



General Assembly

January Session, 2003

**Raised Bill No. 6375**

LCO No. 2819

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

**AN ACT CONCERNING COMMERCIAL INSURANCE RATES AND FORMS.**

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

1 Section 1. Section 38a-676 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) (1) With respect to rates pertaining to commercial risk insurance,  
4 and subject to the provisions of subdivision (2) of this subsection with  
5 respect to all commercial risk insurance and subsection (b) of this  
6 section with respect to workers' compensation and employers' liability  
7 insurance, on or before the effective date [thereof] of the rate, every  
8 admitted insurer shall submit to the Insurance Commissioner for the  
9 commissioner's information, except as to inland marine risks which by  
10 general custom of the business are not written according to manual  
11 rates or rating plans, every manual of classifications, rules and rates,  
12 and every minimum, class rate, rating plan, rating schedule and rating  
13 system and any modification of the foregoing which it uses. Such  
14 submission by a licensed rating organization of which an insurer is a  
15 member or subscriber shall be sufficient compliance with this section  
16 for any insurer maintaining membership or subscribership in such

17 organization, to the extent that the insurer uses the manuals,  
18 minimums, class rates, rating plans, rating schedules, rating systems,  
19 policy or bond forms of such organization. The information shall be  
20 open to public inspection after its submission. (2) In a competitive  
21 market, as determined by the commissioner pursuant to section 2 of  
22 this act, such submission shall be made for informational purposes  
23 only and shall not be subject to review by the Insurance  
24 Commissioner.

25 (b) Each filing [as] described in subsection (a) of this section for  
26 workers' compensation or employers' liability insurance shall be on file  
27 with the Insurance Commissioner for a waiting period of thirty days  
28 before it becomes effective, which period may be extended by the  
29 commissioner for an additional period not to exceed thirty days if the  
30 commissioner gives written notice within such waiting period to the  
31 insurer or rating organization which made the filing that the  
32 commissioner needs such additional time for the consideration of such  
33 filing. Upon written application by such insurer or rating organization,  
34 the commissioner may authorize a filing which the commissioner has  
35 reviewed to become effective before the expiration of the waiting  
36 period or any extension thereof. A filing shall be deemed to meet the  
37 requirements of sections 38a-663 to 38a-696, inclusive, unless  
38 disapproved by the commissioner within the waiting period or any  
39 extension thereof. If, within the waiting period or any extension  
40 thereof, the commissioner finds that a filing does not meet the  
41 requirements of said sections, the commissioner shall send to the  
42 insurer or rating organization which made such filing written notice of  
43 disapproval of such filing, specifying therein in what respects the  
44 commissioner finds such filing fails to meet the requirements of said  
45 sections and stating that such filing shall not become effective. Such  
46 finding of the commissioner shall be subject to review as provided in  
47 section 38a-19.

48 (c) [The] Except as provided in subsection (d) of this section, the  
49 form of any insurance policy or contract the rates for which are subject

50 to the provisions of sections 38a-663 to 38a-696, inclusive, other than  
51 fidelity, surety or guaranty bonds, and the form of any endorsement  
52 modifying such insurance policy or contract, shall be filed with the  
53 Insurance Commissioner prior to its issuance. The commissioner shall  
54 adopt regulations, in accordance with the provisions of chapter 54,  
55 establishing a procedure for review of such policy or contract. If at any  
56 time the commissioner finds that any such policy, contract or  
57 endorsement is not in accordance with such provisions or any other  
58 provision of law, the commissioner shall issue an order disapproving  
59 the issuance of such form and stating the reasons for disapproval. The  
60 provisions of section 38a-19 shall apply to any such order issued by the  
61 commissioner.

62 (d) The form of any commercial insurance policy, other than  
63 workers' compensation insurance, and the form of any endorsement  
64 modifying such insurance policy, shall be filed with the Insurance  
65 Commissioner prior to its issuance. The commissioner may disapprove  
66 the filing not later than thirty days after the commissioner receives it.  
67 The commissioner may extend the review period for an additional  
68 time not to exceed fifteen days if the commissioner gives written notice  
69 to the insurer that additional time is required for the commissioner to  
70 consider the filing. A filing shall be deemed approved unless  
71 disapproved by the commissioner within the filing or extension  
72 period, as the case may be. Any such disapproval may only be made if  
73 the commissioner finds that the filing violates the requirements of one  
74 or more (1) statutes, (2) regulations adopted in accordance with  
75 chapter 54, (3) court orders, or (4) other provisions of law. The  
76 commissioner shall provide the insurer with written notice of the basis  
77 of any such disapproval which notice shall cite the specific statutes,  
78 regulations, court orders or other provision of law that formed the  
79 basis of disapproval.

80 Sec. 2. (NEW) (*Effective October 1, 2003*) (a) With respect to  
81 commercial risk insurance, a competitive market is presumed to exist  
82 unless the commissioner, after a hearing, determines that a reasonable

83 degree of competition does not exist in a market and issues a ruling to  
84 that effect. Any such ruling shall expire one year after the date of issue.  
85 After such ruling has been in effect for a period of one year the  
86 commissioner may hold a hearing in order to determine whether a  
87 reasonable degree of competition continues not to exist. The  
88 commissioner shall provide written notice of the time and place of any  
89 such hearing to all insurance companies affected by the ruling at least  
90 fifteen days in advance of such hearing. The commissioner shall issue a  
91 decision not later than thirty days after such hearing.

92 (b) In determining whether a reasonable degree of competition  
93 exists in a market, the commissioner may define that market in terms  
94 of a line or lines of business, as depicted on page fifteen of the National  
95 Association of Insurance Commissioners' annual statement. The  
96 commissioner may consider relevant tests of workable competition  
97 pertaining to market structure, performance and conduct and the  
98 practical opportunities available to consumers in the market to acquire  
99 pricing and other consumer information and to compare and obtain  
100 insurance from competing insurers. Such tests may include, but are not  
101 limited to: (1) Size and number of firms actively engaged in the  
102 market, (2) market shares and changes in market shares of firms, (3)  
103 ease of entry and exit from a given market, (4) underwriting  
104 restrictions or results, (5) investment income earned or realized by  
105 insurers from both their unearned premium and loss reserve funds for  
106 that market, (6) availability of consumer information concerning the  
107 product and sales outlets or other sales mechanisms, and (7) efforts of  
108 insurers to provide consumer information. The determination of  
109 competition by the commissioner shall involve the interaction of the  
110 various tests and the weight given to specific tests shall depend upon  
111 the particular situation and pattern of test results.

112 (c) In determining whether a competitive market exists, the  
113 commissioner shall monitor the degree of competition in this state. In  
114 doing so, the commissioner shall utilize existing relevant information,  
115 analytical systems and other sources, participate in or cause the

116 development of new relevant information, analytical systems and  
117 other sources or rely on some combination thereof. Such activities may  
118 be conducted internally within the Insurance Department, in  
119 cooperation with other state insurance departments, through outside  
120 contractors or in any other manner deemed appropriate by the  
121 commissioner. For purposes of judicial review pursuant to section 4-  
122 183 of the general statutes, the determination of whether a competitive  
123 market exists shall be deemed to be a question of fact.

124 (d) For the purpose of determining whether a competitive market  
125 exists, the commissioner, in the commissioner's discretion, may make  
126 such public or private investigations within or outside the state as the  
127 commissioner deems necessary.

128 (e) For the purpose of any hearing or investigation under this  
129 section, the commissioner or any officer designated by the  
130 commissioner may administer oaths and affirmations, subpoena  
131 witnesses, compel their attendance, receive oral and documentary  
132 evidence and require the production of any books, papers,  
133 correspondence, memoranda, agreements or other documents or  
134 records which the commissioner deems relevant or material to the  
135 inquiry.

136 (f) In case of a refusal of any person to comply with any subpoena  
137 issued under this section or to testify with respect to any matter  
138 concerning which the person may be lawfully interrogated, the  
139 superior court for the judicial district of Hartford, upon application by  
140 the commissioner, may issue an order requiring such person to comply  
141 with such subpoena or to testify. Failure to obey the order of the court  
142 may be punished by the court as a contempt of court.

143 (g) No person may be excused from attending and testifying or from  
144 producing any document or record before the commissioner, or in  
145 obedience to the subpoena of the commissioner or any officer  
146 designated by the commissioner, or in any proceeding instituted by the  
147 commissioner, on the grounds that the testimony or evidence,

148 documentary or otherwise, required of the person may tend to  
149 incriminate the person or subject the person to a penalty of forfeiture,  
150 provided no person may be prosecuted or subjected to any penalty or  
151 forfeiture for or on account of any transaction, matter, or thing  
152 concerning which the person is compelled, after claiming the privilege  
153 against self-incrimination, to testify or produce evidence, documentary  
154 or otherwise, except that the person testifying is not exempt from  
155 prosecution and punishment for perjury or contempt committed in  
156 testifying.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>

**INS**      *Joint Favorable*