



Senate

General Assembly

File No. 117

January Session, 2009

Substitute Senate Bill No. 291

Senate, March 19, 2009

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING HOMEOWNERS INSURANCE POLICIES FOR PEOPLE WHO OWN DOGS THAT HAVE BITTEN A PERSON.

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

1 Section 1. Section 38a-686 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The following standards, methods and criteria shall apply to the
4 making and use of rates pertaining to personal risk insurance:

5 (a) Rates shall not be excessive, inadequate or unfairly
6 discriminatory.

7 (1) A rate in a competitive market is not excessive. A rate in a
8 noncompetitive market including a rate for insurance provided
9 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is
10 unreasonably high for the insurance provided.

11 (2) No rate shall be held inadequate unless (A) it is unreasonably
12 low for the insurance provided, and (B) continued use of it would

13 endanger solvency of the insurer, or unless (C) such rate is
14 unreasonably low for the insurance provided and the use of such rate
15 by the insurer using same has, or, if continued will have, the effect of
16 destroying competition or creating a monopoly.

17 (b) In determining whether rates comply with the excessiveness
18 standard in a noncompetitive market under subdivision (1) of
19 subsection (a) of this section, the inadequacy standard under
20 subdivision (2) of subsection (a) of this section and the requirement
21 that rates not be unfairly discriminatory, the following criteria shall
22 apply:

23 (1) Consideration may be given, to the extent possible, to past and
24 prospective loss experience within and outside this state, to
25 conflagration and catastrophe hazards, to a reasonable margin for
26 underwriting profit and contingencies, to past and prospective
27 expenses both country-wide and those specially applicable to this
28 state, to investment income earned or realized by insurers both from
29 their unearned premium and loss reserve funds, and to all other
30 factors, including judgment factors, deemed relevant within and
31 outside this state and in the case of fire insurance rates, consideration
32 may be given to the experience of the fire insurance business during
33 the most recent five-year period for which such experience is available.
34 Consideration may be given in the making and use of rates to
35 dividends, savings or unabsorbed premium deposits allowed or
36 returned by insurers to their policyholders, members or subscribers.

37 (2) The systems of expense provisions included in the rates for use
38 by an insurer or group of insurers may differ from those of other
39 insurers or groups of insurers to reflect the operating methods of any
40 such insurer or group with respect to any kind of insurance, or with
41 respect to any subdivision or combination thereof.

42 (3) Risks may be grouped by classifications for the establishment of
43 rates and minimum premiums, provided that with respect to private
44 passenger nonfleet automobile insurance, any change in territorial
45 classifications shall be subject to prior approval by the Insurance

46 Commissioner, and provided no surcharge on any motor vehicle
47 liability or physical damage insurance premium may be assigned for
48 (A) any accident involving only property damage of one thousand
49 dollars or less, or (B) the first accident involving only property damage
50 of more than one thousand dollars which would otherwise result in a
51 surcharge to the policy of the insured, within the experience period set
52 forth in the insurer's safe driver classification plan, or (C) any violation
53 of section 14-219 unless such violation results in the suspension or
54 revocation of the operator's license under section 14-111b, or (D) less
55 than three violations of section 14-218a within any one-year period, or
56 (E) any accident caused by an operator other than the named insured,
57 a relative residing in the named insured's household, or a person who
58 customarily operates the insured vehicle, or (F) the first or second
59 accident within the current experience period in relation to which the
60 insured was not convicted of a moving traffic violation and was not at
61 fault, or (G) any motor vehicle infraction. Subparagraph (G) of this
62 subdivision shall not be applicable to any plan established pursuant to
63 section 38a-329. Classification rates may be modified to produce rates
64 for individual risks in accordance with rating plans which provide for
65 recognition of variations in hazards or expense provisions or both.
66 Such rating plans may include application of the judgment of the
67 insurer and may measure any differences among risks that can be
68 demonstrated to have a probable effect upon losses or expenses.

69 (4) Each rating plan shall establish appropriate eligibility criteria for
70 determining significant risks which are to qualify under the plan.
71 Rating plans [which] that comply with the provisions of this
72 subdivision shall be deemed to produce rates [which] that are not
73 unfairly discriminatory.

74 (c) Notwithstanding the provisions of subsections (a) and (b) of this
75 section, no rate shall include any adjustment designed to recover
76 underwriting or operating losses incurred out-of-state.

77 (d) With respect to a homeowners insurance policy, an insurer shall
78 not cancel or refuse to (1) deliver, (2) issue for delivery, (3) renew, (4)

79 amend, or (5) continue such policy solely on the basis of the
80 homeowner's ownership of a dog that has bitten a person or animal. At
81 the homeowner's election, the insurer shall offer to such owner the
82 option of excluding liability for such dog from such policy or a rider
83 for such dog. The rate for such rider shall not be excessive, inadequate
84 or unfairly discriminatory. If a homeowner elects to exclude liability
85 for such dog from such owner's homeowners insurance policy, the
86 insurer shall not be held strictly liable under section 38a-321, as
87 amended by this act.

88 [(d)] (e) The commissioner may adopt regulations, in accordance
89 with the provisions of chapter 54, concerning rating plans to effectuate
90 the provisions of this section.

91 Sec. 2. Section 38a-321 of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2009*):

93 [Each] Except as provided in subsection (d) of section 38a-686, as
94 amended by this act, each insurance company [which] that issues a
95 policy to any person, firm or corporation, insuring against loss or
96 damage on account of the bodily injury or death by accident of any
97 person, or damage to the property of any person, for which loss or
98 damage such person, firm or corporation is legally responsible, shall,
99 whenever a loss occurs under such policy, become [absolutely] strictly
100 liable, and the payment of such loss shall not depend upon the
101 satisfaction by the assured of a final judgment against him for loss,
102 damage or death occasioned by such casualty. No such contract of
103 insurance shall be cancelled or annulled by any agreement between the
104 insurance company and the assured after the assured has become
105 responsible for such loss or damage, and any such cancellation or
106 annulment shall be void. Upon the recovery of a final judgment
107 against any person, firm or corporation by any person, including
108 administrators or executors, for loss or damage on account of bodily
109 injury or death or damage to property, if the defendant in such action
110 was insured against such loss or damage at the time when the right of
111 action arose and if such judgment is not satisfied within thirty days

112 after the date when it was rendered, such judgment creditor shall be
113 subrogated to all the rights of the defendant and shall have a right of
114 action against the insurer to the same extent that the defendant in such
115 action could have enforced his claim against such insurer had such
116 defendant paid such judgment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	38a-686
Sec. 2	<i>October 1, 2009</i>	38a-321

Statement of Legislative Commissioners:

In section 1(d), subdivisions were inserted after "refuse to" for clarity.

INS *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill does not result in a fiscal impact. It prohibits cancellation of a homeowners' insurance policy based on certain provisions related to dog bites.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 291*****AN ACT CONCERNING HOMEOWNERS INSURANCE POLICIES FOR PEOPLE WHO OWN DOGS THAT HAVE BITTEN A PERSON.*****SUMMARY:**

This bill prohibits an insurer from cancelling or not issuing, delivering, renewing, amending, or continuing a homeowner's insurance policy solely because the homeowner's dog has bitten a person or animal.

The bill requires an insurer to offer a homeowner whose dog has bitten a person or animal the option of (1) excluding the dog from the policy or (2) covering the dog under a policy rider, for which the insurer could set a separate rate. The bill prohibits the rate from being excessive, inadequate, or unfairly discriminatory.

Under the bill, if a homeowner elects to exclude the dog from the policy, the insurer will not be strictly liable for damage or injuries the dog causes.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2009

BACKGROUND***Rating Plans***

By law, insurers must file policy rates with the insurance commissioner in accordance with law in a form and manner he prescribes. Each insurer that issues homeowners' insurance policies in Connecticut must file with the commissioner the rules and regulations it uses to determine whether or not to underwrite such policies. The law authorizes the commissioner to adopt regulations concerning

rating plans.

Strict Liability

Strict liability is liability that does not depend on a showing of negligence or intent to harm but is an absolute duty. By law, an insurer that insures against loss or damage due to accidental bodily injury or death or property damage is strictly liable for any loss that the policy covers.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 11 Nay 8 (03/03/2009)