



General Assembly

January Session, 2007

Committee Bill No. 6660

LCO No. 5007

05007HB06660INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

**AN ACT INCREASING THE AVAILABILITY OF HEALTH INSURANCE
FOR SMALL BUSINESSES.**

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

1 Section 1. Section 38a-569 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) (1) There is established a nonprofit entity to be known as the
4 "Connecticut Small Employer Health Reinsurance Pool". All insurers
5 issuing health insurance in this state and insurance arrangements
6 providing health plan benefits in this state on and after July 1, 1990,
7 shall be members of the pool.

8 (2) On or before July 15, 1990, the commissioner shall give notice to
9 all insurers and insurance arrangements of the time and place for the
10 initial organizational meeting, which shall take place by September 1,
11 1990. The members shall select the initial board, subject to approval by
12 the commissioner. The board shall consist of at least five and not more
13 than [nine] sixteen representatives of members. On and after October
14 1, 2007, the Governor, the president pro tempore of the Senate, the
15 speaker of the House of Representatives, the majority leader of the

16 Senate, the majority leader of the House of Representatives, the
17 minority leader of the Senate and the minority leader of the House of
18 Representatives shall each appoint one individual who shall have
19 demonstrated sufficient knowledge by education, training or
20 experience in one or more of the following areas: Small employer
21 administration; federal and state health insurance statutes, policies and
22 regulations; health reinsurance pools; or contract negotiation,
23 administration or drafting. There shall be no more than two members
24 of the board representing any one insurer or insurance arrangement. In
25 determining voting rights at the organizational meeting, each member
26 shall be entitled to vote in person or by proxy. The vote shall be
27 weighted based upon net health insurance premium derived from this
28 state in the previous calendar year. To the extent possible, at least one-
29 third of the members of the board shall be domestic insurance
30 companies and at least two-thirds of the members of the board shall be
31 small employer carriers. At least one member of the board shall be a
32 health care center and at least one member shall be a small employer
33 carrier with less than one hundred million dollars in net small
34 employer health insurance premium in this state. The Insurance
35 Commissioner shall be an ex-officio member of the board. The net
36 premium amount shall be adjusted by the board periodically for health
37 care cost inflation. In approving selection of the board, the
38 commissioner shall assure that all members are fairly represented. The
39 membership of all boards subsequent to the initial board shall, to the
40 extent possible, reflect the same distribution of representation as is
41 described in this subdivision.

42 (3) If the initial board is not elected at the organizational meeting,
43 the commissioner shall appoint the initial board within fifteen days of
44 the organizational meeting.

45 (4) Within ninety days after the appointment of such initial board,
46 the board shall submit to the commissioner a plan of operation and
47 thereafter any amendments thereto necessary or suitable to assure the
48 fair, reasonable and equitable administration of the pool. The

49 commissioner shall, after notice and hearing, approve the plan of
50 operation provided he determines it to be suitable to assure the fair,
51 reasonable and equitable administration of the pool, and provides for
52 the sharing of pool gains or losses on an equitable proportionate basis
53 in accordance with the provisions of subsection (d) of this section. The
54 plan of operation shall become effective upon approval, in writing, by
55 the commissioner consistent with the date on which the coverage
56 under this section shall be made available. If the board fails to submit a
57 suitable plan of operation within one hundred eighty days after its
58 appointment, or at any time thereafter fails to submit suitable
59 amendments to the plan of operation, the commissioner shall, after
60 notice and hearing, adopt and promulgate a plan of operation or
61 amendments, as appropriate. The commissioner shall amend any plan
62 adopted by him, as necessary, at the time a plan of operation is
63 submitted by the board and approved by the commissioner.

64 (5) The plan of operation shall establish procedures for: (A)
65 Handling and accounting of assets and moneys of the pool, and for an
66 annual fiscal reporting to the commissioner; (B) filling vacancies on the
67 board, subject to the approval of the commissioner; (C) selecting an
68 administering insurer and setting forth the powers and duties of the
69 administering insurer; (D) reinsuring risks in accordance with the
70 provisions of this section; (E) collecting assessments from all members
71 to provide for claims reinsured by the pool and for administrative
72 expenses incurred or estimated to be incurred during the period for
73 which the assessment is made; and (F) any additional matters at the
74 discretion of the board.

75 (6) The pool shall have the general powers and authority granted
76 under the laws of Connecticut to insurance companies licensed to
77 transact health insurance and, in addition thereto, the specific
78 authority to: (A) Enter into contracts as are necessary or proper to
79 carry out the provisions and purposes of this section, including the
80 authority, with the approval of the commissioner, to enter into
81 contracts with programs of other states for the joint performance of

82 common functions, or with persons or other organizations for the
83 performance of administrative functions; (B) sue or be sued, including
84 taking any legal actions necessary or proper for recovery of any
85 assessments for, on behalf of, or against members; (C) take such legal
86 action as necessary to avoid the payment of improper claims against
87 the pool; (D) define the array of health coverage products for which
88 reinsurance will be provided, and to issue reinsurance policies, in
89 accordance with the requirements of this section; (E) establish rules,
90 conditions and procedures pertaining to the reinsurance of members'
91 risks by the pool; (F) establish appropriate rates, rate schedules, rate
92 adjustments, rate classifications and any other actuarial functions
93 appropriate to the operation of the pool; (G) assess members in
94 accordance with the provisions of subsection (e) of this section, and to
95 make advance interim assessments as may be reasonable and
96 necessary for organizational and interim operating expenses. Any such
97 interim assessments shall be credited as offsets against any regular
98 assessments due following the close of the fiscal year; (H) appoint from
99 among members appropriate legal, actuarial and other committees as
100 necessary to provide technical assistance in the operation of the pool,
101 policy and other contract design, and any other function within the
102 authority of the pool; and (I) borrow money to effect the purposes of
103 the pool. Any notes or other evidence of indebtedness of the pool not
104 in default shall be legal investments for insurers and may be carried as
105 admitted assets.

106 (b) Any member may reinsure with the pool coverage of an eligible
107 employee of a small employer, or any dependent of such an employee,
108 except that no member may reinsure with the pool coverage of an
109 eligible employee of a small employer, or any dependent of such an
110 employee, whose premium rates are not subject to section 38a-567
111 pursuant to subdivision (22) of section 38a-567. Any reinsurance
112 placed with the pool from the date of the establishment of the pool
113 regarding the coverage of an eligible employee of a small employer, or
114 any dependent of such an employee shall be provided as follows:

115 (1) (A) With respect to a special health care plan or a small employer
116 health care plan, the pool shall reinsure [the level of] coverage
117 [provided] not exceeding forty thousand dollars for each individual
118 claim from the premiums paid to the pool. With respect to each such
119 health care plan, the pool shall reinsure coverage exceeding forty
120 thousand dollars for each individual claim from the grant moneys
121 under section 3 of this act; (B) with respect to other plans, the pool
122 shall reinsure the level of coverage provided up to, but not exceeding,
123 the level of coverage provided in a small employer health care plan or
124 the actuarial equivalent thereof as defined and authorized by the
125 board; and (C) in either case, no reinsurance may be provided in any
126 calendar year for a reinsured employee or dependent until five
127 thousand dollars in benefit payments have been made for services
128 provided during that calendar year for that reinsured employee or
129 dependent, which payments would have been reimbursed through
130 said reinsurance in the absence of the annual five-thousand-dollar
131 deductible. The amount of the deductible shall be periodically
132 reviewed by the board and may be adjusted for appropriate factors as
133 determined by the board;

134 (2) With respect to eligible employees, and their dependents,
135 coverage may be reinsured: (A) Within such period of time after the
136 commencement of their coverage under the plan as may be authorized
137 by the board, or (B) commencing January 1, 1992, on the first plan
138 anniversary after the employer's coverage has been in effect with the
139 small employer carrier for a period of three years, and every third plan
140 anniversary thereafter, provided, commencing May 1, 1994,
141 reinsurance pursuant to this subparagraph shall only be permitted
142 with respect to eligible employees and their dependents of a small
143 employer which has no more than two eligible employees as of the
144 applicable anniversary;

145 (3) Reinsurance coverage may be terminated for each reinsured
146 employee or dependent on any plan anniversary;

147 (4) Reinsurance of newborn dependents shall be allowed only if the
148 mother of any such dependent is reinsured as of the date of birth of
149 such child, and all newborn dependents of reinsured persons shall be
150 automatically reinsured as of their date of birth; and

151 (5) Notwithstanding the provisions of subparagraph (A) of
152 subdivision (2) of this subsection: (A) Coverage for eligible employees
153 and their dependents provided under a group policy covering two or
154 more small employers shall not be eligible for reinsurance when such
155 coverage is discontinued and replaced by a group policy of another
156 carrier covering two or more small employers, unless coverage for
157 such eligible employees or dependents was reinsured by the prior
158 carrier; and (B) at the time coverage is assumed for such group by a
159 succeeding carrier, such carrier shall notify the pool of its intention to
160 provide coverage for such group and shall identify the employees and
161 dependents whose coverage will continue to be reinsured. The time
162 limitations for providing such notice shall be established by the pool.

163 (c) Except as provided in subsection (d) of this section, premium
164 rates charged for reinsurance by the pool shall be established at the
165 following percentages of the rate established by the pool for that
166 classification or group with similar characteristics and coverage:

167 (1) One hundred fifty per cent, with respect to all of the eligible
168 employees, and their dependents, of a small employer, all of whose
169 coverage is reinsured in accordance with subdivision (2) of subsection
170 (b) of this section; and

171 (2) Five hundred per cent, with respect to an eligible employee or
172 dependent who is individually reinsured in accordance with
173 subdivision (2) of subsection (b) of this section and is not reinsured
174 with all eligible employees of an employer and their dependents.

175 (d) Premium rates charged for reinsurance by the pool to a health
176 care center which is approved by the Secretary of Health and Human
177 Services as a health maintenance organization pursuant to 42 USC 300

178 et seq., and as such is subject to requirements that limit the amount of
179 risk that may be ceded to the pool, may be modified by the board, if
180 appropriate, to reflect the portion of risk that may be ceded to the pool.

181 (e) (1) Following the close of each fiscal year, the administering
182 insurer shall determine the net premiums, the pool expenses of
183 administration and the incurred losses for the year, taking into account
184 investment income and other appropriate gains and losses. For
185 purposes of this section, health insurance premiums earned by
186 insurance arrangements shall be established by adding paid health
187 losses and administrative expenses of the insurance arrangement.
188 Health insurance premiums and benefits paid by a member that are
189 less than an amount determined by the board to justify the cost of
190 collection shall not be considered for purposes of determining
191 assessments. For purposes of this subsection, "net premiums" means
192 health insurance premiums, less administrative expense allowances.

193 (2) Any net loss for the year shall be recouped by assessments of
194 members. (A) Assessments shall first be apportioned by the board
195 among all members in proportion to their respective shares of the total
196 health insurance premiums earned in this state from health insurance
197 plans and insurance arrangements covering small employers during
198 the calendar year coinciding with or ending during the fiscal year of
199 the pool, or on any other equitable basis reflecting coverage of small
200 employers as may be provided in the plan of operations. An
201 assessment shall be made pursuant to this subparagraph against a
202 health care center, which is approved by the Secretary of Health and
203 Human Services as a health maintenance organization pursuant to 42
204 USC 300e et seq., subject to an assessment adjustment formula adopted
205 by the board and approved by the commissioner for such health care
206 centers which recognizes the restrictions imposed on such health care
207 centers by federal law. Such adjustment formula shall be adopted by
208 the board and approved by the commissioner prior to the first
209 anniversary of the pool's operation. (B) If such net loss is not recouped
210 before assessments totaling five per cent of such premiums from plans

211 and arrangements covering small employers have been collected,
212 additional assessments shall be apportioned by the board among all
213 members in proportion to their respective shares of the total health
214 insurance premiums earned in this state from other individual and
215 group plans and arrangements, exclusive of any individual Medicare
216 supplement policies as defined in section 38a-495 during such calendar
217 year. (C) Notwithstanding the provisions of this subdivision, the
218 assessments to any one member under subparagraph (A) or (B) of this
219 subdivision shall not exceed forty per cent of the total assessment
220 under each subparagraph for the first fiscal year of the pool's operation
221 and fifty per cent of the total assessment under each subparagraph for
222 the second fiscal year. Any amounts abated pursuant to this
223 subparagraph shall be assessed against the other members in a manner
224 consistent with the basis for assessments set forth in this subdivision.

225 (3) If assessments exceed actual losses and administrative expenses
226 of the pool, the excess shall be held at interest and used by the board to
227 offset future losses or to reduce pool premiums. As used in this
228 subsection, "future losses" includes reserves for incurred but not
229 reported claims.

230 (4) Each member's proportion of participation in the pool shall be
231 determined annually by the board based on annual statements and
232 other reports deemed necessary by the board and filed by the member
233 with it. Insurance arrangements shall report to the board claims
234 payments made and administrative expenses incurred in this state on
235 an annual basis on a form prescribed by the commissioner.

236 (5) Provision shall be made in the plan of operation for the
237 imposition of an interest penalty for late payment of assessments.

238 (6) The board may defer, in whole or in part, the assessment of a
239 health care center if, in the opinion of the board: (A) Payment of the
240 assessment would endanger the ability of the health care center to
241 fulfill its contractual obligations, or (B) in accordance with standards
242 included in the plan of operation, the health care center has written,

243 and reinsured in their entirety, a disproportionate number of special
244 health care plans. In the event an assessment against a health care
245 center is deferred in whole or in part, the amount by which such
246 assessment is deferred may be assessed against the other members in a
247 manner consistent with the basis for assessments set forth in this
248 subsection. The health care center receiving such deferment shall
249 remain liable to the pool for the amount deferred. The board may
250 attach appropriate conditions to any such deferment.

251 (f) (1) Neither the participation in the pool as members, the
252 establishment of rates, forms or procedures nor any other joint or
253 collective action required by this section shall be the basis of any legal
254 action, criminal or civil liability or penalty against the pool or any of its
255 members.

256 (2) Any person or member made a party to any action, suit, or
257 proceeding because the person or member served on the board or on a
258 committee or was an officer or employee of the pool shall be held
259 harmless and be indemnified by the program against all liability and
260 costs, including the amounts of judgments, settlements, fines or
261 penalties, and expenses and reasonable attorney's fees incurred in
262 connection with the action, suit or proceeding. The indemnification
263 shall not be provided on any matter in which the person or member is
264 finally adjudged in the action, suit or proceeding to have committed a
265 breach of duty involving gross negligence, dishonesty, wilful
266 misfeasance or reckless disregard of the responsibilities of office. Costs
267 and expenses of the indemnification shall be prorated and paid for by
268 all members. The Insurance Commissioner may retain actuarial
269 consultants necessary to carry out his responsibilities pursuant to
270 sections 38a-564 to 38a-572, inclusive, and such expenses shall be paid
271 by the pool established in this section.

272 Sec. 2. (NEW) (*Effective October 1, 2007*) In the event an employer, as
273 defined in section 31-58 of the general statutes, terminates an employee
274 for any reason other than lay-off or an employee voluntarily

275 terminates his or her employment with an employer, such employer
276 shall not be responsible for the payment of premium for such
277 employee under a group health insurance policy after the date of such
278 employee's termination. Any insurer, health care center, hospital or
279 medical service corporation or fraternal benefit society that issues such
280 health insurance policy shall credit such employer for the amount of
281 any premium paid by such employer with respect to such policy for
282 such employee to the date of such employee's termination.

283 Sec. 3. (Effective July 1, 2007) The sum of ten million dollars is
284 appropriated to the Insurance Department, from the General Fund, for
285 the fiscal year ending June 30, 2008, for purposes of a grant to the
286 Connecticut Small Employer Health Reinsurance Pool established
287 pursuant to subdivision (1) of subsection (a) of section 38a-569 of the
288 general statutes, as amended by this act, for the implementation of the
289 provisions of subparagraph (A) of subdivision (1) of subsection (b) of
290 section 38a-569 of the general statutes, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	38a-569
Sec. 2	October 1, 2007	New section
Sec. 3	July 1, 2007	New section

Statement of Purpose:

To reduce health insurance costs for employers who employ no more than fifty employees and to provide that employers are not responsible for the payment of premium for group health plans for employees who are terminated or voluntarily terminate their employment after the date of such employee's termination.

[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.]

Co-Sponsors: REP. URBAN, 43rd Dist.; REP. FONTANA, 87th Dist.
SEN. MAYNARD, 18th Dist.

H.B. 6660