company's investment portfolio; (7) the recent past and projected
431 future trend in the size of the insurance company's surplus; [as regards
432 policyholders;] (8) the surplus [as regards policyholders] maintained
433 by other comparable insurance companies; (9) the adequacy of the
434 insurance company's reserves; (10) the quality of the company's
435 earnings and the extent to which the reported earnings include
436 extraordinary items; and (11) the quality and liquidity of investments
437 in affiliates. The commissioner may discount any such investment or
438 treat any such investment as a disallowed asset for purposes of
439 determining the adequacy of surplus [as regards policyholders]
440 whenever in [his] the commissioner's judgment such investment
441 warrants.

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

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

453 (3) Except as otherwise provided by law, no dividend or other
454 distribution exceeding an amount equal to an insurance company's
455 earned surplus may be paid without the Insurance Commissioner's

456 prior approval. For purposes of this subsection, "earned surplus"
457 means "unassigned funds-surplus", as defined in the annual report of
458 the insurance company which was most recently submitted pursuant
459 to section 38a-53, reduced by twenty-five per cent of unrealized
460 appreciation in value or revaluation of assets or unrealized profits on
461 investments, as defined in such report.

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

468 (2) No domestic insurance company of which control has been
469 acquired pursuant to section 38a-130 shall, without the prior approval
470 of the commissioner: (A) Pay or propose to pay any dividend during
471 the period of two years from the date of acquisition of control of such
472 insurance company; (B) acquire or enter into an agreement or
473 understanding to acquire control, during the period of three years after
474 the date of acquisition of control of such insurance company, of any
475 other person or persons whose assets exceed twenty-five million
476 dollars; (C) provide or propose to provide directly or indirectly, during
477 the period of three years after the date of acquisition of control of such
478 insurance company, any loans, advances, guarantees, pledges or other
479 financial assistance; or (D) engage in any material transaction with any
480 person during the period of three years after the date of acquisition of
481 such insurance company. For purposes of this subsection, a "material
482 transaction" shall include, but not be limited to, any transfer or
483 encumbrance of assets not in the ordinary course of business which,
484 together with all other transfers or encumbrances made within the
485 preceding twelve months, exceeds in value the greater of (i) ten per
486 cent of such insurance company's surplus [with respect to
487 policyholders] as of the December thirty-first last preceding, or (ii) the
488 net gain from operations of such insurance company, if such company

489 is a life insurance company, or the net investment income of such
490 company, if such company is not a life insurance company, for the
491 twelve-month period ending the December thirty-first last preceding.

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

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

511 Sec. 11. Subsection (b) of section 38a-193 of the general statutes is
512 repealed and the following is substituted in lieu thereof:

513 (b) Every health care center shall, when determining liabilities,
514 include an amount estimated in the aggregate to provide for any
515 unearned premium and for the payment of all claims for health care
516 expenditures which have been incurred, whether reported or
517 unreported, which are unpaid and for which such organization is or
518 may be liable, and to provide for the expense of adjustment or
519 settlement of such claims. Such liabilities shall be computed in
520 accordance with those accounting procedures and practices prescribed

521 by the National Association of Insurance Commissioners Accounting
522 Practices and Procedures Manual, version effective January 1, 2001,
523 and subsequent revisions and the National Association of Insurance
524 Commissioners Annual Statement Instructions, subject to any
525 deviations prescribed by the commissioner.

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

528 (a) For purposes of this section: (1) "Policy" means all contracts of
529 life insurance which provide for policy loans, certificates insuring
530 persons against loss of life issued by a fraternal benefit society and
531 annuity contracts which provide for such loans; [(2) the term "policy
532 loan" means any loan made under a policy or any premium loan made
533 under a policy to pay one or more premiums that were not paid to the
534 life insurer as they became due] (2) "policy loan" means a loan to a
535 policyholder, under the provisions of an insurance contract, that is
536 secured by the cash surrender value or collateral assignment of the
537 related policy or contract. "Policy loan" include: (A) Cash loans,
538 including loans resulting from early payment benefits or accelerated
539 payment benefits, on contracts when the terms of the contract specify
540 that such payments are policy loans secured by the policy, and (B)
541 automatic premium loans, which are loans made in accordance with
542 policy provisions whereby delinquent premium payments are
543 automatically paid from the cash value at the end of the established
544 grace period for premium payments; (3) [the term] "policyholder"
545 includes the owner of the policy or the person designated to pay
546 premiums as shown in the records of the life insurer; (4) "published
547 monthly average" means: (A) Moody's Corporate Bond Yield Average-
548 Monthly Average Corporates as published by Moody's Investors
549 Service, Inc. or any successor thereto; or (B) in the event that Moody's
550 Corporate Bond Yield Average-Monthly Average Corporates is no
551 longer published, a substantially similar average, established by the
552 Insurance Commissioner in regulations [he] the commissioner may
553 adopt in accordance with the provisions of chapter 54; (5) the rate of

554 interest permitted under this section on policy loans includes the rate
555 of interest charged on reinstatement of policy loans for the period
556 during and after any lapse of a policy.

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

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

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

575 (c) No society shall own or operate funeral homes or undertaking
576 establishments.

Statement of Purpose:

To update the statutory insurance accounting rules to be adopted by the Insurance Commissioner to reflect changes made by the National Association of Insurance Commissioners.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]