



General Assembly

February Session, 2008

**Raised Bill No. 479**

LCO No. 2178

\*02178 \_\_\_\_\_ INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

**AN ACT CONCERNING THE INSURANCE APPLICATION PROCESS.**

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

1 Section 1. Section 38a-981 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) Notwithstanding any provision of the general statutes to the  
4 contrary, no insurance institution, agent or insurance-support  
5 organization [may] shall utilize as its disclosure authorization form in  
6 connection with insurance transactions, a form or statement [which]  
7 that authorizes the disclosure of personal or privileged information  
8 concerning an individual to an insurance institution, agent, or  
9 insurance-support organization unless the form or statement: (1) Is  
10 written in plain language substantially complying with the tests  
11 enumerated in subsection (b) of section 42-152; (2) is dated; (3) specifies  
12 the types of persons authorized to disclose information concerning the  
13 individual; (4) specifies the nature of the information authorized to be  
14 disclosed; (5) identifies the insurance institution or agent and the types  
15 of representatives of the insurance institution to whom the individual  
16 has authorized the information to be disclosed; (6) specifies the  
17 purposes for which the information is collected; (7) specifies the length

18 of time such authorization shall remain valid, which shall be [no  
19 longer] not later than: (A) In the case of authorizations signed for the  
20 purpose of collecting information in connection with an application for  
21 an insurance policy, a policy reinstatement or a request for a change in  
22 policy benefits: (i) Thirty months from the date the authorization is  
23 signed if the application or request involves life, health or disability  
24 insurance, (ii) one year from the date the authorization is signed if the  
25 application or request involves property or casualty insurance, (B) in  
26 the case of authorizations signed for the purpose of collecting  
27 information in connection with a claim for benefits under an insurance  
28 policy: (i) The term of coverage of the policy if the claim involves a  
29 health insurance benefit, (ii) the duration of the claim if it involves an  
30 insurance benefit which is not a health insurance benefit; and (8)  
31 advises the individual or a person authorized to act on his behalf that  
32 [he] said individual or authorized person is entitled to receive a copy  
33 of the authorization form.

34 (b) Notwithstanding the provisions of section 38a-983, as amended  
35 by this act, and subdivision (2) of subsection (c) of section 38a-979, at  
36 the time an insurance institution, agent or insurance-support  
37 organization releases information, authorized to be disclosed pursuant  
38 to subsection (a) of this section, to any third party, such insurance  
39 institution, agent or insurance-support organization shall provide  
40 written notice to the individual about whom the information released  
41 pertains. Such notice shall include, but not be limited to, the date the  
42 information was disclosed, the name and address of the third party to  
43 whom the information was disclosed, the name, address and business  
44 phone number of the insurance institution, agent or insurance-support  
45 organization that released the information, and the specific purpose for  
46 which the information was disclosed.

47 ~~[(b)]~~ (c) (1) An insurance institution or a third-party administrator  
48 providing insurance or administrative services with respect to an  
49 employer's employee benefit plan [which] that provides its employees  
50 with health benefits shall, upon written request of an exclusive

51 bargaining agent for such employees, provide such bargaining agent  
52 with information regarding description of health benefits available to  
53 such employees, claim experience regarding such benefits and the cost  
54 to the employer for such coverage or administrative services, as the  
55 case may be, for employees in the bargaining unit represented by such  
56 bargaining agent. If such employees constitute a subgroup of a multi-  
57 bargaining-unit group, the information provided by the insurance  
58 institution or administrator shall, upon written request of the exclusive  
59 bargaining agent for the subgroup, include a description of available  
60 health benefits, claim experience regarding such benefits and the cost  
61 to the employer for such coverage or administrative services, as the  
62 case may be, for the entire multi-bargaining-unit group or for  
63 subgroups within the multi-bargaining-unit group. A copy of such  
64 information shall be provided at the same time to the employer by the  
65 insurance institution or administrator. Such information shall be made  
66 available to the bargaining agent and the employer only if the  
67 bargaining agent agrees in writing to pay all reasonable costs, as  
68 determined by the insurance institution or administrator, that are  
69 incurred by the insurance institution or administrator in developing  
70 and distributing the information. The information provided to such  
71 agent shall relate to the group of employees as a whole and shall not  
72 include any information relating to specific individuals. No requests  
73 made pursuant to this subdivision may seek information which relates  
74 to a period of time more than twenty-four months prior to the date  
75 such request was made.

76 (2) Prior to providing any information pursuant to subdivision (1) of  
77 this subsection, an insurance institution or third-party administrator  
78 may require the bargaining agent requesting such information to  
79 provide evidence in writing that such bargaining agent is currently  
80 designated or certified by the proper state or federal authority as the  
81 exclusive bargaining representative or agent of the employees who are  
82 the subject of the request.

83 (3) The provisions of this subsection shall not apply to employees

84 participating in an employee welfare benefit plan subject to the  
85 provisions of Title I of the Employee Retirement Income Security Act  
86 of 1974 (ERISA), Public Law 93-406, as amended from time to time, or  
87 to the exclusive bargaining agents of such employees.

88 Sec. 2. Section 38a-983 of the general statutes is repealed and the  
89 following is substituted in lieu thereof (*Effective October 1, 2008*):

90 (a) If an individual, after proper identification, submits a written  
91 request to an insurance institution, agent or insurance-support  
92 organization for access to recorded personal information concerning  
93 [himself which] said individual, that is reasonably described and  
94 accessible, the institution, agent or insurance-support organization  
95 shall, [within] not later than thirty business days from the date such  
96 request is received: (1) Inform the individual of the nature and  
97 substance of such recorded personal information in writing, by  
98 telephone or by other means of oral communication; (2) permit the  
99 individual to see and copy, in person, such recorded personal  
100 information pertaining to [him] the individual or to obtain a copy of  
101 such information by mail, unless such information is in coded form, in  
102 which case an accurate translation in readable language shall be  
103 provided in writing; (3) disclose to the individual the identity, if  
104 recorded, of those persons to whom the insurance institution, agent or  
105 insurance-support organization has disclosed such personal  
106 information within two years prior to such request, and if the identity  
107 is not recorded, the names of those insurance institutions, agents,  
108 insurance-support organizations or other persons to whom such  
109 information is normally disclosed; and (4) provide the individual with  
110 a summary of the procedures by which he may request correction,  
111 amendment or deletion of recorded personal information. Nothing in  
112 this subsection shall be construed to release an insurance institution,  
113 agent or insurance-support organization from the notice obligations  
114 imposed by subsection (b) of section 38a-981, as amended by this act.

115 (b) Any personal information provided pursuant to subsection (a) of

116 this section shall identify the source of the information if it is an  
117 institutional source.

118 (c) Medical-record information supplied by a medical-care  
119 institution or medical professional and requested under subsection (a)  
120 of this section, together with the identity of the medical professional or  
121 medical-care institution [which] that provided such information, shall  
122 be supplied either directly to the individual or to a medical  
123 professional designated by the individual and licensed to provide  
124 medical care with respect to the condition to which the information  
125 relates by the insurance institution, agent or insurance-support  
126 organization. If it elects to disclose the information to a medical  
127 professional designated by the individual, the insurance institution,  
128 agent or insurance-support organization shall notify the individual, at  
129 the time of the disclosure, that it has provided the information to the  
130 medical professional.

131 (d) Except for personal information provided under section 38a-985,  
132 an insurance institution, agent or insurance-support organization may  
133 charge a reasonable fee to cover the costs incurred in providing a copy  
134 of recorded personal information to individuals.

135 (e) The obligations imposed by this section upon an insurance  
136 institution or agent may be satisfied by another insurance institution or  
137 agent authorized to act on its behalf. With respect to the copying and  
138 disclosure of recorded personal information pursuant to a request  
139 under subsection (a) of this section, an insurance institution, agent or  
140 insurance-support organization may make arrangements with an  
141 insurance-support organization or a consumer reporting agency to  
142 copy and disclose such information on its behalf.

143 (f) The rights granted to individuals in this section shall extend to all  
144 individuals to the extent information concerning [them] such  
145 individuals is collected and maintained by an insurance institution,  
146 agent or insurance-support organization in connection with an  
147 insurance transaction. The rights granted to all individuals by this

148 subsection shall not extend to information concerning them that relates  
149 to and is collected in connection with or in reasonable anticipation of, a  
150 claim or a civil or criminal proceeding involving them.

151 (g) For purposes of this section, the term "insurance-support  
152 organization" does not include "consumer reporting agency".

153 Sec. 3. Section 38a-988 of the general statutes is repealed and the  
154 following is substituted in lieu thereof (*Effective October 1, 2008*):

155 (a) An insurance institution, agent or insurance-support  
156 organization shall not disclose any personal or privileged information  
157 concerning an individual collected or received in connection with an  
158 insurance transaction unless the disclosure is:

159 (1) Made with the written authorization of the individual, provided:  
160 (A) If such authorization is submitted by another insurance institution,  
161 agent or insurance-support organization, it meets the requirements of  
162 section 38a-981, as amended by this act, or (B) if such authorization is  
163 submitted by a person other than an insurance institution, agent or  
164 insurance-support organization, it shall be: (i) Dated, (ii) signed by the  
165 individual, and (iii) obtained within one year prior to the date a  
166 disclosure is sought pursuant to this subdivision;

167 (2) Made to a person other than an insurance institution, agent or  
168 insurance-support organization, provided such disclosure is  
169 reasonably necessary: (A) To enable such person to perform a business,  
170 professional or insurance function for the disclosing insurance  
171 institution, agent or insurance-support organization, and such person  
172 agrees not to disclose the information without the individual's written  
173 authorization unless the disclosure: (i) Would otherwise be permitted  
174 by this section if made by an insurance institution, agent, or insurance-  
175 support organization, or (ii) is reasonably necessary for such person to  
176 perform such person's function for the disclosing insurance institution,  
177 agent or insurance-support organization; or (B) to enable such person  
178 to provide information to the disclosing insurance institution, agent or

179 insurance-support organization for the purpose of: (i) Determining an  
180 individual's eligibility for an insurance benefit or payment, or (ii)  
181 detecting or preventing criminal activity, fraud, material  
182 misrepresentation or material nondisclosure in connection with an  
183 insurance transaction;

184 (3) Made to an insurance institution, agent, insurance-support  
185 organization or self-insurer, provided the information disclosed is  
186 limited to that which is reasonably necessary: (A) To detect or prevent  
187 criminal activity, fraud, material misrepresentation or material  
188 nondisclosure in connection with insurance transactions, or (B) for  
189 either the disclosing or receiving insurance institution, agent or  
190 insurance-support organization to perform its function in connection  
191 with an insurance transaction involving the individual;

192 (4) Made to a medical-care institution or medical professional for  
193 the purpose of: (A) Verifying insurance coverage or benefits; (B)  
194 informing an individual of a medical problem of which such  
195 individual may not be aware; or (C) conducting an operations or  
196 services audit, provided only such information is disclosed as is  
197 reasonably necessary to accomplish the foregoing purposes;

198 (5) Made to an insurance regulatory authority;

199 (6) Made to a law enforcement or other government authority: (A)  
200 To protect the interests of the insurance institution, agent or insurance-  
201 support organization in preventing or prosecuting the perpetration of  
202 fraud upon it; or (B) if the institution, agent or organization reasonably  
203 believes that illegal activities have been conducted by the individual;

204 (7) Otherwise permitted or required by law;

205 (8) In response to a facially valid administrative or judicial order,  
206 including a search warrant or subpoena;

207 (9) Made for the purpose of conducting actuarial or research studies,  
208 provided: (A) No individual may be identified in any actuarial or

209 research report; (B) materials in which the individual may be identified  
210 are returned or destroyed as soon as they are no longer necessary; and  
211 (C) the actuarial or research organization agrees not to disclose the  
212 information unless the disclosure would otherwise be permitted by  
213 this section if made by an insurance institution, agent or insurance-  
214 support organization;

215 (10) Made to a party or a representative of a party to a proposed or  
216 consummated sale, transfer, merger or consolidation of all or part of  
217 the business of the insurance institution, agent or insurance-support  
218 organization, provided: (A) Prior to the consummation of the sale,  
219 transfer, merger or consolidation only such information is disclosed as  
220 is reasonably necessary to enable the recipient to make business  
221 decisions about the purchase, transfer, merger or consolidation; and  
222 (B) the recipient agrees not to disclose the information unless the  
223 disclosure would otherwise be permitted by this section if made by an  
224 insurance institution, agent or insurance-support organization;

225 (11) Made to a person whose only use of such information will be in  
226 connection with the marketing of a product or service, provided: (A)  
227 No medical-record information, privileged information, or personal  
228 information relating to an individual's character, personal habits, mode  
229 of living or general reputation is disclosed, and no classification  
230 derived from such information is disclosed; (B) the individual has been  
231 afforded an opportunity to indicate that the individual does not wish  
232 personal information disclosed for marketing purposes and has given  
233 no indication that the individual does not wish the information  
234 disclosed; and (C) the person receiving such information agrees not to  
235 use it except in connection with the marketing of a product or service;

236 (12) Made to an affiliate whose only use of the information will be in  
237 connection with an audit of the insurance institution or agent or the  
238 marketing of an insurance product or service, provided (A) with  
239 regard to individually identifiable medical records information,  
240 written consent of the individual to whom the individually identifiable

241 medical record pertains is obtained prior to disclosure for marketing  
242 purposes, and (B) the affiliate agrees not to disclose the information for  
243 any other purpose or to unaffiliated persons;

244 (13) Made by a consumer reporting agency, provided the disclosure  
245 is made to a person other than an insurance institution or agent;

246 (14) Made to a group policyholder for the purpose of reporting  
247 claims experience or conducting an audit of the insurance institution's  
248 or agent's operations or services, provided the information disclosed is  
249 reasonably necessary for the recipient to conduct the audit;

250 (15) Made to a professional peer review organization for the  
251 purpose of reviewing the service or conduct of a medical-care  
252 institution or medical professional;

253 (16) Made to a governmental authority for the purpose of  
254 determining the individual's eligibility for health benefits for which the  
255 governmental authority may be liable;

256 (17) Made to a certificate holder or policyholder for the purpose of  
257 providing information regarding the status of an insurance transaction;

258 (18) Made to a lienholder, mortgagee, assignee, lessor or other  
259 person shown on the records of an insurance institution or agent as  
260 having a legal or beneficial interest in a policy of insurance, provided:  
261 (A) No medical-record information is disclosed unless the disclosure  
262 would otherwise be permitted by this section; and (B) the information  
263 disclosed is limited to that which is reasonably necessary to permit  
264 such person to protect its interests in such policy;

265 (19) Made pursuant to section 53-445;

266 (20) Made to the Department of Public Health in conjunction with  
267 the investigation of a health care provider pursuant to section 19a-14.

268 (b) Written notice of any disclosures made pursuant to this section

269 shall be provided to the individual about whom the disclosure was  
270 made, in accordance with subsection (b) of section 38a-981, as  
271 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	38a-981
Sec. 2	<i>October 1, 2008</i>	38a-983
Sec. 3	<i>October 1, 2008</i>	38a-988

**Statement of Purpose:**

To provide notice to individuals when information about them has been released by an insurance institution, agent or insurance-support organization to third parties.

*[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.]*