



House of Representatives

General Assembly

File No. 261

January Session, 2007

Substitute House Bill No. 7262

House of Representatives, April 2, 2007

The Committee on Insurance and Real Estate reported through REP. O'CONNOR of the 35th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ELECTRONIC INSURANCE FILINGS AND VIATICAL SETTLEMENT CONTRACTS.

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

1 Section 1. Section 38a-53 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) Each domestic insurance company or health care center [doing
4 business in this state] shall, annually, on or before the first day of
5 March, [render] submit to the commissioner, and electronically to the
6 National Association of Insurance Commissioners, a true and complete
7 report, signed and sworn to by its president or a vice president, and
8 secretary or an assistant secretary, of its financial condition on the
9 thirty-first day of December next preceding, prepared in accordance
10 with the National Association of Insurance Commissioners annual
11 statement instructions handbook and following those accounting
12 procedures and practices prescribed by the National Association of
13 Insurance Commissioners accounting practices and procedures

14 manual, subject to any deviations in form and detail as may be
15 prescribed by the commissioner. An electronically filed report in
16 accordance with section 38a-53a that is timely submitted to the
17 National Association of Insurance Commissioners does not exempt a
18 domestic insurance company or health care center from timely filing a
19 true and complete paper copy with the commissioner.

20 (b) Each foreign insurance company doing business in this state
21 shall, annually, on or before the first day of March, submit to the
22 commissioner, by electronically filing with the National Association of
23 Insurance Commissioners, a true and complete report, signed and
24 sworn to by its president or a vice president, and secretary or an
25 assistant secretary, of its financial condition on the thirty-first day of
26 December next preceding, prepared in accordance with the National
27 Association of Insurance Commissioners annual statement instructions
28 handbook and following those accounting procedures and practices
29 prescribed by the National Association of Insurance Commissioners
30 accounting practices and procedures manual, subject to any deviations
31 in form and detail as may be prescribed by the commissioner. An
32 electronically filed report in accordance with section 38a-53a that is
33 timely submitted to the National Association of Commissioners is
34 deemed to have been submitted to the commissioner in accordance
35 with this section.

36 [(b)] (c) In addition to such annual report, the commissioner, when
37 he deems it necessary, may require any insurance company or health
38 care center doing business in this state to file financial statements on a
39 quarterly basis. An electronically filed true and complete report filed in
40 accordance with section 38a-53a that is timely filed with the National
41 Association of Insurance Commissioners shall be deemed to have been
42 submitted to the commissioner in accordance with the provisions of
43 this section.

44 [(c)] (d) In addition to such annual report and the quarterly report
45 required under subsection [(b)] (c) of this section, the commissioner,
46 whenever the commissioner determines that more frequent reports are

47 required because of certain factors or trends affecting companies
48 writing a particular class or classes of business or because of changes
49 in the company's management or financial or operating condition, may
50 require any insurance company or health care center doing business in
51 this state to file financial statements on other than an annual or
52 quarterly basis.

53 [(d)] (e) Any insurance company or health care center doing
54 business in this state which fails to file any report or statement
55 required under this section shall pay a late filing fee of one hundred
56 dollars per day for each day from the due date of such report or
57 statement to the date of filing.

58 [(e)] (f) Each insurance company or health care center doing
59 business in this state shall include in all reports required to be filed
60 with the commissioner under this section a certification by an actuary
61 or reserve specialist of all reserve liabilities prepared in accordance
62 with regulations which shall be adopted by the commissioner in
63 accordance with chapter 54. The regulations shall: (1) Specify the
64 contents and scope of the certification; (2) provide for the availability
65 to the commissioner of the workpapers of the actuary or loss reserve
66 specialist; and (3) provide for exemptions to the companies or centers
67 from compliance with the requirements of this subsection. The
68 commissioner shall maintain, as confidential, all workpapers of the
69 actuary or loss reserve specialist and the actuarial report and actuarial
70 opinion summary provided in support of the certification. Such
71 workpapers, reports and summaries shall not be subject to subpoena
72 or disclosure under the Freedom of Information Act, as defined in
73 section 1-200.

74 Sec. 2. Section 38a-54 of the general statutes is repealed and the
75 following is substituted in lieu thereof (*Effective October 1, 2007*):

76 (a) [On or after December 31, 1990, each] Each domestic insurance
77 company, health care center or fraternal benefit society doing business
78 in this state shall have an annual audit conducted by an independent
79 certified public accountant and shall annually file an audited financial

80 report with the commissioner, and electronically to the National
81 Association of Insurance Commissioners on or before the first day of
82 June for the year ending the preceding December thirty-first. An
83 electronically filed true and complete report timely submitted to the
84 National Association of Insurance Commissioners does not exempt a
85 domestic insurance company or health care center from timely filing a
86 true and complete paper copy to the commissioner.

87 (b) Each foreign insurance company or fraternal benefit society
88 doing business in this state shall have an annual audit conducted by an
89 independent certified public accountant and shall annually file an
90 audited financial report with the commissioner, and electronically to
91 the National Association of Insurance Commissioners, on or before
92 June first for the year ending the preceding December thirty-first. An
93 electronically filed true and complete report timely submitted to the
94 National Association of Insurance Commissioners shall be deemed to
95 have been submitted to the commissioner in accordance with the
96 provisions of this section.

97 [(b)] (c) The commissioner shall adopt regulations in accordance
98 with the provisions of chapter 54 to: (1) Specify the scope of the
99 examination required by this section; (2) specify the contents and scope
100 of the annual audited financial report, provided such report shall
101 include all incurred losses; (3) provide for the review of the controls;
102 (4) provide for the availability to the commissioner of the workpapers
103 of the certified public accountant; and (5) provide exemptions from
104 compliance with the requirements of this section.

105 Sec. 3. Section 38a-614 of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective October 1, 2007*):

107 Reports shall be filed and synopses of annual statements shall be
108 published in accordance with the provisions of this section.

109 (1) Every domestic society transacting business in this state shall
110 annually, on or before the first day of March, unless for cause shown
111 such time has been extended by the commissioner, file with the

112 commissioner, and electronically to the National Association of
113 Insurance Commissioners, a true and complete statement of its
114 financial condition, transactions and affairs for the preceding calendar
115 year and pay a fee of ten dollars for filing the same. The statement
116 shall be in general form and context as approved by the National
117 Association of Insurance Commissioners for fraternal benefit societies
118 and as supplemented by additional information required by the
119 commissioner. An electronically filed true and complete report filed in
120 accordance with section 38a-53a that is timely submitted to the
121 National Association of Insurance Commissioners does not exempt a
122 domestic insurance company or health care center from timely filing a
123 true and complete paper copy with the commissioner.

124 (2) Every foreign society transacting business in this state shall
125 annually, on or before the first day of March, unless for cause shown
126 such time has been extended by the commissioner, file with the
127 commissioner, and electronically to the National Association of
128 Insurance Commissioners, a true and complete statement of its
129 financial condition, transactions and affairs for the preceding calendar
130 year and pay a fee of ten dollars for filing the same. The statement
131 shall be in general form and context as approved by the National
132 Association of Insurance Commissioners for fraternal benefit societies
133 and as supplemented by additional information required by the
134 commissioner. An electronically filed true and complete report filed in
135 accordance with section 38a-53a that is timely submitted to the
136 National Association of Insurance Commissioners shall be deemed to
137 have been submitted to the commissioner in accordance with this
138 section.

139 [(2)] (3) A synopsis of its annual statement providing an explanation
140 of the facts concerning the condition of the society thereby disclosed
141 shall be printed and mailed to each benefit member of the society not
142 later than the first day of June of each year, or, in lieu thereof, such
143 synopsis may be published in the society's official publication.

144 [(3)] (4) As part of the annual statement herein required, each

145 society shall, on or before the first day of March, file with the
146 commissioner a valuation of its certificates in force on December
147 thirty-first last preceding, provided the commissioner may, in his
148 discretion for cause shown, extend the time for filing such valuation
149 for not more than two calendar months. Such report of valuation shall
150 show, as reserve liabilities, the difference between the present midyear
151 value of the promised benefits provided in the certificates of such
152 society in force and the present midyear value of the future net
153 premiums as the same are in practice actually collected, not including
154 therein any value for the right to make extra assessments and not
155 including any amount by which the present midyear value of future
156 net premiums exceeds the present midyear value of promised benefits
157 on individual certificates. At the option of any society, in lieu of the
158 above, the valuation may show the net tabular value. Such net tabular
159 value as to certificates issued prior to January 1, 1959, shall be
160 determined in accordance with the provisions of law applicable prior
161 to January 1, 1958, and as to certificates issued on or after January 1,
162 1959, shall not be less than the reserves determined according to the
163 Commissioners' Reserve Valuation method as hereinafter defined. If
164 the premium charge is less than the tabular net premium according to
165 the basis of valuation used, an additional reserve equal to the present
166 value of the deficiency in such premiums shall be set up and
167 maintained as a liability. The reserve liabilities shall be properly
168 adjusted if the midyear or tabular values are not appropriate.

169 [(4)] (5) Reserves according to the Commissioners' Reserve
170 Valuation method, for the life insurance and endowment benefits of
171 certificates providing for a uniform amount of insurance and requiring
172 the payment of uniform premiums, shall be the excess, if any, of the
173 present value, at the date of valuation, of such future guaranteed
174 benefits provided for by such certificates over the then present value of
175 any future modified net premiums therefor. The modified net
176 premiums for any such certificate shall be such uniform percentage of
177 the respective contract premiums for such benefits that the present
178 value, at the date of issue of the certificate, of all such modified net
179 premiums shall be equal to the sum of the then present value of such

180 benefits provided for by the certificate and the excess of [(a)] (A) over
181 [(b)] (B), as follows: [(a)] (A) A net level premium equal to the present
182 value, at the date of issue, of such benefits provided for after the first
183 certificate year, divided by the present value, at the date of issue, of an
184 annuity of one per annum payable on the first and each subsequent
185 anniversary of such certificate on which a premium falls due; provided
186 such net level annual premium shall not exceed the net level annual
187 premium on the nineteen year premium whole life plan for insurance
188 of the same amount at an age one year higher than the age at issue of
189 such certificate; and [(b)] (B) a net one-year term premium for such
190 benefits provided for in the first certificate year. Reserves according to
191 the Commissioners' Reserve Valuation method for [(1)] (i) life
192 insurance benefits for varying amounts of benefits or requiring the
193 payment of varying premiums, [(2)] (ii) annuity and pure endowment
194 benefits, [(3)] (iii) disability and accidental death benefits in all
195 certificates and contracts, and [(4)] (iv) all other benefits except life
196 insurance and endowment benefits shall be calculated by a method
197 consistent with the principles of this [subsection] subdivision.

198 [(5)] (6) The present value of deferred payments due under incurred
199 claims or matured certificates shall be deemed a liability of the society
200 and shall be computed upon mortality and interest standards
201 prescribed in [subsection (6)] subdivision (7) of this section.

202 [(6)] (7) Such valuation and underlying data shall be certified by a
203 competent actuary or, at the expense of the society, verified by the
204 actuary of the department of insurance of the state of domicile of the
205 society. The minimum standards of valuation for certificates issued
206 prior to January 1, 1959, shall be those provided by the law applicable
207 immediately prior to January 1, 1958, but not lower than the standards
208 used in the calculating of rates for such certificates. The minimum
209 standard of valuation for certificates issued after January 1, 1959, shall
210 be three and one-half per cent interest and the following tables: [(a)]
211 (A) For certificates of life insurance, American Men Ultimate Table of
212 Mortality, with Bowerman's or Davis' Extension thereof or, with the
213 consent of the Insurance Commissioner, the Commissioner's 1941

214 Standard Ordinary Mortality Table or the Commissioner's 1941
215 Standard Industrial Table of Mortality, or the Commissioners' 1958
216 Standard Ordinary Mortality Table, except that, with the approval of
217 the commissioner, the valuation of contracts on female risks may be
218 calculated, at the option of the society, according to an age not more
219 than three years younger than the actual age of the insured; [(b)] (B) for
220 annuity certificates, including life annuities provided or available
221 under optional modes of settlement in such certificates, the 1937
222 Standard Annuity Table; [(c)] (C) for disability benefits issued in
223 connection with life benefit certificates, Hunter's Disability Table,
224 which, for active lives, shall be combined with a mortality table
225 permitted for calculating the reserves on life insurance certificates,
226 except that the table known as Class III Disability Table (1926),
227 modified to conform to the contractual waiting period, shall be used in
228 computing reserves for disability benefits under a contract which
229 presumes that total disability shall be considered to be permanent after
230 a specified period; [(d)] (D) for accidental death benefits issued in
231 connection with life benefit certificates, the Inter-Company Double
232 Indemnity Mortality Table combined with a mortality table permitted
233 for calculating the reserves for life insurance certificates; and [(e)] (E)
234 for noncancellable accident and health benefits, the Class III Disability
235 Table (1926) with conference modifications or, with the consent of the
236 commissioner, tables based upon the society's own experience. The
237 commissioner may, in [his] the commissioner's discretion, accept other
238 standards for valuation if [he] the commissioner finds that the reserves
239 produced thereby will not be less in the aggregate than reserves
240 computed in accordance with the minimum valuation standard herein
241 prescribed. The commissioner may, in his or her discretion, vary the
242 standards of mortality applicable to all certificates of insurance on
243 substandard lives or other extra hazardous lives by any society
244 authorized to do business in this state. Whenever the mortality
245 experience under all certificates valued on the same mortality table is
246 in excess of the expected mortality according to such table for a period
247 of three consecutive years, the commissioner may require additional
248 reserves when deemed necessary in his or her judgment on account of

249 such certificates. Any society, with the consent of the insurance
250 commissioner of the state of domicile of the society and under such
251 conditions, if any, which [he] the commissioner may impose, may
252 establish and maintain reserves on its certificates in excess of the
253 reserves required thereunder, but the contractual rights of any insured
254 member shall not be affected thereby.

255 [(7)] (8) A society neglecting to file the annual statement in the form
256 and within the time provided by this section shall forfeit one hundred
257 dollars for each day during which such neglect continues, and, upon
258 notice by the commissioner to that effect, its authority to do business in
259 this state shall cease while such default continues.

260 [(8)] (9) Notwithstanding the provisions of this section, a society
261 may, with the approval of the Insurance Commissioner, use the
262 standards for valuation and nonforfeiture authorized by the provisions
263 of sections 38a-61, 38a-77, 38a-78, 38a-81, 38a-82, 38a-284, 38a-287, 38a-
264 430 to 38a-454, inclusive, and 38a-458.

265 Sec. 4. Subdivision (16) of section 38a-465 of the general statutes is
266 repealed and the following is substituted in lieu thereof (*Effective*
267 *October 1, 2007*):

268 (16) "Viatical settlement contract" means a written agreement
269 establishing the terms under which compensation or anything of value
270 will be paid, which compensation or value is less than the expected
271 death benefit of a policy in return for the viator's assignment, transfer,
272 sale, devise or bequest of the death benefit or ownership of any portion
273 of the policy but which shall not be less than the cash surrender value
274 or accelerated death benefit available under the policy. A viatical
275 settlement contract includes, but is not limited to, (A) a contract for a
276 loan or other financing transaction with a viator secured primarily by
277 an individual or group life insurance policy, other than a loan by a life
278 insurance company pursuant to the terms of the life insurance contract,
279 or a loan secured by the cash value of a policy, or (B) an agreement
280 with a viator to transfer ownership or change the beneficiary
281 designation at a later date regardless of the date that compensation is

282 paid to the viator.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	38a-53
Sec. 2	<i>October 1, 2007</i>	38a-54
Sec. 3	<i>October 1, 2007</i>	38a-614
Sec. 4	<i>October 1, 2007</i>	38a-465(16)

INS *Joint Favorable Subst.*

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill makes certain changes to the contract sale price of an insurance policy's cash surrender value, and makes certain changes to insurance companies, HMO's, and fraternal benefit societies financial reporting requirements. There is no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 7262

AN ACT CONCERNING ELECTRONIC INSURANCE FILINGS AND VIATICAL SETTLEMENT CONTRACTS.

SUMMARY:

This bill imposes as a minimum viatical settlement contract sale price the life insurance policy's "cash surrender value" or "accelerated death benefit" amount (see BACKGROUND). (These two amounts will often differ. Apparently the sale price has to be one or the other to comply, as the bill does not specify a lesser or greater than requirement.) By law, unchanged by the bill, the sale price must be less than the policy's death benefit.

The bill also makes various changes in insurance company financial reporting requirements. Under current law, all insurers, HMOs, and fraternal benefit societies doing business in Connecticut must annually file financial statements by March 1 and audited financial reports by June 1 with the insurance commissioner. The bill (1) limits the annual reporting requirements to domestic and foreign companies, (2) requires the financial statements to be complete when filed, and (3) requires the companies to electronically file the statements and reports with the National Association of Insurance Commissioners (NAIC). Domestic companies that file on time with the NAIC must still submit paper copies to the insurance commissioner, but foreign companies do not.

The bill also requires all insurers, HMOs, and fraternal benefit societies that file quarterly financial statements with the commissioner to file them electronically with the NAIC. If timely filed with the NAIC, the company does not have to submit a paper copy to the insurance commissioner.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Viatical Settlement Contract

A viatical settlement is the sale of a life insurance policy by the policy owner or insured to a third party for compensation or other value. The buyer becomes the policy owner, beneficiary, or both; pays all future premiums; and collects the entire death benefit when the insured person dies. People decide to sell their life insurance policies for many reasons, including changes in the financial needs of dependents, a desire to eliminate or reduce premium payments, or the need for cash to meet current medical or living expenses.

By law, the Insurance Department regulates viatical settlements (CGS § 38a-465, et seq.). Viatical settlement companies and brokers must be licensed and the insurance commissioner must approve the contracts and forms used. Additionally, the seller of a life insurance policy has specific rights, including written disclosure of certain information before executing the sale, confidentiality of personal information provided to buyers, and a right to rescind the sale within 15 days from receiving the settlement proceeds.

Cash Surrender Value

Cash surrender value is the amount an insurer will pay on a given life insurance policy if the policy is cancelled before the insured's death.

Accelerated Death Benefit

An accelerated death benefit is a life insurance provision that pays to the insured person a portion of the policy's death benefit in a lump sum or installments.

Death Benefit

A life insurance policy's death benefit is the amount of money payable to a beneficiary upon the insured person's death.

Domestic, Foreign, Alien, and Unauthorized Companies

The Insurance Department licenses and regulates domestic, foreign, and alien companies to transact insurance in the state. A domestic company is formed under Connecticut laws. A foreign company is formed under the laws of another state or U.S. territory. An alien company is formed under another country's laws. An unauthorized company is not licensed or admitted to transact insurance business in the state.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/15/2007)