



General Assembly

January Session, 2007

Raised Bill No. 1212

LCO No. 4221

04221_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING HOMEOWNERS INSURANCE POLICIES.

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

1 Section 1. Section 38a-688 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) The following procedures shall apply with respect to rates
4 pertaining to personal risk insurance and residual markets:

5 (1) In a competitive market, every insurer shall file with the
6 commissioner all rates and supplementary rate information to be used
7 in this state, provided that such rates and information need not be filed
8 for inland marine risks which by general custom of the business are
9 not written according to manual rules or rating plans. No such filings
10 may be made by a rating organization on behalf of any insurer. Such
11 rates and supplementary rate information shall be filed by the effective
12 date of the filing or the date that premium billing notices reflecting the
13 new rates are sent to insureds or agents, whichever is earlier. In a
14 competitive market, if the commissioner finds, after a hearing, that an
15 insurer's rates require closer supervision because of the insurer's
16 financial condition or unfairly discriminatory rating practices, the

17 insurer shall file with the commissioner at least thirty days before the
18 effective date, all such rates and such supplementary rate information
19 and supporting information as prescribed by the commissioner. Upon
20 application by the filer, the commissioner may authorize an earlier
21 effective date for the filing.

22 (2) In a noncompetitive market, every insurer shall file with the
23 commissioner all rates and supplementary rate information for that
24 market and such supporting information as is required by the
25 commissioner. For purposes of subsection (d) of section 7-479e,
26 sections 38a-341, 38a-387, 38a-665, subsection (b) of section 38a-672,
27 and sections 38a-673, 38a-675, 38a-676 and 38a-686 to 38a-694,
28 inclusive, residual markets, title insurance and credit property
29 insurance are deemed to be noncompetitive markets. All rates and
30 supplementary rate information and such supporting information as is
31 required by the commissioner, shall also be filed with the
32 commissioner for insurance provided pursuant to section 38a-328, 38a-
33 329 or 38a-670. Such rates and supplementary rate information and
34 supporting information required by the commissioner shall be on file
35 with the commissioner for a waiting period of thirty days before it
36 becomes effective, which period may be extended by the commissioner
37 for an additional period not to exceed thirty days if the commissioner
38 gives written notice within such waiting period to the insurer or rating
39 organization which made the filing that the commissioner needs such
40 additional time for the consideration of such filing. Upon written
41 application by such insurer or rating organization, the commissioner
42 may authorize a filing which the commissioner has reviewed to
43 become effective before the expiration of the waiting period or any
44 extension thereof. A filing shall be deemed to meet the requirements of
45 sections 38a-663 to 38a-696, inclusive, unless disapproved by the
46 commissioner within the waiting period or any extension thereof. If,
47 within the waiting period or any extension thereof, the commissioner
48 finds that a filing does not meet the requirements of sections 38a-663 to
49 38a-696, inclusive, the commissioner shall send to the insurer or rating
50 organization which made such filing written notice of disapproval of

51 such filing, specifying therein in what respects the commissioner finds
52 such filing fails to meet the requirements of sections 38a-663 to 38a-696,
53 inclusive, and stating that such filing shall not become effective. Such
54 finding of the commissioner shall be subject to review as provided in
55 section 38a-19.

56 (3) An insurer may file rates by reference, with or without deviation,
57 to rates charged by another insurer which were filed and are in effect if
58 the insurer's direct written premium for the applicable line of
59 insurance is less than one-half of one per cent of the total state-wide
60 direct written premium for that line, as determined from the annual
61 statements filed by insurers licensed to do business in this state and as
62 calculated by the National Association of Insurance Commissioners
63 from its data base. Supporting information shall not be required for
64 rates filed by reference pursuant to this subsection. For purposes of
65 this subdivision the term "insurer" shall include two or more admitted
66 insurers having a common ownership or operating in this state under
67 common management or control.

68 (4) Rates filed pursuant to this section shall be filed in such form
69 and manner as is prescribed by the commissioner. Whenever a filing
70 made pursuant to subdivision (1) or (2) of subsection (a) of this section
71 is not accompanied by the information upon which the insurer
72 supports such filing and the commissioner does not have sufficient
73 information to determine whether such filing meets the requirements
74 of sections 38a-663 to 38a-696, inclusive, the commissioner shall
75 require such insurer to furnish the information upon which it supports
76 such filing and in such event the waiting period shall commence as of
77 the date such information is furnished. The information furnished in
78 support of a filing may include (A) the experience or judgment of the
79 insurer making the filing, (B) its interpretation of any statistical data it
80 relies upon, (C) the experience of other insurers, or (D) any other
81 relevant factors.

82 (5) All rates, supplementary rate information and any supporting

83 information for risks filed under subsection (d) of section 7-479e,
84 sections 38a-341, 38a-387, 38a-665, subsection (b) of section 38a-672,
85 and sections 38a-673, 38a-675, 38a-676 and 38a-686 to 38a-694,
86 inclusive, shall, as soon as filed, be open to public inspection at any
87 reasonable time. Copies may be obtained by any person on request and
88 upon payment of a reasonable charge.

89 (b) Rates for insurance described in subsection (a) of this section
90 shall be subject to review as follows:

91 (1) Rates subject to prefiling under subdivision (1) or (2) of
92 subsection (a) of this section may be reviewed and disapproved before
93 their effective date, except that rates for insurance provided pursuant
94 to section 38a-328, 38a-329 and 38a-670 shall not be effective until
95 approved by the commissioner. Any rate may be reviewed and
96 disapproved subsequent to its effective date.

97 (2) The commissioner may disapprove a rate if the insurer fails to
98 comply with the filing requirements of this section. The commissioner
99 shall disapprove a rate for use in a competitive market if he finds that
100 the rate is inadequate or unfairly discriminatory under subsection (a)
101 of section 38a-686. The commissioner shall disapprove a rate for use in
102 a noncompetitive or residual market if he finds the rate is excessive,
103 inadequate or unfairly discriminatory under subsection (a) of section
104 38a-686.

105 (3) If the commissioner finds that a reasonable degree of
106 competition does not exist in a market in accordance with section 38a-
107 687, he may require that the insurers in that market file supporting
108 information with respect to existing rates. If the commissioner believes
109 that such rates may violate any of the requirements of subsection (d) of
110 section 7-479e, sections 38a-341, 38a-387, 38a-665, subsection (b) of
111 section 38a-672, or sections 38a-673, 38a-675, 38a-676, or 38a-686 to 38a-
112 694, inclusive, he may proceed as provided in section 38a-678. If the
113 commissioner believes that rates in a competitive market violate the
114 inadequacy or unfair discrimination standards in section 38a-686 or

115 any other applicable requirement of subsection (d) of section 7-479e,
116 section 38a-341, 38a-387, 38a-665, subsection (b) of section 38a-672, or
117 sections 38a-673, 38a-675, 38a-676, or 38a-686 to 38a-694, inclusive, he
118 may require the insurers in that market to file supporting information
119 with respect to existing rates. If after reviewing the supporting
120 information, the commissioner continues to believe that such rates may
121 violate these requirements, he may proceed as provided in section 38a-
122 678. The commissioner may disapprove, without hearing, rates
123 prefiled pursuant to subdivision (1) or (2) of subsection (a) of this
124 section that have not become effective, provided that the insurer
125 whose rates have been disapproved shall be given a hearing pursuant
126 to section 38a-19.

127 (4) If the commissioner disapproves a rate, he shall issue an order
128 specifying the respects in which it fails to meet the requirements of
129 subsection (d) of section 7-479e, section 38a-341, 38a-387, 38a-665,
130 subsection (b) of section 38a-672, and sections 38a-673, 38a-675, 38a-
131 676, and 38a-686 to 38a-694, inclusive. For rates in effect at the time of
132 the disapproval, the commissioner shall state, within a reasonable
133 period of time, when the further use of such rate in contracts of
134 insurance made thereafter shall be prohibited. The order shall be
135 issued within thirty days after the hearing or within such reasonable
136 time extension as the commissioner may determine. Such order may
137 include a provision for premium adjustment for the period after the
138 effective date of the order for policies in effect on such date.

139 (5) Whenever an insurer has no legally effective rates as a result of
140 the commissioner's disapproval of rates or other act, the commissioner
141 shall specify interim rates. Upon appeal from any such order of the
142 commissioner the court may, upon request of the appealing insurer,
143 stay such order, provided that the insurer places in an escrow account
144 the difference, as received, between the disapproved rates and the
145 interim rates specified by the commissioner. When new rates become
146 legally effective, the commissioner shall order the escrowed funds to
147 be distributed appropriately, with interest at the legal rate as provided

148 in section 37-1, except that minimal refunds to policyholders are not
149 required to be distributed.

150 (c) Notwithstanding the provisions of subdivision (1) of subsection
151 (a) of this section and subdivisions (1) and (2) of subsection (b) of this
152 section, the commissioner shall disapprove a rate with respect to
153 homeowners insurance policies in this state if the commissioner finds
154 that such rate is excessive, inadequate or unfairly discriminatory.

155 Sec. 2. Subdivision (1) of section 38a-841 of the general statutes is
156 repealed and the following is substituted in lieu thereof (*Effective*
157 *October 1, 2007*):

158 (1) Said association shall: (a) Be obligated to the extent of the
159 covered claims existing prior to the determination of insolvency and
160 arising within thirty days after the determination of insolvency, or
161 before the policy expiration date if less than thirty days after the
162 determination, or before the insured replaces the policy or causes its
163 cancellation, if he does so within thirty days of such determination,
164 provided such obligation shall be limited as follows: (i) With respect to
165 covered claims for unearned premiums, to one-half of the unearned
166 premium on any policy, subject to a maximum of two thousand dollars
167 per policy; (ii) with respect to covered claims other than for unearned
168 premiums, such obligation shall include only that amount of each such
169 claim which is in excess of one hundred dollars and is less than [three]
170 five hundred thousand dollars, except that said association shall pay
171 the full amount of any such claim arising out of a workers'
172 compensation policy, provided in no event shall (A) said association be
173 obligated to any claimant in an amount in excess of the obligation of
174 the insolvent insurer under the policy form or coverage from which
175 the claim arises, or (B) said association be obligated for any claim filed
176 with the association after the expiration of two years from the date of
177 the declaration of insolvency unless such claim arose out of a workers'
178 compensation policy and was timely filed in accordance with section
179 31-294c; (b) be deemed the insurer to the extent of its obligations on the

180 covered claims and to such extent shall have all rights, duties, and
181 obligations of the insolvent insurer as if the insurer had not become
182 insolvent; (c) allocate claims paid and expenses incurred among the
183 three accounts, created by section 38a-839, separately, and assess
184 member insurers separately (i) in respect of each such account for such
185 amounts as shall be necessary to pay the obligations of said association
186 under subdivision (a) of subsection (1) of this section subsequent to an
187 insolvency; (ii) the expenses of handling covered claims subsequent to
188 an insolvency; (iii) the cost of examinations under section 38a-846; and
189 (iv) such other expenses as are authorized by sections 38a-836 to 38a-
190 853, inclusive. The assessments of each member insurer shall be in the
191 proportion that the net direct written premiums of such member
192 insurer for the calendar year preceding the assessment on the kinds of
193 insurance in such account bears to the net direct written premiums of
194 all member insurers for the calendar year preceding the assessment on
195 the kinds of insurance in such account. Each member insurer shall be
196 notified of its assessment not later than thirty days before it is due. No
197 member insurer may be assessed in any year on any account an
198 amount greater than two per cent of that member insurer's net direct
199 written premiums for the calendar year preceding the assessment on
200 the kinds of insurance in said account, provided if, at the time an
201 assessment is levied on the "all other insurance" account, as defined in
202 subdivision (c) of section 38a-839, the board of directors finds that at
203 least fifty per cent of the total net direct written premiums of a member
204 insurer and all its affiliates, for the year on which such assessment is
205 based, were from policies issued or delivered in Connecticut, on risks
206 located in this state, such member insurer shall be assessed only on
207 such member insurer's net direct written premium that is attributable
208 to the kind of insurance that gives rise to each covered claim. If the
209 maximum assessment, together with the other assets of said
210 association in any account, does not provide in any one year in any
211 account an amount sufficient to make all necessary payments from that
212 account, the funds available may be prorated and the unpaid portion
213 shall be paid as soon thereafter as funds become available. Said

214 association may defer, in whole or in part, the assessment of any
215 member insurer, if the assessment would cause the member insurer's
216 financial statement to reflect amounts of capital or surplus less than the
217 minimum amounts required for a certificate of authority by any
218 jurisdiction in which the member insurer is authorized to transact
219 insurance provided that during the period of deferment, no dividends
220 shall be paid to shareholders or policyholders. Deferred assessments
221 shall be paid when such payment will not reduce capital or surplus
222 below the minimum amounts required for a certificate of authority.
223 Such payments shall be refunded to those insurers receiving greater
224 assessments because of such deferment or, at the election of the
225 insurer, be credited against future assessments. Each member insurer
226 serving as a servicing facility may set off against any assessment,
227 authorized payments made on covered claims and expenses incurred
228 in the payment of such claims by such member insurer if they are
229 chargeable to the account in respect of which the assessment is made;
230 (d) investigate claims brought against said association and adjust,
231 compromise, settle, and pay covered claims to the extent of said
232 association's obligations, and deny all other claims. The association
233 shall pay claims in any order it deems reasonable, including but not
234 limited to, payment in the order of receipt or by classification. It may
235 review settlements, releases and judgments to which the insolvent
236 insurer or its insureds were parties to determine the extent to which
237 such settlements, releases and judgments may be properly contested;
238 (e) notify such persons as the commissioner may direct under
239 subdivision (a) of subsection (2) of section 38a-843; (f) handle claims
240 through its employees or through one or more insurers or other
241 persons designated by said association as servicing facilities, provided
242 such designation of a servicing facility shall be subject to the approval
243 of the commissioner, and may be declined by a member insurer; (g)
244 reimburse each such servicing facility for obligations of said
245 association paid by such facility and for expenses incurred by such
246 facility while handling claims on behalf of said association and shall
247 pay such other expenses of said association as are authorized by

248 sections 38a-836 to 38a-853, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	38a-688
Sec.	October 1, 2007	38a-841(1)

Statement of Purpose:

To authorize the Insurance Commissioner to disapprove rates for homeowners insurance policies that are excessive, inadequate or unfairly discriminatory and to increase from three hundred thousand dollars to five hundred thousand dollars coverage by the Connecticut Insurance Guaranty Association with respect to covered property and casualty claims.

[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.]