



General Assembly

**Substitute Bill No. 764**

January Session, 2009

\* SB00764INS 030309 \*

**AN ACT CONCERNING DERIVATIVE FINANCIAL TRANSACTION CONTROLS.**

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

1 Section 1. Section 38a-54 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Each domestic insurance company, health care center or fraternal  
4 benefit society doing business in this state shall have an annual audit  
5 conducted by an independent certified public accountant and shall  
6 annually file an audited financial report with the commissioner, and  
7 electronically to the National Association of Insurance Commissioners  
8 on or before the first day of June for the year ending the preceding  
9 December thirty-first. An electronically filed true and complete report  
10 timely submitted to the National Association of Insurance  
11 Commissioners does not exempt a domestic insurance company or  
12 health care center from timely filing a true and complete paper copy to  
13 the commissioner.

14 (b) Each foreign insurance company or fraternal benefit society  
15 doing business in this state shall have an annual audit conducted by an  
16 independent certified public accountant and shall annually file an  
17 audited financial report with the commissioner, and electronically to  
18 the National Association of Insurance Commissioners, on or before  
19 June first for the year ending the preceding December thirty-first. An

20 electronically filed true and complete report timely submitted to the  
21 National Association of Insurance Commissioners shall be deemed to  
22 have been submitted to the commissioner in accordance with the  
23 provisions of this section.

24 (c) (1) No domestic or foreign insurance company doing business in  
25 this state shall enter into derivative financial transactions, including  
26 swaps, options, forwards, futures, caps, floors and collars or similar  
27 instruments or combinations thereof, without the authorization of the  
28 commissioner. Any such company receiving such authorization shall  
29 include in its audited financial report a statement by the independent  
30 certified public accountant conducting such audit that describes such  
31 accountant's assessment of the internal controls of such company  
32 relative to such derivative financial transactions.

33 (2) If the independent certified public accountant determines the  
34 internal controls relative to such derivative financial transactions to be  
35 deficient, (A) such accountant shall include in the statement set forth in  
36 subdivision (1) of this subsection a description of such deficiencies,  
37 and (B) the insurance company shall append a description of remedial  
38 actions taken or proposed to be taken to correct such deficiencies, if  
39 such actions are not already described in the accountant's assessment.

40 (3) For the purposes of this subsection:

41 (A) "Swap" means a contract to exchange, for a period of time, the  
42 investment performance of one underlying instrument for the  
43 investment performance of another underlying instrument without  
44 exchanging the instruments themselves;

45 (B) "Option" means a contract that gives the purchaser the right, but  
46 not the obligation, to enter into a transaction with the seller for option  
47 rights on terms specified in the contract;

48 (C) "Forward" means a contract, other than a future, between two  
49 parties that commits one party to purchase and the other to sell the  
50 instrument or commodity underlying the contract on a specified future

51 date;

52 (D) "Future" means a standardized forward contract traded on a  
 53 United States or qualified foreign exchange;

54 (E) "Cap" means an option contract wherein the seller, in return for a  
 55 premium, agrees to limit the purchaser's risk associated with an  
 56 increase in a reference rate or index;

57 (F) "Floor" means an option contract wherein the seller, in return for  
 58 a premium, agrees to limit the purchaser's risk associated with a  
 59 decline in a reference rate or index; and

60 (G) "Collar" means a contract that combines a cap and a floor.

61 [(c)] (d) The commissioner shall adopt regulations, in accordance  
 62 with the provisions of chapter 54, to: (1) Specify the scope of the  
 63 examination required by this section; (2) specify the contents and scope  
 64 of the annual audited financial report, provided such report shall  
 65 include all incurred losses; (3) specify the permitted usage of  
 66 derivative transactions; (4) provide for the review of the controls; [(4)]  
 67 (5) provide for the availability to the commissioner of the workpapers  
 68 of the certified public accountant; and [(5)] (6) provide exemptions  
 69 from compliance with the requirements of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-54

**Statement of Legislative Commissioners:**

The first sentence of subsection (c)(1) was rewritten for clarity, and in subsections (c)(1) and (c)(2), "derivative transactions" was changed to "derivative financial transactions" for statutory consistency.

**INS**      *Joint Favorable Subst.*