



Senate

General Assembly

File No. 128

February Session, 2004

Senate Bill No. 482

Senate, March 17, 2004

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN INSURANCE STATUTES.

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

1 Section 1. Section 38a-42 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) Except as provided in subsection (b) of this section, no insurance
4 company shall enter into any contract of remuneration with any life or
5 accident and health insurance producer [] where the initial or any
6 renewal commission is contingent upon (1) such contract being in
7 effect more than two years, or (2) any continuing premium or other
8 volume requirement contained in such contract.

9 (b) Any insurance company may enter into a contract of
10 remuneration of the kind prohibited in subsection (a) of this section
11 with any such insurance producer if the company [shall have] has
12 offered to such producer a contract which contains no such contingent

13 provisions as described in subdivisions (1) and (2) of subsection (a) of
14 this section and which provides actuarially equivalent remuneration to
15 [that] the contract containing such contingent provisions.

16 Sec. 2. Section 38a-43 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2004*):

18 Whenever it appears to the commissioner that permission to
19 transact business within any state of the United States or within any
20 foreign country has been refused to any domestic insurance company
21 after a certificate of the solvency and good management of such
22 company has been issued to it by the commissioner and after such
23 company has complied with any reasonable laws of such state or
24 foreign country requiring deposits of money or securities with the
25 government of such state or country, the commissioner may
26 [forthwith] immediately cancel the authority of each company
27 organized under the laws of such state or foreign government and
28 licensed to do business in this state and may refuse a certificate of
29 authority to each such company thereafter applying [to him] for
30 authority to do business in this state, until [his] the commissioner's
31 certificate has been recognized by the government of such state or
32 country.

33 Sec. 3. Section 38a-45 of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2004*):

35 No corporation shall insure or guarantee titles to real estate situated
36 in this state except subject to and in accordance with all laws of this
37 state relating to insurance or insurance companies generally or relating
38 to the powers or duties of the commissioner. No corporation doing
39 title insurance business may do any other line of insurance business.
40 No corporation doing mortgage guaranty insurance business may do
41 any other line of insurance business. The commissioner may [issue]
42 adopt regulations, in accordance with chapter 54, which set
43 requirements concerning the amount of deposits and the establishment
44 and maintenance of unearned premium and loss reserves and other

45 liabilities of domestic title insurance companies and foreign mortgage
46 guaranty insurance companies for the purpose of protecting their
47 policyholders.

48 Sec. 4. Subsection (c) of section 38a-88b of the general statutes is
49 repealed and the following is substituted in lieu thereof (*Effective*
50 *October 1, 2004*):

51 (c) Notwithstanding the provisions of subsection (a) of this section,
52 the provisions of subsections (b) and (l) of section 38a-88a and
53 subdivision (3) of subsection (i) of section 38a-88a [] shall be
54 applicable to all funds.

55 Sec. 5. Subsection (f) of section 38a-318 of the general statutes is
56 repealed and the following is substituted in lieu thereof (*Effective*
57 *October 1, 2004*):

58 (f) For the purposes of this section, "authorized agency" means: (1)
59 The State Fire Marshal or the local fire marshal when authorized or
60 charged with the investigation of fires at the place where the fire
61 actually took place; and (2) the Insurance Commissioner.

62 Sec. 6. Subsection (a) of section 38a-343 of the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective*
64 *October 1, 2004*):

65 (a) No notice of cancellation of a policy to which section 38a-342
66 applies may be effective unless sent, by registered or certified mail or
67 by mail evidenced by a certificate of mailing, or delivered by the
68 insurer to the named insured, and any third party designated pursuant
69 to section 38a-323a, at least forty-five days before the effective date of
70 cancellation, except that (1) where cancellation is for nonpayment of
71 the first premium on a new policy, at least fifteen days' notice of
72 cancellation accompanied by the reason for cancellation shall be given,
73 and (2) where cancellation is for nonpayment of any other premium, at
74 least ten days' notice of cancellation accompanied by the reason for
75 cancellation shall be given. No notice of cancellation of a policy which

76 has been in effect for less than sixty days may be effective unless
77 mailed or delivered by the insurer to the insured and any third party
78 designee at least forty-five days before the effective date of
79 cancellation, provided (A) at least fifteen days' notice shall be given
80 where cancellation is for nonpayment of the first premium on a new
81 policy, and (B) at least ten days' notice shall be given where
82 cancellation is for nonpayment of any other premium or material
83 misrepresentation. The notice of cancellation shall state or be
84 accompanied by a statement specifying the reason for such
85 cancellation. Any notice of cancellation for nonpayment of the first
86 premium on a new policy may be retroactive to the effective date of
87 such policy, provided at least fifteen days' notice has been given to the
88 insured and any third party designee and payment of such premium
89 has not been received during such notice period.

90 Sec. 7. Section 38a-417 of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2004*):

92 The provisions of section 38a-816 [.] shall govern relationships
93 which favored agents or insurers.

94 Sec. 8. Subsection (e) of section 38a-702e of the general statutes is
95 repealed and the following is substituted in lieu thereof (*Effective*
96 *October 1, 2004*):

97 (e) Each applicant for an insurance producer license shall, before
98 being admitted to an examination under subsection (a) of this section,
99 prove to the satisfaction of the commissioner that such applicant meets
100 one of the following prerequisites: (1) [That the applicant has
101 successfully completed] Successful completion of a course approved
102 by the commissioner requiring not less than forty hours for each line of
103 insurance for which the applicant is applying to be licensed; or (2) [that
104 such applicant has] equivalent experience or training as determined by
105 the commissioner.

106 Sec. 9. Subdivision (4) of section 38a-844 of the general statutes, as
107 amended by section 1 of public act 03-182, is repealed and the

108 following is substituted in lieu thereof (*Effective October 1, 2004*):

109 (4) The association shall have the right to recover from the following
110 persons the amount of any covered claim paid on behalf of such
111 person pursuant to sections 38a-836 to 38a-853, inclusive: [(a)] (A) Any
112 person who is an affiliate of the insolvent insurer and whose liability
113 obligations to other persons are satisfied in whole or in part by
114 payments made under this chapter; and [(b)] (B) any insured whose
115 net worth on December thirty-first of the year next preceding the date
116 the insurer becomes an insolvent insurer exceeds fifty million dollars
117 and whose liability obligations to other persons are satisfied in whole
118 or in part by payments made under said sections.

119 Sec. 10. Subsection (b) of section 38a-556 of the general statutes, as
120 amended by section 68 of public act 03-6 of the June 30 special session,
121 is repealed and the following is substituted in lieu thereof (*Effective*
122 *October 1, 2004*):

123 (b) The association shall have the general powers and authority
124 granted under the laws of this state to carriers to transact the kinds of
125 insurance defined under section 38a-551, as amended, and in addition
126 thereto, the specific authority to: (1) Enter into contracts necessary or
127 proper to carry out the provisions and purposes of sections 38a-505,
128 38a-546 and 38a-551 to 38a-559, inclusive, as amended; (2) sue or be
129 sued, including taking any legal actions necessary or proper for
130 recovery of any assessments for, on behalf of, or against participating
131 members; (3) take such legal action as necessary to avoid the payment
132 of improper claims against the association or the coverage provided by
133 or through the association; (4) establish, with respect to health
134 insurance provided by or on behalf of the association, appropriate
135 rates, scales of rates, rate classifications and rating adjustments, such
136 rates not to be unreasonable in relation to the coverage provided and
137 the operational expenses of the association; (5) administer any type of
138 reinsurance program, for or on behalf of participating members; (6)
139 pool risks among participating members; (7) issue policies of insurance
140 on an indemnity or provision of service basis providing the coverage

141 required by sections 38a-505, 38a-546 and 38a-551 to 38a-559, inclusive,
142 as amended, in its own name or on behalf of participating members;
143 (8) administer separate pools, separate accounts or other plans as
144 deemed appropriate for separate members or groups of members; (9)
145 operate and administer any combination of plans, pools, reinsurance
146 arrangements or other mechanisms as deemed appropriate to best
147 accomplish the fair and equitable operation of the association; (10) set
148 limits on the amounts of reinsurance which may be ceded to the
149 association by its members; (11) appoint from among participating
150 members appropriate legal, actuarial and other committees as
151 necessary to provide technical assistance in the operation of the
152 association, policy and other contract design, and any other function
153 within the authority of the association; and (12) apply for and accept
154 grants, gifts and bequests of funds from other states, federal and
155 interstate agencies and independent authorities, private firms,
156 individuals and foundations for the purpose of carrying out its
157 responsibilities. Any such funds received shall be deposited in the
158 General Fund and shall be credited to a separate nonlapsing account
159 within the General Fund for the Health Reinsurance Association and
160 may be used by the Health Reinsurance Association in the
161 performance of its duties.

162 Sec. 11. Subsection (e) of section 38a-556 of the general statutes, as
163 amended by section 68 of public act 03-6 of the June 30 special session,
164 is repealed and the following is substituted in lieu thereof (*Effective*
165 *October 1, 2004*):

166 (e) All policy forms issued by or through the association shall
167 conform in [substances] substance to prototype forms developed by
168 the association, shall in all other respects conform to the requirements
169 of sections 38a-505, 38a-546 and 38a-551 to 38a-559, inclusive, as
170 amended, and shall be approved by the commissioner. The
171 commissioner may disapprove any such form if it contains a provision
172 or provisions which are unfair or deceptive or which encourage
173 misrepresentation of the policy.

174 Sec. 12. Subsection (j) of section 38a-553 of the general statutes, as
175 amended by section 67 of public act 03-6 of the June 30 special session,
176 is repealed and the following is substituted in lieu thereof (*Effective*
177 *October 1, 2004*):

178 (j) No comprehensive health care plan issued through the Health
179 Reinsurance Association to a health care tax credit eligible individual
180 shall include any limitation or exclusion of benefit based on a
181 preexisting condition if such individual maintained creditable health
182 insurance coverage for an aggregate period of three months as of the
183 date on which the individual seeks to enroll in the Health Reinsurance
184 Association issued [policy] plan, not counting any period prior to a
185 sixty-three-day break in coverage.

186 Sec. 13. Section 38a-981 of the general statutes, as amended by
187 section 3 of public act 03-119, is repealed and the following is
188 substituted in lieu thereof (*Effective October 1, 2004*):

189 (a) Notwithstanding any provision of the general statutes to the
190 contrary, no insurance institution, agent or insurance-support
191 organization may utilize as its disclosure authorization form in
192 connection with insurance transactions, a form or statement which
193 authorizes the disclosure of personal or privileged information
194 concerning an individual to an insurance institution, agent, or
195 insurance-support organization unless the form or statement: (1) Is
196 written in plain language substantially complying with the tests
197 enumerated in subsection (b) of section 42-152; (2) is dated; (3) specifies
198 the types of persons authorized to disclose information concerning the
199 individual; (4) specifies the nature of the information authorized to be
200 disclosed; (5) identifies the insurance institution or agent and the types
201 of representatives of the insurance institution to whom the individual
202 has authorized the information to be disclosed; (6) specifies the
203 purposes for which the information is collected; (7) specifies the length
204 of time such authorization shall remain valid, which shall be no longer
205 than: (A) In the case of authorizations signed for the purpose of
206 collecting information in connection with an application for an

207 insurance policy, a policy reinstatement or a request for a change in
208 policy benefits: (i) Thirty months from the date the authorization is
209 signed if the application or request involves life, health or disability
210 insurance, (ii) one year from the date the authorization is signed if the
211 application or request involves property or casualty insurance, (B) in
212 the case of authorizations signed for the purpose of collecting
213 information in connection with a claim for benefits under an insurance
214 policy: (i) The term of coverage of the policy if the claim involves a
215 health insurance benefit, (ii) the duration of the claim if it involves an
216 insurance benefit which is not a health insurance benefit; (8) advises
217 the individual or a person authorized to act on his behalf that he is
218 entitled to receive a copy of the authorization form.

219 (b) (1) An insurance institution or a third-party administrator
220 providing insurance or administrative services with respect to an
221 employer's employee benefit plan which provides its employees with
222 health benefits shall, upon written request of an exclusive bargaining
223 agent for such employees, provide such bargaining agent with
224 information regarding description of health benefits available to such
225 employees, claim experience regarding such benefits and the cost to
226 the employer for such coverage or administrative services, as the case
227 may be, for employees in the bargaining unit represented by such
228 bargaining agent. If such employees constitute a subgroup of a multi-
229 bargaining-unit group, the information provided by the [insurer]
230 insurance institution or administrator shall, upon written request of
231 the exclusive bargaining agent for the subgroup, include a description
232 of available health benefits, claim experience regarding such benefits
233 and the cost to the employer for such coverage or administrative
234 services, as the case may be, for the entire multi-bargaining-unit group
235 or for subgroups within the multi-bargaining-unit group. A copy of
236 such information shall be provided at the same time to the employer
237 by the insurance institution or administrator. Such information shall be
238 made available to the bargaining agent and the employer only if the
239 bargaining agent agrees in writing to pay all reasonable costs, as
240 determined by the insurance institution or administrator, that are
241 incurred by the insurance institution or administrator in developing

242 and distributing the information. The information provided to such
243 agent shall relate to the group of employees as a whole and shall not
244 include any information relating to specific individuals. No requests
245 made pursuant to this subdivision may seek information which relates
246 to a period of time more than twenty-four months prior to the date
247 such request was made.

248 (2) Prior to providing any information pursuant to subdivision (1) of
249 this subsection, an insurance institution or third-party administrator
250 may require the bargaining agent requesting such information to
251 provide evidence in writing that such bargaining agent is currently
252 designated or certified by the proper state or federal authority as the
253 exclusive bargaining representative or agent of the employees who are
254 the subject of the request.

255 (3) The provisions of this subsection shall not apply to employees
256 participating in an employee welfare benefit plan subject to the
257 provisions of Title I of the Employee Retirement Income Security Act
258 of 1974 (ERISA), Public Law 93-406, as amended from time to time, or
259 to the exclusive bargaining agents of such employees.

260 Sec. 14. Section 38a-475 of the general statutes is repealed and the
261 following is substituted in lieu thereof (*Effective October 1, 2004*):

262 The Insurance Department shall only precertify long-term care
263 insurance policies which (1) alert the purchaser to the availability of
264 consumer information and public education provided by the
265 Department of Social Services pursuant to section [17a-307] 17b-251; (2)
266 offer the option of home and community-based services in addition to
267 nursing home care; (3) in all home care plans, include case
268 management services delivered by an access agency approved by the
269 Office of Policy and Management and the Department of Social
270 Services as meeting the requirements for such agency as defined in
271 regulations adopted pursuant to subsection (e) of section 17b-342,
272 which services shall include, but need not be limited to, the
273 development of a comprehensive individualized assessment and care
274 plan and, as needed, the coordination of appropriate services and the

275 monitoring of the delivery of such services; (4) provide inflation
 276 protection; (5) provide for the keeping of records and an explanation of
 277 benefit reports on insurance payments which count toward Medicaid
 278 resource exclusion; and (6) provide the management information and
 279 reports necessary to document the extent of Medicaid resource
 280 protection offered and to evaluate the Connecticut Partnership for
 281 Long-Term Care. No policy shall be precertified if it requires prior
 282 hospitalization or a prior stay in a nursing home as a condition of
 283 providing benefits. The commissioner may adopt regulations, in
 284 accordance with chapter 54, to carry out the precertification provisions
 285 of this section.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>October 1, 2004</i>
Sec. 13	<i>October 1, 2004</i>
Sec. 14	<i>October 1, 2004</i>

INS *Joint Favorable*

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

Municipal Impact: None

Explanation

The bill makes technical revisions; therefore, there is no fiscal impact.

OLR Bill Analysis

SB 482

***AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS'
RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN
INSURANCE STATUTES***

SUMMARY:

This bill makes technical corrections to numerous insurance statutes.

EFFECTIVE DATE: October 1, 2004

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Report

Yea 16 Nay 1