



General Assembly

Substitute Bill No. 823

January Session, 2009

* SB00823INS__031709__ *

AN ACT CONCERNING REVISIONS TO THE INSURANCE STATUTES.

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

1 Section 1. Subsection (d) of section 38a-8 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2009*):

4 (d) The commissioner shall develop a program of periodic review to
5 ensure compliance by the Insurance Department with the minimum
6 standards established by the National Association of Insurance
7 Commissioners for effective financial surveillance and regulation of
8 insurance companies operating in this state. The commissioner shall
9 adopt regulations, in accordance with the provisions of chapter 54,
10 pertaining to the financial surveillance and solvency regulation of
11 insurance companies and health care centers as are reasonable and
12 necessary to obtain or maintain the accreditation of the Insurance
13 Department by the National Association of Insurance Commissioners.
14 The commissioner shall maintain, as confidential, any confidential
15 documents or information received from the National Association of
16 Insurance Commissioners, or the International Association of
17 Insurance Supervisors, or any documents or information received from
18 state or federal insurance, banking or securities regulators or similar
19 regulators in a foreign country which are confidential in such
20 jurisdictions. The commissioner may share any information, including

21 confidential information, with the National Association of Insurance
22 Commissioners, the International Association of Insurance
23 Supervisors, or state or federal insurance, banking or securities
24 regulators or similar regulators in a foreign country so long as the
25 commissioner determines that such entities agree to maintain the same
26 level of confidentiality in their jurisdiction as is available in this state.
27 The commissioner may engage the services of, at the expense of a
28 domestic, alien or foreign insurer or other entity requiring licensure or
29 registration pursuant to title 38a, attorneys, actuaries, accountants and
30 other experts not otherwise part of the commissioner's staff as may be
31 necessary to assist the commissioner in the financial analysis of the
32 insurer or other entity, the review of the insurer's or other entity's
33 license and registration applications, and the review of transactions
34 within a holding company system involving an insurer domiciled in
35 this state. No duties of a person employed by the Insurance
36 Department on November 1, 2002, shall be performed by such
37 attorney, actuary, accountant or expert.

38 Sec. 2. Section 38a-9 of the general statutes is repealed and the
39 following is substituted in lieu thereof (*Effective from passage*):

40 (a) Notwithstanding the provisions of section 4-8, there shall be a
41 [Division of Consumer Affairs] division within the Insurance
42 Department [, which division] that shall act on the Insurance
43 Commissioner's behalf and at his direction in order to carry out his
44 responsibilities under this title with respect to [such] consumer and
45 market conduct matters. The division shall receive and review
46 complaints from residents of this state concerning their insurance
47 problems, including claims disputes, and serve as a mediator in such
48 disputes in order to assist the commissioner in determining whether
49 statutory requirements and contractual obligations within the
50 commissioner's jurisdiction have been fulfilled. There shall be a
51 director of said division, who shall be provided with sufficient staff.
52 The division shall serve to coordinate all appropriate facilities in the
53 department in addressing such complaints, and conduct any outreach
54 programs deemed necessary to properly inform and educate the public

55 on insurance matters. The director shall submit quarterly reports to the
56 commissioner, which shall state the number of complaints received by
57 the division in such calendar quarter, the Connecticut premium
58 volume of the appropriate line of each insurance company against
59 which a complaint has been filed, the types of complaints received,
60 and the number of such complaints which have been resolved. Such
61 reports shall be published every six months and copies shall be made
62 available to any interested resident of this state upon request. The
63 commissioner shall report to the joint standing committee of the
64 General Assembly having cognizance of matters relating to insurance
65 on or before January 15, 1988, and annually thereafter, concerning the
66 findings of such reports and suggestions for legislative initiatives to
67 address recurring problems.

68 (b) (1) The [Division of Consumer Affairs] division set forth in
69 subsection (a) of this section shall provide an independent arbitration
70 procedure for the settlement of disputes between claimants and
71 insurance companies concerning automobile physical damage and
72 automobile property damage liability claims in which liability and
73 coverage are not in dispute. Such procedure shall apply only to
74 disputes involving private passenger motor vehicles as defined in
75 subsection (e) of section 38a-363. Any company licensed to write
76 private passenger automobile insurance, including collision,
77 comprehensive and theft, in this state shall participate in the
78 arbitration procedure. The commissioner shall appoint an
79 administrator for such procedure. Only those disputes in which
80 attempts at mediation by [the Division of Consumer Affairs] such
81 division have failed shall be accepted as arbitrable. The referral of the
82 complaint to arbitration shall be made by the Insurance Department
83 examiner who investigated the complaint. [Each party to] The claimant
84 and the insurance company involved in the dispute shall pay a filing
85 fee of [twenty] fifty dollars and one hundred dollars, respectively. The
86 insurance company shall pay the consumer the undisputed amount of
87 the claim upon written notification from the department that the
88 complaint has been referred to arbitration. Such payment shall not

89 affect any right of the consumer to pursue the disputed amount of the
90 claim.

91 (2) The commissioner shall prepare a list of at least ten persons, who
92 have not been employed by the department or an insurance company
93 during the preceding twelve months, to serve as arbitrators in the
94 settlement of such disputes. The arbitrators shall be members of any
95 dispute resolution organization approved by the commissioner. One
96 arbitrator shall be appointed to hear and decide each complaint.
97 Appointment shall be based solely on the order of the list. If an
98 arbitrator is unable to serve on a given day, or if either party objects to
99 the arbitrator, then the next arbitrator on the list will be selected. The
100 department shall schedule arbitration hearings as often, and in such
101 locations, as it deems necessary. Parties to the dispute shall be
102 provided written notice of the hearing, at least ten days prior to the
103 hearing date. The commissioner may issue subpoenas on behalf of the
104 arbitrator to compel the attendance of witnesses and the production of
105 documents, papers and records relevant to the dispute. Decisions shall
106 be made on the basis of the evidence presented at the arbitration
107 hearing. Where the arbitrator believes that technical expertise is
108 necessary to decide a case, he may consult with an independent expert
109 recommended by the commissioner. The arbitrator and any
110 independent technical expert shall be paid by the department on a per
111 dispute basis as established by the commissioner. The arbitrator, as
112 expeditiously as possible, but not later than fifteen days after the
113 arbitration hearing, shall render a written decision based on the
114 information gathered and disclose the findings and the reasons to the
115 parties involved. The arbitrator shall award filing fees to the prevailing
116 party. If the decision favors the consumer the decision shall provide
117 specific and appropriate remedies including interest at the rate of ten
118 per cent on the arbitration award concerning the disputed amount of
119 the claim, retroactive to the date of payment for the undisputed
120 amount of the claim. The decision may include costs for loss of use and
121 storage of the motor vehicle and shall specify a date for performance
122 and completion of all awarded remedies. Notwithstanding any

123 provision of the general statutes or any regulation to the contrary, the
124 Insurance Department shall not amend, reverse, rescind, or revoke any
125 decision or action of any arbitrator. The department shall contact the
126 consumer within ten working days after the date for performance, to
127 determine whether performance has occurred. Either party may make
128 application to the superior court for the judicial district in which one of
129 the parties resides or, when the court is not in session, any judge
130 thereof for an order confirming, vacating, modifying or correcting any
131 award, in accordance with the provisions of sections 52-417, 52-418, 52-
132 419 and 52-420. If it is determined by the court that either party's
133 position after review has been improved by at least ten per cent over
134 that party's position after arbitration, the court, in its discretion, may
135 grant to that party its costs and reasonable attorney's fees. No
136 evidence, testimony, findings, or decision from the department
137 arbitration procedure shall be admissible in any civil proceeding,
138 except judicial review of the arbitrator's decision as contemplated by
139 this subsection.

140 (3) The department shall maintain records of each dispute,
141 including names of parties to the arbitration, the decision of the
142 arbitrator, compliance, the appeal, if any, and the decision of the court.
143 The department shall annually compile such statistics and send a copy
144 to the committee of the General Assembly having cognizance of
145 matters relating to insurance. The report shall be considered a public
146 document.

147 (c) Notwithstanding the provisions of section 4-8, there shall be [a
148 Division of Rate Review] divisions within the Insurance Department [,
149 which division] that shall act on the commissioner's behalf and at the
150 commissioner's direction in order to carry out the commissioner's
151 responsibilities under this title with respect to [such matters] rate
152 review. Subject to the provisions of sections 38a-663 to 38a-696,
153 inclusive, the [division] divisions shall assist the commissioner in
154 reviewing rates and supplementary rate information filed with the
155 department for compliance with statutory requirements and
156 standards. The [division's staff] divisions' staffs shall include rating

157 examiners with sufficient actuarial expertise. Upon the request of the
158 commissioner, the [division] divisions shall review rates and
159 supplementary rate information, and any suspected violation of the
160 statutory requirements and standards of sections 38a-663 to 38a-696,
161 inclusive, found pursuant to such review shall be referred to the
162 commissioner for appropriate action. The [division] divisions may
163 assist the commissioner in formalizing the commissioner's findings
164 regarding such actions. The commissioner shall report to the joint
165 standing committee of the General Assembly having cognizance of
166 matters relating to insurance on or before January [15, 1988, and]
167 fifteenth annually, [thereafter,] concerning (1) the number and type of
168 reviews conducted by the property and casualty division in the prior
169 calendar year, and (2) the percentage of increase or decrease in rates
170 reviewed by the property and casualty division during the preceding
171 calendar year, by line and subline of insurance.

172 (d) The directors and staff of [both the Division of Consumer Affairs
173 and the Division of Rate Review] the divisions set forth in subsections
174 (a) and (c) of this section shall be appointed by the commissioner
175 under the provisions of chapter 67.

176 Sec. 3. Subsection (a) of section 38a-11 of the general statutes is
177 repealed and the following is substituted in lieu thereof (*Effective*
178 *October 1, 2009*):

179 (a) The commissioner shall demand and receive the following fees:
180 (1) For the annual fee for each license issued to a domestic insurance
181 company, one hundred dollars; (2) for receiving and filing annual
182 reports of domestic insurance companies, twenty-five dollars; (3) for
183 filing all documents prerequisite to the issuance of a license to an
184 insurance company, one hundred seventy-five dollars, except that the
185 fee for such filings by any health care center, as defined in section 38a-
186 175, shall be one thousand one hundred dollars; (4) for filing any
187 additional paper required by law, fifteen dollars; (5) for each certificate
188 of valuation, organization, reciprocity or compliance, twenty dollars;
189 (6) for each certified copy of a license to a company, twenty dollars; (7)

190 for each certified copy of a report or certificate of condition of a
191 company to be filed in any other state, twenty dollars; (8) for
192 amending a certificate of authority, one hundred dollars; (9) for each
193 license issued to a rating organization, one hundred dollars. In
194 addition, insurance companies shall pay any fees imposed under
195 section 12-211; (10) a filing fee of twenty-five dollars for each initial
196 application for a license made pursuant to section 38a-769; (11) with
197 respect to insurance agents' appointments: (A) A filing fee of twenty-
198 five dollars for each request for any agent appointment, except that no
199 filing fee shall be payable for a request for agent appointment by an
200 insurance company domiciled in a state or foreign country which does
201 not require any filing fee for a request for agent appointment for a
202 Connecticut insurance company; (B) a fee of forty dollars for each
203 appointment issued to an agent of a domestic insurance company or
204 for each appointment continued; and (C) a fee of [twenty] forty dollars
205 for each appointment issued to an agent of any other insurance
206 company or for each appointment continued, except that no fee shall
207 be payable for an appointment issued to an agent of an insurance
208 company domiciled in a state or foreign country which does not
209 require any fee for an appointment issued to an agent of a Connecticut
210 insurance company; (12) with respect to insurance producers: (A) An
211 examination fee of seven dollars for each examination taken, except
212 when a testing service is used, the testing service shall pay a fee of
213 seven dollars to the commissioner for each examination taken by an
214 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of
215 forty dollars per year, or any portion thereof, for each license renewed;
216 and (D) a fee of forty dollars for any license renewed under the
217 transitional process established in section 38a-784; (13) with respect to
218 public adjusters: (A) An examination fee of seven dollars for each
219 examination taken, except when a testing service is used, the testing
220 service shall pay a fee of seven dollars to the commissioner for each
221 examination taken by an applicant; and (B) a fee of one hundred
222 twenty-five dollars for each license issued or renewed; (14) with
223 respect to casualty adjusters: (A) An examination fee of ten dollars for
224 each examination taken, except when a testing service is used, the

225 testing service shall pay a fee of ten dollars to the commissioner for
226 each examination taken by an applicant; (B) a fee of forty dollars for
227 each license issued or renewed; and (C) the expense of any
228 examination administered outside the state shall be the responsibility
229 of the entity making the request and such entity shall pay to the
230 commissioner one hundred dollars for such examination and the
231 actual traveling expenses of the examination administrator to
232 administer such examination; (15) with respect to motor vehicle
233 physical damage appraisers: (A) An examination fee of forty dollars
234 for each examination taken, except when a testing service is used, the
235 testing service shall pay a fee of forty dollars to the commissioner for
236 each examination taken by an applicant; (B) a fee of forty dollars for
237 each license issued or renewed; and (C) the expense of any
238 examination administered outside the state shall be the responsibility
239 of the entity making the request and such entity shall pay to the
240 commissioner one hundred dollars for such examination and the
241 actual traveling expenses of the examination administrator to
242 administer such examination; (16) with respect to certified insurance
243 consultants: (A) An examination fee of thirteen dollars for each
244 examination taken, except when a testing service is used, the testing
245 service shall pay a fee of thirteen dollars to the commissioner for each
246 examination taken by an applicant; (B) a fee of two hundred dollars for
247 each license issued; and (C) a fee of one hundred twenty-five dollars
248 for each license renewed; (17) with respect to surplus lines brokers: (A)
249 An examination fee of ten dollars for each examination taken, except
250 when a testing service is used, the testing service shall pay a fee of ten
251 dollars to the commissioner for each examination taken by an
252 applicant; and (B) a fee of five hundred dollars for each license issued
253 or renewed; (18) with respect to fraternal agents, a fee of forty dollars
254 for each license issued or renewed; (19) a fee of thirteen dollars for
255 each license certificate requested, whether or not a license has been
256 issued; (20) with respect to domestic and foreign benefit societies shall
257 pay: (A) For service of process, twenty-five dollars for each person or
258 insurer to be served; (B) for filing a certified copy of its charter or
259 articles of association, five dollars; (C) for filing the annual report, ten

260 dollars; and (D) for filing any additional paper required by law, three
261 dollars; (21) with respect to foreign benefit societies: (A) For each
262 certificate of organization or compliance, four dollars; (B) for each
263 certified copy of permit, two dollars; and (C) for each copy of a report
264 or certificate of condition of a society to be filed in any other state, four
265 dollars; (22) with respect to reinsurance intermediaries: A fee of five
266 hundred dollars for each license issued or renewed; (23) with respect
267 to life settlement providers: (A) A filing fee of thirteen dollars for each
268 initial application for a license made pursuant to section 38a-465a; and
269 (B) a fee of twenty dollars for each license issued or renewed; (24) with
270 respect to life settlement brokers: (A) A filing fee of thirteen dollars for
271 each initial application for a license made pursuant to section 38a-465a;
272 and (B) a fee of twenty dollars for each license issued or renewed; (25)
273 with respect to preferred provider networks, a fee of two thousand five
274 hundred dollars for each license issued or renewed; (26) with respect
275 to rental companies, as defined in section 38a-799, a fee of forty dollars
276 for each permit issued or renewed; (27) with respect to medical
277 discount plan organizations licensed under section 38a-479rr, a fee of
278 five hundred dollars for each license issued or renewed; (28) with
279 respect to pharmacy benefits managers, an application fee of fifty
280 dollars for each registration issued or renewed; (29) with respect to
281 captive insurance companies, as defined in section 38a-91aa, a fee of
282 three hundred dollars for each license issued or renewed; [and] (30)
283 with respect to each duplicate license issued a fee of twenty-five
284 dollars for each license issued; and (31) for each statement of
285 acquisition of control of a domestic insurer submitted to the
286 commissioner pursuant to section 38a-130, two thousand five hundred
287 dollars.

288 Sec. 4. Section 38a-14a of the general statutes is repealed and the
289 following is substituted in lieu thereof (*Effective October 1, 2009*):

290 (a) Subject to the limitation contained in this section and in addition
291 to the powers which the Insurance Commissioner has under sections
292 38a-14 and 38a-15, as amended by this act, relating to the examination
293 of insurance companies and health care centers doing business in this

294 state, the commissioner shall have the power to order any insurance
295 company registered under section 38a-135 or health care center to
296 produce such records, books or other information in the possession of
297 the insurance company or health care center or its affiliates as are
298 reasonably necessary to ascertain the financial condition of such
299 insurance company or health care center or to determine compliance
300 with sections 38a-129 to 38a-140, inclusive. In the event such insurance
301 company or health care center fails to comply with such order, the
302 commissioner shall have the power to examine any such affiliate to
303 obtain such information.

304 (b) The commissioner may engage the services of attorneys,
305 actuaries, accountants and other experts not otherwise a part of the
306 commissioner's staff, at the registered insurance company's or health
307 care center's expense, as shall be reasonably necessary to assist in the
308 conduct of the examination under subsection (a) of this section. All
309 persons so engaged shall be under the direction and control of the
310 commissioner and shall act in a purely advisory capacity.

311 (c) Each registered insurance company or health care center
312 producing for examination records, books and papers pursuant to
313 subsection (a) of this section shall be liable for and shall pay the
314 expense of such examination in accordance with sections 38a-14 and
315 38a-15, as amended by this act.

316 Sec. 5. Section 38a-15 of the general statutes is repealed and the
317 following is substituted in lieu thereof (*Effective October 1, 2009*):

318 (a) The commissioner shall, as often as [he] the commissioner deems
319 it expedient undertake a market conduct examination of the affairs of
320 any insurance company, health care center or fraternal benefit society
321 doing business in this state.

322 (b) To carry out the examinations under this section, the
323 commissioner may appoint, as market conduct examiners, one or more
324 competent persons [, not officers or] who shall not be officers of,
325 connected with or interested in any insurance company, health care

326 center or fraternal benefit society, other than as a policyholder. In
327 conducting the examination, the commissioner, [his] the
328 commissioner's actuary or any examiner authorized by the
329 commissioner may examine, under oath, the officers and agents of
330 such an insurance company, health care center or fraternal benefit
331 society and all persons deemed to have material information regarding
332 the company's, center's or society's property or business. Each such
333 company, center or society, its officers and agents, shall produce the
334 books and papers, in its or their possession, relating to its business or
335 affairs, and any other person may be required to produce any book or
336 paper [, in his] in such person's custody, deemed to be relevant to the
337 examination, for the inspection of the commissioner, [his] the
338 commissioner's actuary or examiners, when required. The officers and
339 agents of the company, center or association shall facilitate the
340 examination and aid the examiners in making the same so far as it is in
341 their power to do so.

342 (c) Each market conduct examiner shall make a full and true report
343 of each market conduct examination made by [him] such examiner,
344 which shall comprise only facts appearing upon the books, papers,
345 records or documents of the examined company, center or society or
346 ascertained from the sworn testimony of its officers or agents or of
347 other persons examined under oath concerning its affairs. The
348 examiner's report shall be presumptive evidence of the facts therein
349 stated in any action or proceeding in the name of the state against the
350 company, center or society, its officers or agents. [The] Before filing
351 such report, the commissioner shall grant a hearing to the company,
352 center or society examined, [before filing any such report,] and may
353 withhold any such report from public inspection for such time as [he]
354 the commissioner deems proper. The commissioner may, if [he] said
355 commissioner deems it in the public interest, publish any such report,
356 or the result of any such examination contained therein, in one or more
357 newspapers of the state.

358 [(d) All the expense of any examination made under the authority of
359 this section, other than examinations of domestic insurance companies,

360 shall be paid by the company, center or society examined, and
361 domestic insurance companies and other domestic entities examined
362 outside the state shall pay the traveling and maintenance expenses of
363 examiners.]

364 (d) (1) The commissioner may engage the services of attorneys,
365 appraisers, independent actuaries, independent certified public
366 accountants or other professionals and specialists to assist in
367 conducting the examinations under this section as examiners, the cost
368 of which shall be borne by the company that is the subject of the
369 examination.

370 (2) No cause of action shall arise nor shall any liability be imposed
371 against the commissioner, the commissioner's authorized
372 representatives or any examiner appointed by the commissioner for
373 any statements made or conduct performed in good faith while
374 carrying out the provisions of this section.

375 (3) No cause of action shall arise nor shall any liability be imposed
376 against any person for the act of communicating or delivering
377 information or data to the commissioner or the commissioner's
378 authorized representative or examiner pursuant to an examination
379 made under this section, if such act of communication or delivery was
380 performed in good faith and without fraudulent intent or the intent to
381 deceive.

382 (4) This section shall not abrogate or modify any common law or
383 statutory privilege or immunity heretofore enjoyed by any person
384 identified in subdivision (2) of this subsection.

385 (5) A person identified in subdivision (2) of this subsection shall be
386 entitled to an award of attorney's fees and costs if such person is the
387 prevailing party in a civil cause of action for libel, slander or any other
388 relevant tort arising out of activities in carrying out the provisions of
389 this section and the party bringing the action was not substantially
390 justified in doing so. For the purposes of this section, a proceeding is
391 "substantially justified" if it had a reasonable basis in law or fact at the

392 time that it was initiated.

393 (e) Notwithstanding subdivision (1) of subsection (d) of this section,
394 no domestic insurance company or other domestic entity subject to
395 examination under this section shall pay as costs associated with the
396 examination the salaries, fringe benefits, traveling and maintenance
397 expenses of examining personnel of the Insurance Department
398 engaged in such examination if such domestic company or entity is
399 otherwise liable to an assessment levied under section 38a-47, except
400 that a domestic insurance company or other domestic entity shall pay
401 the traveling and maintenance expenses of examining personnel of the
402 Insurance Department when such company or entity is examined
403 outside the state.

404 (f) Nothing in this section shall be construed to prevent or prohibit
405 the commissioner from disclosing the content of an examination
406 report, preliminary examination report or results, or any matter
407 relating thereto, to the Insurance Department of this or any other state
408 or country, or to law enforcement officials of this or any other state or
409 to any agency of the federal government at any time, as long as such
410 agency or office receiving the report or matters relating thereto agrees
411 in writing to hold such report or matters confidential.

412 (g) All working papers, recorded information, documents and
413 copies thereof produced by, obtained by or disclosed to the
414 commissioner or any other person in the course of an examination
415 made under this section shall be given confidential treatment, shall not
416 be subject to subpoena and shall not be made public by the
417 commissioner or any other person, except to the extent provided in
418 subsection (f) of this section. Access to such working papers, recorded
419 information, documents and copies may be granted by the
420 commissioner to the National Association of Insurance Commissioners
421 as long as it agrees, in writing, to hold such working papers, recorded
422 information, documents and copies confidential.

423 Sec. 6. Section 38a-430 of the general statutes is repealed and the

424 following is substituted in lieu thereof (*Effective October 1, 2009*):

425 (a) No life insurance or annuity policy or contract shall be delivered
426 or issued for delivery to any person in this state, nor shall any
427 application, rider or endorsement be used in connection therewith,
428 until a copy of the form thereof shall have been filed with and
429 approved by the commissioner. The commissioner shall adopt
430 regulations, in accordance with the provisions of chapter 54,
431 establishing a procedure for review of such policies. The commissioner
432 shall issue [an order] a decision disapproving the use of any such form
433 at any time if it does not comply with the requirements of law, or if it
434 contains a provision or provisions which are unfair or deceptive or
435 which encourage misrepresentation of the policy. The commissioner
436 shall specify the reason for his disapproval. The provisions of section
437 38a-19 shall apply to any such [order] decision issued by the
438 commissioner.

439 (b) The commissioner may, as a condition of approval of a policy
440 form, require the insurer to provide disclosure notices, illustrations or
441 other explanatory materials to a policyholder at the time of sale. The
442 commissioner may require revisions to policy forms and related
443 advertising and sales materials if the commissioner believes such
444 revisions are required to protect policyholders. The commissioner may
445 issue guidelines for requirements for disclosure notices, illustrations or
446 other explanatory materials said commissioner deems necessary to
447 protect policyholders.

448 [(b)] (c) Nothing in this chapter shall preclude the issuance of a life
449 insurance contract, including, but not limited to, a long-term care
450 policy as provided in section 38a-458, which includes an optional
451 health insurance rider, provided [,] the optional health insurance rider
452 [must be] is filed with and approved by the Insurance Commissioner
453 pursuant to section 38a-481, as amended by this act. Any company
454 offering such policies for sale in this state shall be licensed to sell
455 health insurance in this state pursuant to the provisions of section 38a-
456 41.

457 Sec. 7. Section 38a-469 of the general statutes is repealed and the
458 following is substituted in lieu thereof (*Effective October 1, 2009*):

459 As used in this title, unless the context otherwise requires or a
460 different meaning is specifically prescribed, "health insurance" policy
461 means insurance providing benefits due to illness or injury, resulting
462 in loss of life, loss of earnings, or expenses incurred, and includes the
463 following types of coverage: (1) Basic hospital expense coverage; (2)
464 basic medical-surgical expense coverage; (3) hospital confinement
465 indemnity coverage; (4) major medical expense coverage; (5) disability
466 income protection coverage; (6) accident only coverage; (7) long term
467 care coverage; (8) specified accident coverage; (9) Medicare
468 supplement coverage; (10) limited benefit health coverage; (11)
469 hospital or medical service plan contract; (12) hospital and medical
470 coverage provided to subscribers of a health care center; (13) specified
471 disease coverage; (14) TriCare supplement coverage; (15) travel health
472 coverage; and (16) single service ancillary health coverage, including,
473 but not limited to, dental, vision or prescription drug coverage.

474 Sec. 8. Section 38a-481 of the general statutes is repealed and the
475 following is substituted in lieu thereof (*Effective October 1, 2009*):

476 (a) (1) No individual health insurance policy shall be delivered or
477 issued for delivery to any person in this state, nor shall any
478 application, rider or endorsement be used in connection with such
479 policy, until a copy of the form thereof and of the classification of risks
480 and the premium rates have been filed with the commissioner. The
481 commissioner shall adopt regulations, in accordance with chapter 54,
482 to establish a procedure for reviewing such policies. The commissioner
483 shall disapprove the use of such form at any time if it does not comply
484 with the requirements of law, or if it contains a provision or provisions
485 [which] that are unfair or deceptive or [which] that encourage
486 misrepresentation of the policy. The commissioner shall notify, in
487 writing, the insurer [which] that has filed any such form of the
488 commissioner's disapproval, specifying the reasons for disapproval,
489 and [ordering] communicating that no such insurer shall deliver or

490 issue for delivery to any person in this state a policy on or containing
491 such form. The provisions of section 38a-19 shall apply to such [orders]
492 notifications of disapprovals.

493 (2) The commissioner may, as a condition of approval of a policy
494 form, require the insurer to provide disclosure notices, illustrations or
495 other explanatory materials to a policyholder at the time of sale. The
496 commissioner may require revisions to policy forms and related
497 advertising and sales materials if the commissioner believes such
498 revisions are required to protect policyholders. The commissioner may
499 issue guidelines for requirements for disclosure notices, illustrations or
500 other explanatory materials said commissioner deems necessary to
501 protect policyholders.

502 (b) No rate filed under the provisions of subsection (a) of this
503 section shall be effective until the expiration of thirty days after it has
504 been filed or unless sooner approved by the commissioner in
505 accordance with regulations adopted pursuant to this subsection. The
506 commissioner shall adopt regulations, in accordance with chapter 54,
507 to prescribe standards to insure that such rates shall not be excessive,
508 inadequate or unfairly discriminatory. The commissioner may
509 disapprove such rate within thirty days after it has been filed if it fails
510 to comply with such standards, except that no rate filed under the
511 provisions of subsection (a) of this section for any Medicare
512 supplement policy shall be effective unless approved in accordance
513 with section 38a-474.

514 (c) No insurance company, fraternal benefit society, hospital service
515 corporation, medical service corporation, health care center or other
516 entity which delivers or issues for delivery in this state any Medicare
517 supplement policies or certificates shall incorporate in its rates or
518 determinations to grant coverage for Medicare supplement insurance
519 policies or certificates any factors or values based on the age, gender,
520 previous claims history or the medical condition of any person covered
521 by such policy or certificate, except for plans "H" to "J", inclusive, as
522 provided in section 38a-495b. In plans "H" to "J", inclusive, previous

523 claims history and the medical condition of the applicant may be used
524 in determinations to grant coverage under Medicare supplement
525 policies and certificates issued prior to January 1, 2006.

526 (d) Rates on a particular policy form [will] shall not be deemed
527 excessive if the insurer has filed a loss ratio guarantee with the
528 Insurance Commissioner [which] that meets the requirements of
529 subsection (e) of this section, provided (1) the form of such loss ratio
530 guarantee has been explicitly approved by the Insurance
531 Commissioner, and (2) the current expected lifetime loss ratio is not
532 more than five per cent less than the filed lifetime loss ratio as certified
533 by an actuary. The insurer shall withdraw the policy form if the
534 commissioner determines that the lifetime loss ratio will not be met.
535 Rates also [will] shall not be deemed excessive if the insurer complies
536 with the terms of the loss ratio guarantee. The Insurance
537 Commissioner may adopt regulations, in accordance with chapter 54,
538 to [assure] ensure that the use of a loss ratio guarantee does not
539 constitute an unfair practice.

540 (e) Premium rates shall be deemed approved upon filing with the
541 Insurance Commissioner if the filing is accompanied by a loss ratio
542 guarantee. The loss ratio guarantee shall be in writing, signed by an
543 officer of the insurer, and shall contain as a minimum the following:

544 (1) A recitation of the anticipated lifetime and durational target loss
545 ratios contained in the original actuarial memorandum filed with the
546 policy form when it was originally approved;

547 (2) A guarantee that the actual Connecticut loss ratios for the
548 experience period in which the new rates take effect and for each
549 experience period thereafter until any new rates are filed will meet or
550 exceed the loss ratios referred to in subdivision (1) of this subsection. If
551 the annual earned premium volume in Connecticut under the
552 particular policy form is less than one million dollars and therefore not
553 actuarially credible, the loss ratio guarantee will be based on the actual
554 nation-wide loss ratio for the policy form. If the aggregate earned

555 premium for all states is less than one million dollars, the experience
556 period will be extended until the end of the calendar year in which one
557 million dollars of earned premium is attained;

558 (3) A guarantee that the actual Connecticut or nation-wide loss ratio
559 results, as the case may be, for the experience period at issue will be
560 independently audited by a certified public accountant or a member of
561 the American Academy of Actuaries at the insurer's expense. The audit
562 shall be done in the second quarter of the year following the end of the
563 experience period and the audited results must be reported to the
564 Insurance Commissioner not later than June thirtieth following the end
565 of the experience period;

566 (4) A guarantee that affected Connecticut policyholders will be
567 issued a proportional refund, which will be based on the premiums
568 earned, of the amount necessary to bring the actual loss ratio up to the
569 anticipated loss ratio referred to in subdivision (1) of this subsection. If
570 nation-wide loss ratios are used, the total amount refunded in
571 Connecticut shall equal the dollar amount necessary to achieve the loss
572 ratio standards multiplied by the total premium earned from all
573 Connecticut policyholders who will receive refunds and divided by
574 the total premium earned in all states on the policy form. The refund
575 shall be made to all Connecticut policyholders who are insured under
576 the applicable policy form as of the last day of the experience period
577 and whose refund would equal two dollars or more. The refund shall
578 include interest, at six per cent, from the end of the experience period
579 until the date of payment. Payment shall be made during the third
580 quarter of the year following the experience period for which a refund
581 is determined to be due;

582 (5) A guarantee that refunds less than two dollars will be
583 aggregated by the insurer. The insurer shall deposit such amount in a
584 separate interest-bearing account in which all such amounts shall be
585 deposited. At the end of each calendar year each such insurer shall
586 donate such amount to The University of Connecticut Health Center;

587 (6) A guarantee that the insurer, if directed by the Insurance
588 Commissioner, shall withdraw the policy form and cease the issuance
589 of new policies under the form in this state if the applicable loss ratio
590 exceeds the durational target loss ratio for the experience period by
591 more than twenty per cent, provided the calculations are based on at
592 least two thousand policyholder-years of experience either in
593 Connecticut or nation-wide.

594 (f) For the purposes of this section:

595 (1) "Loss ratio" means the ratio of incurred claims to earned
596 premiums by the number of years of policy duration for all combined
597 durations; and

598 (2) "Experience period" means the calendar year for which a loss
599 ratio guarantee is calculated.

600 (g) Nothing in this chapter shall preclude the issuance of an
601 individual health insurance policy which includes an optional life
602 insurance rider, provided the optional life insurance rider must be
603 filed with and approved by the Insurance Commissioner pursuant to
604 section 38a-430, as amended by this act. Any company offering such
605 policies for sale in this state shall be licensed to sell life insurance in
606 this state pursuant to the provisions of section 38a-41.

607 (h) No insurance company, fraternal benefit society, hospital service
608 corporation, medical service corporation, health care center or other
609 entity [which] that delivers, issues for delivery, amends, renews or
610 continues an individual health insurance policy in this state on or after
611 October 1, 2003, [may] shall (1) move an insured individual from a
612 standard underwriting classification to a substandard underwriting
613 classification after the policy is issued; or (2) increase premium rates
614 due to the claim experience or health status of an individual who is
615 insured under the policy, except that the entity may increase premium
616 rates for all individuals in an underwriting classification due to the
617 claim experience or health status of the underwriting classification as a
618 whole.

619 Sec. 9. Section 38a-495b of the general statutes is repealed and the
620 following is substituted in lieu thereof (*Effective from passage*):

621 (a) As used in sections 38a-473, 38a-474 and 38a-481, subsection (l)
622 of section 38a-495a, sections 38a-495c and 38a-513 and this section,
623 "Medicare" means the Health Insurance for the Aged Act, Title XVIII of
624 the Social Security Amendments of 1965, as amended (Title I, Part I of
625 P.L. 89-97). For policies or certificates delivered or issued for delivery
626 to any resident of this state who is eligible for Medicare, prior to July
627 30, 1992, "Medicare supplement policy" means any individual or group
628 health insurance policy or certificate delivered or issued for delivery to
629 any resident of the state who is eligible for Medicare, except any long-
630 term care policy as defined in sections 38a-501 and 38a-528. For
631 policies or certificates delivered or issued for delivery to any resident
632 on or after July 30, 1992, "Medicare supplement policy" means (A) a
633 group or individual policy of accident and sickness insurance, or (B) a
634 subscriber contract of hospital and medical service corporations or
635 health care centers, other than a policy issued pursuant to a contract
636 under Section 1876 or Section 1833 of the federal Social Security Act (42
637 USC Section 1395 et seq.), or (C) an issued policy under a
638 demonstration project authorized pursuant to amendments to the
639 federal Social Security Act, which is advertised, marketed or designed
640 primarily as a supplement to reimbursements under Medicare for the
641 hospital, medical or surgical expenses of persons eligible for Medicare.

642 (b) In accordance with the regulations adopted pursuant to section
643 38a-495a, on and after July 1, 2005, there [are] shall be standardized
644 Medicare supplement insurance policies or certificates as designated
645 [as plans "A" to "L", inclusive] by the Centers for Medicare and
646 Medicaid Services.

647 Sec. 10. Section 38a-513 of the general statutes is repealed and the
648 following is substituted in lieu thereof (*Effective October 1, 2009*):

649 (a) (1) No group health insurance policy [, as defined by the
650 commissioner,] or certificate shall be issued or delivered in this state

651 unless a copy of the form for such policy or certificate has been
652 submitted to and approved by the commissioner under the regulations
653 adopted pursuant to this section. The commissioner shall adopt
654 regulations, in accordance with chapter 54, concerning the provisions,
655 submission and approval of such policies and certificates and
656 establishing a procedure for reviewing such policies and certificates. [If
657 the commissioner issues an order disapproving the use of such form,
658 the] The commissioner shall disapprove the use of such form at any
659 time if it does not comply with the requirements of law, or if it
660 contains a provision or provisions that are unfair or deceptive or that
661 encourage misrepresentation of the policy. The commissioner shall
662 notify, in writing, the insurer that has filed any such form of the
663 commissioner's disapproval, specifying the reasons for disapproval,
664 and communicating that no such insurer shall deliver or issue for
665 delivery to any person in this state a policy on or containing such form.
666 The provisions of section 38a-19 shall apply to such [order]
667 notifications of disapprovals.

668 (2) The commissioner may, as a condition of approval of a policy
669 form, require the insurer to provide disclosure notices, illustrations or
670 other explanatory materials to a policyholder at the time of sale. The
671 commissioner may require revisions to policy forms and related
672 advertising and sales materials if the commissioner believes such
673 revisions are required to protect policyholders. The commissioner may
674 issue guidelines for disclosure notice requirements said commissioner
675 deems necessary to protect policyholders.

676 (b) No insurance company, fraternal benefit society, hospital service
677 corporation, medical service corporation, health care center or other
678 entity [which] that delivers or issues for delivery in this state any
679 Medicare supplement policies or certificates shall incorporate in its
680 rates or determinations to grant coverage for Medicare supplement
681 insurance policies or certificates any factors or values based on the age,
682 gender, previous claims history or the medical condition of any person
683 covered by such policy or certificate, except for plans "H" to "J",
684 inclusive, as provided in section 38a-495b, as amended by this act. In

685 plans "H" to "J", inclusive, previous claims history and the medical
686 condition of the applicant may be used in determinations to grant
687 coverage under Medicare supplement policies and certificates issued
688 prior to January 1, 2006.

689 (c) Nothing in this chapter shall preclude the issuance of a group
690 health insurance policy which includes an optional life insurance rider,
691 provided the optional life insurance rider must be filed with and
692 approved by the Insurance Commissioner pursuant to section 38a-430,
693 as amended by this act. Any company offering such policies for sale in
694 this state shall be licensed to sell life insurance in this state pursuant to
695 the provisions of section 38a-41.

696 (d) Not later than January 1, 2009, the commissioner shall adopt
697 regulations, in accordance with chapter 54, to establish minimum
698 standards for benefits in group specified disease policies, certificates,
699 riders, endorsements and benefits.

700 Sec. 11. Section 38a-519 of the general statutes is repealed and the
701 following is substituted in lieu thereof (*Effective October 1, 2009*):

702 No group health insurance policy [which] that provides disability
703 income protection coverage, delivered, [or] issued for delivery,
704 amended, [or] renewed [,] or continued in this state, on or after
705 [January 1, 1976] October 1, 2009, and no application, rider or
706 endorsement used in connection therewith shall contain an offset
707 proviso [. No such policy in effect on January 1, 1976, and no
708 application, rider or endorsement used in connection therewith shall
709 after January 1, 1981, contain an offset proviso. For the purposes of this
710 section, an "offset proviso" means any provision of an insurance policy
711 which allows the insurer to reduce his liability for loss or expense from
712 sickness or from bodily injury of the insured by reason of any increase
713 in the disability benefits on or after the date a claim commences under
714 any such policy] for benefits other than those payable from other
715 sources as a result of the disability. No offset shall be changed to reflect
716 any increase in other disability benefits that occur on or after the date a

717 claim commences under such policy.

718 Sec. 12. Subsection (k) of section 38a-660 of the general statutes is
719 repealed and the following is substituted in lieu thereof (*Effective*
720 *October 1, 2009*):

721 (k) To further the enforcement of this section and to determine the
722 eligibility of any licensee, the commissioner may, as often as [he] the
723 commissioner deems necessary, examine the books and records of any
724 such licensee, the cost of which shall be borne by the licensee.

725 Sec. 13. Subdivision (15) of section 38a-816 of the general statutes is
726 repealed and the following is substituted in lieu thereof (*Effective*
727 *October 1, 2009*):

728 (15) (A) Failure by an insurer, or any other entity responsible for
729 providing payment to a health care provider pursuant to an insurance
730 policy, to pay accident and health claims, including, but not limited to,
731 claims for payment or reimbursement to health care providers, within
732 the time periods set forth in subparagraph (B) of this subdivision,
733 unless the Insurance Commissioner determines that a legitimate
734 dispute exists as to coverage, liability or damages or that the claimant
735 has fraudulently caused or contributed to the loss. Any insurer, or any
736 other entity responsible for providing payment to a health care
737 provider pursuant to an insurance policy, who fails to pay such a claim
738 or request within the time periods set forth in subparagraph (B) of this
739 subdivision shall pay the claimant or health care provider the amount
740 of such claim plus interest at the rate of fifteen per cent per annum, in
741 addition to any other penalties which may be imposed pursuant to
742 sections 38a-11, 38a-25, 38a-41 to 38a-53, inclusive, 38a-57 to 38a-60,
743 inclusive, 38a-62 to 38a-64, inclusive, 38a-76, 38a-83, 38a-84, 38a-117 to
744 38a-124, inclusive, 38a-129 to 38a-140, inclusive, 38a-146 to 38a-155,
745 inclusive, 38a-283, 38a-288 to 38a-290, inclusive, 38a-319, 38a-320, 38a-
746 459, 38a-464, 38a-815 to 38a-819, inclusive, 38a-824 to 38a-826,
747 inclusive, and 38a-828 to 38a-830, inclusive. Whenever the interest due
748 a claimant or health care provider pursuant to this section is less than

749 one dollar, the insurer shall deposit such amount in a separate interest-
750 bearing account in which all such amounts shall be deposited. At the
751 end of each calendar year each such insurer shall donate such amount
752 to The University of Connecticut Health Center.

753 (B) Each insurer, or other entity responsible for providing payment
754 to a health care provider pursuant to an insurance policy subject to this
755 section, shall pay claims not later than forty-five days after receipt by
756 the insurer of the claimant's proof of loss form or the health care
757 provider's request for payment filed in accordance with the insurer's
758 practices or procedures, except that when there is a deficiency in the
759 information needed for processing a claim, as determined in
760 accordance with section 38a-477, the insurer shall (i) send written
761 notice to the claimant or health care provider, as the case may be, of all
762 alleged deficiencies in information needed for processing a claim not
763 later than thirty days after the insurer receives a claim for payment or
764 reimbursement under the contract, and (ii) pay claims for payment or
765 reimbursement under the contract not later than thirty days after the
766 insurer receives the information requested.

767 (C) As used in this subdivision, "health care provider" means (i) a
768 person licensed to provide health care services under chapter 368d,
769 chapter 368v, chapters 370 to 373, inclusive, 375 to 383c, inclusive, 384a
770 to 384c, inclusive, or chapter 400j, and (ii) a person who holds an
771 equivalent license from any other state.

772 Sec. 14. Subsection (d) of section 38a-91bb of the general statutes is
773 repealed and the following is substituted in lieu thereof (*Effective*
774 *October 1, 2009*):

775 (d) (1) Each captive insurance company shall pay to the
776 commissioner a nonrefundable fee of eight hundred dollars for
777 examining, investigating and processing its application for a license, [,
778 and the] The commissioner may retain legal, financial and examination
779 services from outside the department for the licensing and financial
780 oversight of a captive insurance company, the reasonable cost of which

781 may be charged against [the applicant] such company. The provisions
 782 of subdivisions (2) to (5), inclusive, of subsection (k) of section 38a-14
 783 shall apply to [examinations, investigations and processing conducted
 784 under] the services retained pursuant to this [section] subsection.

785 (2) Each captive insurance company shall pay a license fee for the
 786 first year of licensure and a renewal fee for each year thereafter as set
 787 forth in section 38a-11, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	38a-8(d)
Sec. 2	<i>from passage</i>	38a-9
Sec. 3	<i>October 1, 2009</i>	38a-11(a)
Sec. 4	<i>October 1, 2009</i>	38a-14a
Sec. 5	<i>October 1, 2009</i>	38a-15
Sec. 6	<i>October 1, 2009</i>	38a-430
Sec. 7	<i>October 1, 2009</i>	38a-469
Sec. 8	<i>October 1, 2009</i>	38a-481
Sec. 9	<i>from passage</i>	38a-495b
Sec. 10	<i>October 1, 2009</i>	38a-513
Sec. 11	<i>October 1, 2009</i>	38a-519
Sec. 12	<i>October 1, 2009</i>	38a-660(k)
Sec. 13	<i>October 1, 2009</i>	38a-816(15)
Sec. 14	<i>October 1, 2009</i>	38a-91bb(d)

Statement of Legislative Commissioners:

The last sentences of sections 6(b) and 8 (a)(2) were rewritten for internal consistency.

INS *Joint Favorable Subst.*