



General Assembly

January Session, 2005

**Raised Bill No. 1349**

LCO No. 4809

\*04809\_\_\_\_\_LAB\*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

**AN ACT CONCERNING A STATE COMPENSATION INSURANCE FUND.**

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

1 Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 9,  
2 inclusive, of this act:

3 (1) "Assigned risk" means an employer who in good faith attempts  
4 to purchase workers' compensation insurance, but is unable to do so at  
5 competitive rates through ordinary means with a qualified insurer,  
6 and includes any legal entities that may be combined for experience  
7 and rating purposes;

8 (2) "Fund" means the State Compensation Insurance Fund; and

9 (3) "Voluntary risk" means an employer for which the State  
10 Compensation Insurance Fund elects to provide workers'  
11 compensation insurance or incidental coverage under this act.

12 Sec. 2. (NEW) (*Effective from passage*) There is established a State  
13 Compensation Insurance Fund to provide and administer workers'  
14 compensation insurance against liabilities arising under chapter 568 of

15 the general statutes for the state and such assigned and voluntary risks  
16 as the fund agrees to insure. The fund shall develop statistical and  
17 other information as necessary to allow the fund to establish  
18 appropriate criteria for its voluntary risk market and its assigned risk  
19 market. Except as otherwise provided in sections 1 to 9, inclusive, of  
20 this act, the fund shall be subject to the provisions of title 38a of the  
21 general statutes.

22 Sec. 3. (NEW) (*Effective from passage*) (a) On and after July 1, 2006, an  
23 assigned risk may apply to the State Compensation Insurance Fund for  
24 insurance coverage, provided such application is made no earlier than  
25 thirty days prior to expiration of the applicant's then current workers'  
26 compensation insurance policy. The applicant shall apply in good  
27 faith, either directly or through an agent licensed by the state, to  
28 procure workers' compensation insurance according to rules adopted  
29 by the State Compensation Insurance Fund Board of Governors,  
30 established pursuant to section 6 of this act, in accordance with section  
31 38a-41 of the general statutes. Such application shall establish the  
32 applicant's status as an assigned risk. No applicant shall be eligible to  
33 secure workers' compensation coverage from the fund by canceling its  
34 then current workers' compensation insurance coverage.

35 (b) The fund shall consider applications for insurance coverage from  
36 any assigned risk in accordance with subsection (a) of this section. If  
37 the fund determines that (1) the applicant satisfies the conditions and  
38 standards of assigned risk coverage established by the fund, and (2)  
39 the writing of the assigned risk coverage is consistent with the  
40 applicable reserve and surplus requirements and the solvency of the  
41 fund, the assigned risk shall be provided with workers' compensation  
42 insurance against liabilities arising under chapter 568 of the general  
43 statutes upon payment of the appropriate assigned risk premium, as  
44 established by the fund's rates and rules. The assigned risk may be  
45 required to meet other conditions considered by the fund to be  
46 necessary to protect the fund's interests.

47 (c) Nothing in subsections (a) or (b) of this section shall require the  
48 State Compensation Insurance Fund to insure any assigned risk if  
49 insuring such risk would cause the fund to exceed the premium-to-  
50 surplus ratios then in effect.

51 Sec. 4. (NEW) (*Effective from passage*) (a) The State Compensation  
52 Insurance Fund may deny an application for insurance coverage,  
53 refuse to renew coverage or cancel coverage, as appropriate, for any of  
54 the following: (1) Nonpayment of any premium for current or prior  
55 policies issued by the fund to an assigned risk, or to another entity for  
56 which the fund deems the assigned risk to be a successor in interest; (2)  
57 failure or refusal by an assigned risk applicant or insured to fully and  
58 accurately disclose to the fund information concerning such applicant's  
59 or insured's ownership, change of ownership, operations or payroll,  
60 including allocation of payroll among state and federal compensation  
61 programs, classification of payroll and any other information  
62 determined by the fund to be important in determining proper rates;  
63 or (3) failure or refusal by any assigned risk applicant or insured to  
64 comply with the fund's safety requirements or to permit premises  
65 inspections to the sole satisfaction of the fund.

66 (b) In lieu of nonrenewal or cancellation of coverage under  
67 subdivision (1), (2) or (3) of subsection (a) of this section, the fund may  
68 assess a premium surcharge against an insured to be assessed at a rate  
69 determined by the Insurance Commissioner.

70 (c) Any determination by the fund with respect to the denial,  
71 nonrenewal or cancellation of any assigned risk insurance coverage  
72 under this section, with the exception of cancellation for nonpayment  
73 of premium, may be appealed to the Insurance Commissioner, in  
74 writing, not later than thirty days after notice by the fund to the  
75 applicant or insured of such action. If the commissioner determines  
76 that the fund has unreasonably denied, failed to renew or cancelled  
77 any assigned risk insurance policy, the fund shall in good faith  
78 reconsider issuing, renewing or reinstating such assigned risk

79 insurance policy. If the fund has not issued, renewed or reinstated the  
80 assigned risk insurance policy within thirty days after the  
81 commissioner's determination, the assigned risk may appeal the  
82 denial, failure to renew or cancellation by the fund to the superior  
83 court for the judicial district of Hartford.

84 Sec. 5. (NEW) (*Effective from passage*) (a) The State Compensation  
85 Insurance Fund shall be subject to rate regulation under chapter 701 of  
86 the general statutes.

87 (b) Notwithstanding any other provision of the general statutes, the  
88 State Compensation Insurance Fund may file rates for assigned risk  
89 workers' compensation insurance coverage with the Insurance  
90 Commissioner and use the rates ninety days after such filing, subject to  
91 refund if and to the extent any rate increase requested in such filing is  
92 disapproved or modified by the Insurance Commissioner. When a  
93 filing is not accompanied by the information upon which the fund  
94 supports the filing, and the Insurance Commissioner does not have  
95 sufficient information to determine whether the filing meets the  
96 requirements of applicable law, the Insurance Commissioner may  
97 require the fund to furnish the information upon which the fund  
98 supports the filing. The information furnished in support of a filing  
99 may include (1) the experience or judgment of the fund, (2) the fund's  
100 interpretation of any statistical data the fund relies upon, (3) the  
101 experience of other insurers or rating organizations, or (4) any other  
102 relevant factors. The fund shall not file and use any rates that would  
103 increase assigned risk workers' compensation insurance rates in excess  
104 of an average of twenty-five per cent annually of the fund's then  
105 effective assigned risk workers' compensation insurance rates without  
106 prior approval of the Insurance Commissioner.

107 (c) Notwithstanding any other provision of the general statutes, the  
108 fund and any assigned risk insured may mutually consent to modify  
109 the rates for such insured's policy, provided the fund files notice of the  
110 agreed rate with the Insurance Commissioner.

111 (d) If, after review by the Insurance Commissioner during the  
112 ninety-day period provided in subsection (b) of this section, an  
113 assigned risk workers' compensation insurance rate filed by the fund is  
114 determined to be unjust, unreasonable, inadequate, excessive or  
115 unfairly discriminatory by the Insurance Commissioner, the  
116 commissioner may disapprove or modify, in whole or in part, such  
117 rate. Any such review and decision by the commissioner shall be  
118 subject to the provisions of section 38a-9 of the general statutes.

119 (e) Notwithstanding any other provision of the general statutes, the  
120 fund may establish and apply multitiered premium and surcharge  
121 systems. Such multitiered premium and surcharge systems shall be  
122 subject to the file and use procedures provided in subsection (b) of this  
123 section. Such systems shall provide for higher premium and surcharge  
124 payments by assigned risk insureds who present higher than normal  
125 risks within a class, and shall include periodic assessment of a  
126 premium surcharge of up to three times the fund's otherwise  
127 applicable premium rate, as the fund deems appropriate, to further the  
128 purposes of the fund. Such surcharge shall be payable, at the option of  
129 the fund upon assessment, over the policy year or upon renewal. Any  
130 premium surcharge assessed by the fund may be appealed to the  
131 Insurance Commissioner not later than twenty days after notice by the  
132 fund to the insured of the imposition of the surcharge. The  
133 commissioner may modify or rescind such surcharge if the  
134 commissioner determines that the surcharge is unjust, unreasonable,  
135 inadequate, excessive or unfairly discriminatory.

136 (f) Notwithstanding any other provision of the general statutes, on  
137 and after July 1, 2006, the State Compensation Insurance Fund may  
138 commence to issue assigned risk workers' compensation insurance  
139 policies at an initial rate not in excess of the rates then in effect for  
140 assigned risk workers' compensation insurance coverage offered by  
141 any other insurers in the state, subject to the discretion of the fund to  
142 apply discounts and surcharge multipliers of up to three times the  
143 premiums that would otherwise be applicable under such rates, with

144 such premium surcharges to be payable as provided in subsection (e)  
145 of this section. The fund may continue to issue assigned risk workers'  
146 compensation insurance coverage at such initial rates until the  
147 effectiveness of any revised rates filed and approved pursuant to  
148 regulations adopted by the Insurance Commissioner.

149 Sec. 6. (NEW) (*Effective from passage*) (a) There is established a State  
150 Compensation Insurance Fund Board of Governors consisting of  
151 eleven members as follows:

152 (1) The chairman of the Workers' Compensation Commission;

153 (2) The Insurance Commissioner;

154 (3) The Commissioner of Administrative Services;

155 (4) One representative of a labor organization appointed by the  
156 Governor;

157 (5) One representative from the insurance industry appointed by the  
158 Governor;

159 (6) Two representatives from the general public appointed by the  
160 Governor;

161 (7) The Senate chairperson of the joint standing committee of the  
162 General Assembly having cognizance of matters relating to labor, or a  
163 designee; and

164 (8) The House of Representatives chairperson of the joint standing  
165 committee of the General Assembly having cognizance of matters  
166 relating to labor, or a designee;

167 (9) The Labor Commissioner; and

168 (10) The chief executive officer of the State Compensation Insurance  
169 Fund.

170 (b) The board shall advise the Governor and the General Assembly,  
171 on a quarterly basis, on the administration of the workers'  
172 compensation system.

173 (c) The board shall employ a chief executive officer no later than  
174 September 1, 2006. Said chief executive officer shall have all oversight  
175 of the daily activities of the fund.

176 Sec. 7. (NEW) (*Effective from passage*) (a) For purposes of this section,  
177 "transition period" means the period from July 1, 2006, to October 1,  
178 2006.

179 (b) There is established, within the Department of Administrative  
180 Services, a fund to be known as the Compensation Insurance  
181 Transition Fund. On July 1, 2006, the Commissioner of Administrative  
182 Services shall reallocate to the Compensation Insurance Transition  
183 Fund five million dollars of the funds appropriated to the department,  
184 for the fiscal year ending June 30, 2007, from the General Fund, to  
185 contract with a management firm to administer the state's workers'  
186 compensation claims. The Compensation Insurance Transition Fund  
187 shall be used to pay workers' compensation liabilities, arising under  
188 chapter 568 of the general statutes, of the State Compensation  
189 Insurance Fund, established under section 2 of this act, during the  
190 transition period.

191 Sec. 8. (NEW) (*Effective from passage*) Notwithstanding the provisions  
192 of sections 4a-19 and 4a-20 of the general statutes, the Commissioner of  
193 Administrative Services shall obtain an insurance policy, to be effective  
194 December 1, 2006, from the State Compensation Insurance Fund,  
195 established under section 2 of this act, to insure against losses incurred  
196 by the state under chapter 568 of the general statutes.

197 Sec. 9. (NEW) (*Effective from passage*) The State Compensation  
198 Insurance Fund, established under section 2 of this act, shall not be  
199 liable for payment of any corporation business tax, as defined in  
200 chapter 208 of the general statutes, provided the composition and

201 selection of the Board of Governors of such fund, as established under  
202 section 6 of this act, remains unchanged from the composition and  
203 selection in effect on July 1, 2006.

204 Sec. 10. Section 31-284a of the general statutes is repealed. (*Effective*  
205 *July 1, 2006*)

|   |                     |                  |
|---|---------------------|------------------|
| This act shall take effect as follows and shall amend the following sections: |                     |                  |
| Section 1   | <i>from passage</i> | New section      |
| Sec. 2  | <i>from passage</i> | New section      |
| Sec. 3  | <i>from passage</i> | New section      |
| Sec. 4  | <i>from passage</i> | New section      |
| Sec. 5  | <i>from passage</i> | New section      |
| Sec. 6  | <i>from passage</i> | New section      |
| Sec. 7  | <i>from passage</i> | New section      |
| Sec. 8  | <i>from passage</i> | New section      |
| Sec. 9  | <i>from passage</i> | New section      |
| Sec. 10   | <i>July 1, 2006</i> | 31-284a repealed |

**Statement of Purpose:**

To establish a State Compensation Insurance Fund to provide workers' compensation insurance.

*[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.]*