



Senate

File No. 820

General Assembly

January Session, 2005

(Reprint of File No. 148)

Substitute Senate Bill No. 31
As Amended by Senate Amendment
Schedule "A" and House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
May 31, 2005

AN ACT CONCERNING NOTICE OF LATE FEES UNDER PERSONAL RISK INSURANCE POLICIES AND THE COMMISSIONERS' 2001 STANDARD ORDINARY MORTALITY TABLE.

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

1 Section 1. (NEW) (*Effective January 1, 2006*) Each insurer that assesses
2 a fee for late payment of premium on a policy for personal risk
3 insurance, as defined in section 38a-663 of the general statutes, shall
4 indicate the amount and applicability of the fee in a conspicuous
5 manner on the bill sent to the policyholder.

6 Sec. 2. Subsection (d) of section 38a-78 of the general statutes is
7 repealed and the following is substituted in lieu thereof (*Effective from*
8 *passage*):

9 (d) Except as otherwise provided in subsections (e), (f) and (l) of this
10 section, the minimum standard for the valuation of all such policies
11 and contracts issued prior to the effective date specified in accordance
12 with the provisions of subsection (h) of section 38-130e of the general

13 statutes, revision of 1958, revised to 1981, shall be that provided by the
14 laws in effect immediately prior to such date, except that the minimum
15 standard for the valuation of annuities and pure endowments
16 purchased prior to January 1, 1973, under group annuity and pure
17 endowment contracts shall be the 1971 Group Annuity Mortality
18 Table, or any modification of this table approved by the commissioner,
19 and an interest rate of five per cent per annum. Except as otherwise
20 provided in subsections (e), (f) and (l) of this section, the minimum
21 standard for the valuation of all such policies and contracts issued on
22 and after such effective date shall be the commissioner's reserve
23 valuation methods defined in subsections (g), (h) and (j) of this section,
24 four and one-half per cent interest for all other such policies and
25 contracts, and the following tables: (1) For all ordinary policies of life
26 insurance issued on the standard basis, excluding any disability and
27 accidental death benefits in such policies, the Commissioners' 1958
28 Standard Ordinary Mortality Table for such policies issued prior to the
29 compliance date established by subdivision (11) of subsection (e) of
30 section 38a-439, provided that for any category of such policies issued
31 on female risks, all modified net premiums and present values referred
32 to in this section may be calculated according to an age not more than
33 six years younger than the actual age of the insured and for such
34 policies issued on or after the compliance date established by
35 subdivision (11) of subsection (e) of section 38a-439, (A) the
36 Commissioners' 1980 Standard Ordinary Mortality Table, or (B) at the
37 election of the company for any one or more specified plans of life
38 insurance, the Commissioners' 1980 Standard Ordinary Mortality
39 Table with ten-year select mortality factors, or (C) on or after January
40 1, 2005, until January 1, 2009, at the election of the company for any
41 one or more specified plans of life insurance issued on or after January
42 1, 2004, on the basis of the Commissioners' 2001 Standard Ordinary
43 Mortality Table, except that with respect to such plans issued before
44 April 1, 2005, such mortality table shall be used solely for the basis of
45 valuation and nonforfeiture and shall not be used to increase the
46 previously agreed required premium, or (D) issued on or after January
47 1, 2009, the Commissioners' 2001 Standard Ordinary Mortality Table,

48 or (E) any ordinary mortality table, adopted after 1980 by the National
49 Association of Insurance Commissioners, that is approved by
50 regulations adopted by the commissioner in accordance with the
51 provisions of chapter 54 for use in determining the minimum standard
52 of valuation for such policies; (2) for all industrial life insurance
53 policies issued on the standard basis, excluding any disability and
54 accidental death benefits in such policies, the Commissioners' 1961
55 Standard Industrial Mortality Table or any industrial mortality table,
56 adopted after 1980 by the National Association of Insurance
57 Commissioners, that is approved by regulations adopted by the
58 commissioner in accordance with the provisions of chapter 54 for use
59 in determining the minimum standard of valuation for such policies;
60 (3) for total and permanent disability benefits in or supplementary to
61 ordinary policies or contracts, the tables of period 2 disablement rates
62 and the 1930 to 1950 termination rates of the 1952 Disability Study of
63 the Society of Actuaries, with due regard to the type of benefit or any
64 tables of disablement rates and termination rates, adopted after 1980
65 by the National Association of Insurance Commissioners, that are
66 approved by regulations adopted by the commissioner in accordance
67 with the provisions of chapter 54 for use in determining the minimum
68 standard of valuation for such policies. These tables shall, for active
69 lives, be combined with a mortality table permitted for calculating the
70 reserves for life insurance policies; (4) for accidental death benefits in
71 or supplementary to policies, the 1959 Accidental Death Benefits Table
72 or any accidental death benefits table, adopted after 1980 by the
73 National Association of Insurance Commissioners, that is approved by
74 regulations adopted by the commissioner in accordance with the
75 provisions of chapter 54 for use in determining the minimum standard
76 of valuation for such policies. These tables shall be combined with a
77 mortality table permitted for calculating the reserves for life insurance
78 policies; and (5) for group life insurance, life insurance issued on the
79 substandard basis and other special benefits, such tables as may be
80 approved by the commissioner.

81 Sec. 3. Subsection (e) of section 38a-439 of the general statutes is

82 repealed and the following is substituted in lieu thereof (*Effective from*
83 *passage*):

84 (e) The provisions of this subsection shall apply to all policies issued
85 on or after the compliance date established by subdivision (11) of this
86 subsection. (1) Except as provided in subdivision (7) of this subsection,
87 the adjusted premiums for any policy shall be calculated on an annual
88 basis and shall be such uniform percentage of the respective premiums
89 specified in the policy for each policy year, excluding amounts payable
90 as extra premiums to cover impairments or special hazards and also
91 excluding any uniform annual contract charge or policy fee specified
92 in the policy in a statement of the method used in calculating the cash
93 surrender values and paid-up nonforfeiture benefits, that the present
94 value, at the date of issue of the policy, of all adjusted premiums shall
95 be equal to the sum of: (A) The then present value of the future
96 guaranteed benefits provided for by the policy; (B) one per cent of
97 either the amount of insurance, if the insurance be uniform in amount,
98 or the average amount of insurance at the beginning of each of the first
99 ten policy years; and (C) one hundred twenty-five per cent of the
100 nonforfeiture net level premium as hereinafter defined, provided that
101 in applying the percentage specified in subparagraph (C), no
102 nonforfeiture net level premium shall be deemed to exceed four per
103 cent of either the amount of insurance, if the insurance be uniform in
104 amount, or the average amount of insurance at the beginning of each
105 of the first ten policy years. The date of issue of a policy for the
106 purpose of this subsection shall be the date as of which the rated age of
107 the insured is determined; (2) the nonforfeiture net level premium
108 shall be equal to the present value, at the date of issue of the policy, of
109 the guaranteed benefits divided by the present value, at such date of
110 issue, of an annuity of one per annum payable on the date of issue of
111 the policy and on each anniversary of such policy on which a premium
112 becomes due; (3) in the case of policies which, on a basis guaranteed in
113 the policy, provide for unscheduled changes in benefits or premiums,
114 or which provide an option for changes in benefits or premiums other
115 than a change to a new policy, the adjusted premiums and present

116 values shall initially be calculated on the assumption that future
117 benefits and premiums do not change from those stipulated at the date
118 of issue of the policy. At the time of any such change in the benefits or
119 premiums the future adjusted premiums, nonforfeiture net level
120 premiums and present values shall be recalculated on the assumption
121 that future benefits and premiums do not change from those stipulated
122 by the policy immediately after the change; (4) except as otherwise
123 provided in subdivision (7) of this subsection, the recalculated future
124 adjusted premiums for any such policy shall be the uniform
125 percentage of the respective future premiums specified in the policy
126 for each policy year, excluding amounts payable as extra premiums to
127 cover impairments and special hazards, and also excluding any
128 uniform annual contract charge or policy fee specified in the policy in a
129 statement of the method used in calculating the cash surrender values
130 and paid-up nonforfeiture benefits, that the present value, at the time
131 of change to the newly defined benefits or premiums, of all such future
132 adjusted premiums shall be equal to the excess of (A) the sum of: (i)
133 The then present value of the future guaranteed benefits provided for
134 by the policy and (ii) the additional expense allowance, if any, over (B)
135 the then cash surrender value, if any, or present value of any paid-up
136 nonforfeiture benefit under the policy; (5) the additional expense
137 allowance, at the time of the change to the newly defined benefits or
138 premiums, shall be the sum of (A) one per cent of the excess, if
139 positive, of the average amount of insurance at the beginning of each
140 of the first ten policy years subsequent to the change over the average
141 amount of insurance prior to the change at the beginning of each of the
142 first ten policy years subsequent to the time of the most recent
143 previous change, or, if there has been no previous change, the date of
144 issue of the policy; and (B) one hundred twenty-five per cent of the
145 increase, if positive, in the nonforfeiture net level premium; (6) the
146 recalculated nonforfeiture net level premium shall be equal to the
147 amount obtained by dividing (A) by (B) where (A) equals the sum of
148 (i) the nonforfeiture net level premium applicable prior to the change,
149 multiplied by the present value of an annuity of one per annum
150 payable on each anniversary of the policy on or subsequent to the date

151 of change on which a premium would have become due had the
152 change not occurred, and (ii) the present value of the increase in future
153 guaranteed benefits provided for by the policy, and (B) equals the
154 present value of an annuity of one per annum payable on each
155 anniversary of the policy on or subsequent to the date of change on
156 which a premium becomes due; (7) notwithstanding any other
157 provisions of this subsection, in the case of a policy issued on a
158 substandard basis which provides reduced graded amounts of
159 insurance so that, in each policy year, such policy has the same tabular
160 mortality cost as an otherwise similar policy issued on the standard
161 basis which provides higher uniform amounts of insurance, adjusted
162 premiums and present values for such substandard policy may be
163 calculated as if it were issued to provide such higher uniform amounts
164 of insurance on the standard basis; (8) all adjusted premiums and
165 present values referred to in this section shall be calculated: (A) (i) For
166 all policies of ordinary insurance on the basis of the Commissioners'
167 1980 Standard Ordinary Mortality Table or at the election of the
168 company, for any one or more specified plans of life insurance, on the
169 basis of the Commissioners' 1980 Standard Ordinary Mortality Table
170 with ten-year select mortality factors, or (ii) On or after January 1, 2005,
171 until January 1, 2009, at the election of the company for any one or
172 more specified plans of life insurance issued on or after January 1,
173 2004, on the basis of the Commissioners' 2001 Standard Ordinary
174 Mortality Table, except that with respect to such plans issued before
175 April 1, 2005, such mortality table shall be used solely for the basis of
176 valuation and nonforfeiture and shall not be used to increase the
177 previously agreed required premium; or (iii) For all policies issued on
178 or after January 1, 2009, on the basis of the Commissioners' 2001
179 Standard Ordinary Mortality Table; (B) for all policies of industrial
180 insurance, on the basis of the Commissioners' 1961 Standard Industrial
181 Mortality Table; (C) for all policies issued in a particular calendar year,
182 on the basis of a rate of interest not exceeding the nonforfeiture interest
183 rate as defined in this subsection, for policies issued in that calendar
184 year, provided, that: (i) At the option of the company, calculations for
185 all policies issued in a particular calendar year may be made on the

186 basis of a rate of interest not exceeding the nonforfeiture interest rate,
187 as defined in this subsection, for policies issued in the immediately
188 preceding calendar year; (ii) under any paid-up nonforfeiture benefit,
189 including any paid-up dividend additions, any cash surrender value
190 available, whether or not required by subsection (a) of this section,
191 shall be calculated on the basis of the mortality table and rate of
192 interest used in determining the amount of such paid-up nonforfeiture
193 benefit and paid-up dividend additions, if any; (iii) a company may
194 calculate the amount of any guaranteed paid-up nonforfeiture benefit
195 including any paid-up additions under the policy on the basis of an
196 interest rate no lower than that specified in the policy for calculating
197 cash surrender values; (iv) in calculating the present value of any paid-
198 up term insurance with accompanying pure endowment, if any,
199 offered as a nonforfeiture benefit, the rates of mortality assumed may
200 be not more than those shown in the Commissioners' 1980 Extended
201 Term Insurance Table for policies of ordinary insurance and not more
202 than the Commissioners' 1961 Industrial Extended Term Insurance
203 Table for policies of industrial insurance; (v) for insurance issued on a
204 substandard basis, the calculation of any such adjusted premiums and
205 present values may be based on appropriate modifications of the
206 aforementioned tables; (vi) any ordinary mortality tables, adopted
207 after 1980 by the National Association of Insurance Commissioners
208 that are approved by regulations adopted by the commissioner in
209 accordance with the provisions of chapter 54 for use in determining
210 the minimum nonforfeiture standard may be substituted for the
211 Commissioners' 1980 Standard Ordinary Mortality Table with or
212 without ten-year select mortality factors or the Commissioners' 1980
213 Extended Term Insurance Table; (vii) any industrial mortality tables,
214 adopted after 1980 by the National Association of Insurance
215 Commissioners that are approved by regulations adopted in
216 accordance with the provisions of chapter 54 by the commissioner for
217 use in determining the minimum nonforfeiture standard may be
218 substituted for the Commissioners' 1961 Standard Industrial Mortality
219 Table or the Commissioners' 1961 Industrial Extended Term Insurance
220 Table; (9) the nonforfeiture interest rate per annum for any policy

221 issued in a particular calendar year shall be equal to one hundred
 222 twenty-five per cent of the calendar year statutory valuation interest
 223 rate for such policy as defined in the standard valuation law, rounded
 224 to the nearest one quarter of one per cent; (10) notwithstanding any
 225 provision of the general statutes to the contrary, any refiling of
 226 nonforfeiture values or their methods of computation for any
 227 previously approved policy form which involves only a change in the
 228 interest rate or mortality table used to compute nonforfeiture values
 229 shall not require refiling of any other provisions of that policy form;
 230 (11) on or after October 1, 1981, but prior to January 1, 1989, any
 231 company may file with the commissioner a written notice of its
 232 election to comply with the provisions of this subsection on or after a
 233 specified date and the provisions of this subsection shall apply to such
 234 company on or after such specified date, except that on or after
 235 January 1, 2005, but prior to January 1, 2009, any company may file
 236 with the commissioner a written notice of its election to comply with
 237 the provisions of this subsection on or after a specified date with
 238 respect to the Commissioners' 2001 Standard Ordinary Mortality Table
 239 and the provisions of this subsection shall apply to such company. The
 240 provisions of this subsection shall apply to policies issued by any
 241 company on or after January 1, 1989, except that the provisions of this
 242 subsection with respect to the Commissioners' 2001 Standard Ordinary
 243 Mortality Table shall apply to policies issued by any company on or
 244 after January 1, 2009.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2006</i>	New section
Sec. 2	<i>from passage</i>	38a-78(d)
Sec. 3	<i>from passage</i>	38a-439(e)

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 as amended makes various changes to the law regarding personal risk insurers and revises the law that regulates the calculation of life insurance minimum reserves, non-forfeiture benefits, and premiums. The bill has no fiscal impact.

Senate "A" replaces the original bill with language that makes various changes to the law regarding personal risk insurers and has no fiscal impact.

House "A" replaces the bill as amended by Senate "A" with language that makes various changes to the law regarding personal risk insurers. It has no fiscal impact.

House "B" makes a change to the mortality table that is used when calculating certain life insurance reserves and premiums. It has no fiscal impact.

OLR Bill Analysis

sSB 31 (as amended by House "A" and "B" and Senate "A")*

AN ACT PROHIBITING PROPERTY AND CASUALTY INSURERS FROM CANCELING OR REFUSING TO RENEW POLICIES FOR FAILURE TO PAY LATE FEES

SUMMARY:

This bill requires personal risk insurers that charge a fee when an insured pays his premiums late to conspicuously display the fee amount and applicability on the bill sent to the policyholder.

By law, "personal risk insurance" includes homeowners, tenants, private passenger automobile, mobile home, and other property and casualty insurance for personal, family, or household needs, but excludes workers' compensation.

The bill also revises the law that regulates the calculation of life insurance minimum reserves, nonforfeiture benefits, and premiums by allowing an insurer to use the 2001 Commissioners' Standard Ordinary (CSO) Mortality Table, instead of older versions, for policies issued after December 31, 2003. For policies issued before April 1, 2005, the bill prohibits insurers from using the 2001 table to increase an insured's already agreed-upon premiums. (Apparently an insurer can use the 2001 table to effect a premium reduction for policies issued before April 1, 2005.) An insurer must give the insurance commissioner written notice of its decision to use the 2001 table before January 1, 2009. Beginning on January 1, 2009, the bill requires insurers to use the 2001 table.

*Senate Amendment "A" replaces the original bill, which prohibited personal risk insurers from canceling or not renewing a policy solely because the insured failed to pay a late fee, with certain exceptions.

*House Amendment "A" replaces the bill as amended by Senate Amendment "A," which required personal risk insurers that charge a fee for a late premium payment to display the fee amount and applicability on the front portion of the bill that is returned to the

insurer with payment. House "A" changes the placement of the information.

*House Amendment "B" makes a change to the mortality table that must be used when calculating certain life insurance reserves and premiums.

EFFECTIVE DATE: January 1, 2006, except for the provisions regarding life insurance mortality tables, which are effective upon passage.

BACKGROUND

Reserve Valuation

By law, insurers must apply a standard accounting methodology to calculate the value of its future policy obligations. This valuation is the basis for setting minimum reserves (i.e., the amount of money an insurer must have on hand to pay claims and other obligations). The calculation includes certain interest rates and the use of mortality tables.

In general, as life expectancy increases, a smaller reserve amount is needed because the expected future earned interest increases. Thus, if the 2001 table reflects longer life spans than the older tables currently in use and an insurer calculates reserves based upon it, the insurer may need to keep less in reserve.

Nonforfeiture Benefits

By law, a life insurance policy guarantees a certain minimum benefit (either a lump sum cash payment or the paid-up insurance amount) to a policyholder who stops paying his premiums. Nonforfeiture benefit calculations also use interest rates and mortality tables. Increased life expectancy may result in lower premiums since an insurer will have longer to invest premiums collected before having to pay out on the policy.

2001 CSO Mortality Table

The "2001 CSO Mortality Table" is a table of mortality rates for women and men. The American Academy of Actuaries CSO Task Force

developed the 2001 table based on the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force's Valuation Basic Mortality Table. The National Association of Insurance Commissioners adopted the 2001 table in December 2002.

Retroactive Application of a Law

The bill permits an insurer, after December 1, 2004 and at its election, to use the 2001 mortality table for any one or more life insurance policies issued after December 31, 2003 and before April 1, 2005 for reserve and nonforfeiture valuations, except to increase premiums. It permits an insurer to use the 2001 table after December 31, 2004 for policies issued on and after April 1, 2005 for valuation, including to increase premiums. This constitutes a retroactive application of the new provisions.

General statutory construction applies new laws prospectively and considers retroactive application as unfair (Sutherland Statutory Construction). Despite this default rule, courts have upheld retroactive legislation that is determined to be reasonable. Courts weigh retroactivity carefully, looking at (1) the nature and identity of the parties; (2) their rights and reliance on the existing law; (3) the impact on completed transactions; and (4) constitutional concerns, such as due process.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 15 Nay 0