



**Substitute Senate Bill No. 960**

**Public Act No. 09-74**

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE INSURANCE STATUTES.**

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

Section 1. Subsection (a) of section 38a-9 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

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on insurance matters. The director shall submit quarterly reports to the commissioner, which shall state the number of complaints received by the division in such calendar quarter, the Connecticut premium volume of the appropriate line of each insurance company against which a complaint has been filed, the types of complaints received, and the number of such complaints which have been resolved. Such reports shall be published every six months and copies shall be made available to any interested resident of this state upon request. The commissioner shall report, in accordance with section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to insurance on or before January [15, 1988, and] fifteenth annually, [thereafter,] concerning the findings of such reports and suggestions for legislative initiatives to address recurring problems.

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 Subsection (c) of section 38a-9 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Notwithstanding the provisions of section 4-8, there shall be a Division of Rate Review within the Insurance Department, which division shall act on the commissioner's behalf and at the commissioner's direction in order to carry out the commissioner's responsibilities under this title with respect to such matters. Subject to the provisions of sections 38a-663 to 38a-696, inclusive, as amended by this act, the division shall assist the commissioner in reviewing rates and supplementary rate information filed with the department for compliance with statutory requirements and standards. The division's staff shall include rating examiners with sufficient actuarial expertise. Upon the request of the commissioner, the division shall review rates and supplementary rate information, and any suspected violation of the statutory requirements and standards of sections 38a-663 to 38a-696, inclusive, as amended by this act, found pursuant to such review

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shall be referred to the commissioner for appropriate action. The division may assist the commissioner in formalizing the commissioner's findings regarding such actions. The commissioner shall report, in accordance with section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to insurance on or before January [15, 1988, and] fifteenth annually, [thereafter,] concerning (1) the number and type of reviews conducted by the division in the prior calendar year, and (2) the percentage of increase or decrease in rates reviewed by the division during the preceding calendar year, by line and subline of insurance.

Sec. 3. Subsection (b) of section 38a-12 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) On or before January 15, 2001, and annually thereafter, the commissioner shall submit to the joint standing committee of the General Assembly having cognizance of matters relating to insurance a report, in accordance with the provisions of section 11-4a, detailing all the information the commissioner received during the past year pursuant to sections 29-311, 31-290d, 38a-356 and 53-445.

Sec. 4. Subdivision (3) of subsection (e) of section 38a-14 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) [No] Not later than sixty days following completion of the examination, the examiner in charge shall file, under oath, with the Insurance Department a verified written report of examination. Upon receipt of the verified report, the Insurance Department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity, not to exceed thirty days, to make a written submission or rebuttal with respect to any matters contained in the examination report. [Within]

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Not later than thirty days [of the end of] after the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order: (A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violation; [or] (B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refile pursuant to subparagraph (A) of this subdivision; or (C) calling for an investigatory hearing with [no] not less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

Sec. 5. Subdivision (2) of subsection (f) of section 38a-14 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) Any investigatory hearing conducted under subparagraph (C) of subdivision (3) of subsection (e) of this section by the commissioner or authorized representative, shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent (A) upon the filed examination report, (B) raised by or as a result of the commissioner's review of relevant workpapers, or (C) by the written submission or rebuttal of the company. [Within] Not later than twenty days [of] after the conclusions of any such hearing, the commissioner shall enter an order pursuant to subparagraph (A) of subdivision (3) of subsection (e) of this section. The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The

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hearing shall proceed expeditiously with discovery by the company limited to the examiner's workpapers [which] that tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or his authorized representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation, whether under the control of the department, the company or other persons. The documents produced shall be included in the record and testimony taken by the commissioner or his authorized representative shall be under oath and preserved for the record. Nothing contained in this section shall require the department to disclose any information or records [which] that would indicate or show the existence or content of any investigation or activity of a criminal justice agency. The hearing shall proceed with the commissioner or his authorized representative posing questions to the persons subpoenaed. Thereafter the company and the Insurance Department may present testimony relevant to the investigation. Cross-examination shall be conducted only by the commissioner or his authorized representative. The company and the Insurance Department shall be permitted to make closing statements and may be represented by counsel of their choice.

Sec. 6. Subdivision (5) of subsection (k) of section 38a-14 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

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Sec. 7. Subsection (a) of section 38a-16 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Insurance Commissioner or [his] the commissioner's authorized representative may, as often as [he] the commissioner deems necessary, conduct investigations and hearings in aid of any investigation on any matter under the provisions of this title. Pursuant to any such investigation or hearing, the commissioner or [his] the commissioner's authorized representative may issue subpoenas, administer oaths, compel testimony, order the production of books, records, papers and documents, and examine books and records. If any person refuses to allow the examination of books and records, to appear, to testify or to produce any book, record, paper or document when so ordered, a judge of the Superior Court, upon application of the commissioner or [his] the commissioner's authorized representative, may make such order as may be appropriate to aid in the enforcement of this section.

Sec. 8. Section 38a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

If, in the opinion of the commissioner, any insurance company, fraternal benefit society, health care center or residual market mechanism is doing business in an illegal or improper manner or is failing to adjust and pay losses and obligations when they become due, except claims to which, in the judgment of the commissioner there is a substantial defense, [he] the commissioner may order it to discontinue such illegal or improper method of doing business and may order it to adjust and pay its losses and obligations as they become due.

Sec. 9. Subsection (a) of section 38a-18 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(a) Whenever any domestic insurance company or corporation [which is] under the supervision of the commissioner: (1) [is] Is insolvent; [or] (2) has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the commissioner, his actuary or examiner; [or] (3) has permitted its capital to fall below the limits specified in either section 38a-72 or its charter, [or] has failed to restore any deficiency within the time prescribed by subsection (d) of section 38a-71, or has failed to observe any other order of the commissioner authorized by statute; [or] (4) has, by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other company, corporation or association, without having first obtained the written approval of the commissioner; [or] (5) is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders or to its creditors or to the public; [or] (6) has wilfully violated its charter or any law of the state; [or] (7) whenever any officer or director of such company has refused to be examined under oath concerning its affairs; or (8) if such company is organized under the laws relating to assessment companies, its condition is found, after examination, to be such that it could not meet the lawful requirements for incorporation and authorization, [then and in any such case] the commissioner may, the Attorney General representing him, apply to the superior court or any judge thereof for the judicial district in which the principal office of such company is located, for an order directing such company to show cause why the commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors and stockholders or the public may require.

Sec. 10. Subdivision (2) of subsection (a) of section 38a-53 of the general statutes is repealed and the following is substituted in lieu

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thereof (*Effective from passage*):

(2) Each accredited reinsurer, as defined in subdivision (1) of subsection (c) of section 38a-85, and assuming insurance company, as provided in section 38a-85, shall file an annual report in accordance with the provisions of section 38a-85.

Sec. 11. Subdivision (2) of subsection (c) of section 38a-91hh of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) In conducting the examination, the commissioner, the commissioner's actuary or any examiner authorized by the commissioner may examine, under oath, the officers and agents of such a company and all persons deemed to have material information regarding the company's property or business. Each such company, its officers and agents shall produce the books and papers, in its or their possession, relating to its business or affairs, and any other person may be required to produce any book or paper, in his custody, deemed to be relevant to such examination for the inspection of the commissioner, the commissioner's actuary or examiners, when required. The officers and agents of the company shall facilitate the examination and aid the examiners in making the same so far as it is in their power to do so. The refusal of any company by its officers, directors, employees or agents to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension of, or [refusal] revocation of or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or [refusal] nonrenewal of any license or authority shall be conducted pursuant to section 38a-91ii.

Sec. 12. Subsections (g) to (i), inclusive, of section 38a-91hh of the general statutes are repealed and the following is substituted in lieu

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thereof (*Effective from passage*):

(g) Nothing contained in this section shall prevent or be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to such report to (1) the Insurance Department of this or any other state or country, (2) law enforcement officials of this or any other state, or (3) any agency of the federal government at any time, [unless] so long as such agency or office receiving the report or matters relating to such report agrees, in writing, that such documents shall be confidential.

(h) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this section shall (1) be confidential, (2) not be subject to subpoena, and (3) not be made public by the commissioner or any other person, except to the extent provided in subsection (g) of this section. Access to such information may be granted by the commissioner to the National Association of Insurance Commissioners, [unless] so long as it agrees, in writing, that such information shall be confidential.

(i) (1) The commissioner may engage the services of, from time to time, on an individual basis, qualified actuaries, certified public accountants or other similar individuals who are independently practicing their professions, even though [said] such persons may, from time to time, be similarly employed or retained by persons subject to examination under this section.

(2) No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representatives or any examiner appointed by the commissioner for any statements made or conduct performed in good faith while

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carrying out the provisions of this section.

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

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

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

Sec. 13. Subsections (a) and (b) of section 38a-91nn of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Each captive insurance company shall pay to the Commissioner of Revenue Services, in the month of February of each year, a tax at the rate of thirty-eight hundredths of one per cent on the first twenty million dollars and two hundred eighty-five thousandths of one per cent on the next twenty million dollars and nineteen hundredths of one per cent on the next twenty million dollars and seventy-two thousandths of one per cent on each dollar thereafter, on the direct

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premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December thirty-first next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders, except that no tax shall be due or payable as to considerations received for annuity contracts.

(b) The annual minimum aggregate tax to be paid by a captive insurance company calculated under [subsections] subsection (a) [and (b)] of this section shall be seven thousand five hundred dollars, and the annual maximum aggregate tax shall be two hundred thousand dollars.

Sec. 14. Subsection (f) of section 38a-226a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) If the commissioner determines that additional data from a utilization review company [is] are necessary to determine compliance with the provisions of sections 38a-226 to 38a-226d, inclusive, he may require the utilization review company to provide data relating to reviews, appeals and denials.

Sec. 15. Section 38a-260 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

[Any] Each purchasing group meeting the criteria established under the provisions of the Liability Risk Retention Act of 1986 shall be exempt from any law of this state relating to the creation of groups for the purchase of insurance, prohibition of group purchasing or any law that would discriminate against a purchasing group or its members. [Any] Each insurer shall be exempt from any law of this state [which]

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that prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverage or other matters. [Any] Each purchasing group shall be subject to all other applicable laws of this state. [Any] No purchasing group [may not] shall purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in this state, unless the purchase is effected through a licensed producer acting pursuant to the surplus lines, laws and regulations of this state. A purchasing group [which] that obtains liability insurance from a risk retention group or an insurer not admitted in this state shall inform each of the members of the group [which] that have a risk resident or located in this state that the risk is not protected by the Connecticut Insurance Guaranty Association, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state. No purchasing group [may] shall purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, [; however,] except that such coverage may provide for a deductible or self-insured retention applicable to individual members.

Sec. 16. Subsection (b) of section 38a-364 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Each insurance company that issues private passenger motor vehicle liability insurance providing the security required by sections 38a-19 and 38a-363 to 38a-388, inclusive, shall issue annually to each such insured an automobile insurance identification card, in duplicate, for each insured vehicle, one of which shall be presented to the commissioner as provided in section 14-12b and the other carried in the vehicle as provided in section 14-12f. Except as provided in subsection (c) of this section, such card shall be effective for a period of one year and shall include the name of the insured and insurer, the

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policy number, the effective date of coverage, the year, make or model and vehicle identification number of the insured vehicle and an appropriate space wherein the insured may set forth the year, make or model and vehicle identification number of any private passenger motor vehicle that becomes covered as a result of a change in the covered vehicle during the effective period of the identification card. When an insured has five or more private passenger motor vehicles registered in this state, the insurer may use the designation "all owned vehicles" on each card in lieu of a specific vehicle description. Each insurance company that delivers, issues for delivery or renews such private passenger motor vehicle liability insurance in this state on or after January 1, 2009, shall include on such card, the following notice, printed in capital letters and boldface type:

NOTICE:

**YOU HAVE THE RIGHT TO CHOOSE THE LICENSED REPAIR SHOP WHERE THE DAMAGE TO YOUR MOTOR VEHICLE WILL BE REPAIRED.**

Sec. 17. Subsections (c) and (d) of section 38a-465a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) A life insurance producer, who has been duly licensed as a resident insurance producer with a life line of authority in this state or in [said] such producer's home state for not less than one year and is licensed as a nonresident producer pursuant to section 38a-702g, shall be deemed to meet the licensing requirements of this section and shall be permitted to operate as a broker.

(d) Not later than thirty days [from] after the first day of operating as a broker, a life insurance producer shall notify the commissioner that [said] such producer is acting as a broker on a form prescribed by

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the commissioner, and shall pay a filing fee as specified in section 38a-11. Such notification shall include an acknowledgement by the life insurance producer that [said] such producer shall operate as a broker in accordance with this part.

Sec. 18. Subsection (a) of section 38a-465c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person shall use any form of life settlement contract or disclosure statement in this state unless such form has been filed with and approved by the commissioner. The commissioner shall disapprove a life settlement contract form or disclosure statement form if the commissioner finds any provision in said form is unreasonable, contrary to the interests of the public, fails to comply with the provisions of sections 38a-465f, 38a-465g [,] and 38a-465n and subsection (b) of section 38a-465k, or is otherwise misleading or unfair to the owner. The commissioner may require the submission of advertising materials.

Sec. 19. Subsection (a) of section 38a-465e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) When the commissioner deems it reasonably necessary to protect the interests of the public, the commissioner may examine the business and affairs of any licensee or applicant for a license. The commissioner may order any licensee or applicant to produce any records, books, files or other information reasonably necessary to ascertain whether such [license] licensee or applicant is acting or acted in violation of the law or is otherwise contrary to the interests of the public. The licensee or applicant shall pay all expenses incurred by the commissioner in conducting any examination.

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Sec. 20. Subdivision (1) of subsection (e) of section 38a-465e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) (1) Upon determining that an examination should be conducted, the commissioner shall issue an examination warrant appointing one or more examiners to perform [said] such examination and instructing them as to its scope. In conducting the examination, the examiner shall use methods common to the examination of any life settlement licensee and shall use guidelines and procedures set forth in an examiners' handbook adopted by a national organization.

Sec. 21. Subparagraph (B) of subdivision (2) of subsection (c) of section 38a-465h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(B) The loan arrangement for this policy provides funds sufficient to pay for partial or full payment of the premiums, costs and expenses associated with obtaining and maintaining such life insurance policy, and that such applicant or insured has not entered into any agreement by which such applicant or insured will receive consideration in exchange for procuring such policy.

Sec. 22. Subdivision (5) of subsection (a) of section 38a-465i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(5) Receive, if providing premium financing, any proceeds, fees or other consideration from the policy or policy owner that are in addition to the amounts required to pay principal, interest or any costs or expenses, which are reasonable in type and amount, incurred by the lender or borrower in connection with such premium finance agreement, except in the event of a default, provided neither default on such loan [or] nor the transfer of the policy, in connection with such

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default, is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this part. Any payments, charges, fees or other amounts received by a person or entity providing premium financing in violation of this subdivision shall be remitted to the original owner of the policy or to such owner's estate if said original owner is not living at the time of the determination of the overpayment.

Sec. 23. Subparagraph (A)(i) of subdivision (2) of subsection (a) of section 38a-465j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(i) Presenting, causing to be presented or preparing with knowledge and belief that it will be presented to or by a provider, premium finance lender, broker, insurer, insurance producer or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following: (I) An application for the issuance of a life settlement contract or insurance policy; (II) the underwriting of a life settlement contract or insurance policy; (III) a claim for payment or benefit pursuant to a life settlement contract or insurance policy; (IV) premiums paid on an insurance policy; (V) payments and changes in ownership or beneficiary made in accordance with the terms of a life settlement contract or insurance policy; (VI) the reinstatement or conversion of an insurance policy; (VII) [in] the solicitation, offer to enter into, or effectuation of a life settlement contract or insurance policy; (VIII) the issuance of written evidence of a life settlement contract or insurance policy; (IX) any application for or the existence of or any payments related to a loan secured directly or indirectly by any interest in a life insurance policy; or (X) [enter] the entry into any practice or plan that involves stranger-originated life insurance.

Sec. 24. Subsection (a) of section 38a-465p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from*

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*passage*):

(a) Any provider or broker lawfully transacting business in this state prior to October 1, 2008, may continue to do so pending approval or disapproval of such [provider] provider's or broker's application for a license, provided such application is filed with the commissioner not later than thirty days after October 1, 2008. During the time that such application is pending with the commissioner, the applicant may use any form of life settlement contract that has been filed with the commissioner pending approval thereof, provided that such form is otherwise in compliance with the provisions of this part. Any person transacting business in this state under this provision shall be obligated to comply with all other requirements of this part.

Sec. 25. Subsection (c) of section 38a-470 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) The lien shall arise at the time such benefits are paid or such services are rendered. The person or entity furnishing such benefits or services shall serve written notice upon the employee, the insurance company providing workers' compensation benefits or the employer, if self-insured, and the workers' compensation commissioner for the district in which the claim for workers' compensation has been filed, setting forth the nature and extent of the lien allowable under subsection (b) of this section. The lien shall be effective against any workers' compensation award made after the notice is received.

Sec. 26. Subsection (c) of section 38a-696 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Reports filed pursuant to subsection (b) of this section shall include the following data, both specific to the state and country-wide,

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on a calendar year basis by the type of insurance for the previous calendar year ending on the thirty-first day of December next preceding. Such data [includes] include: (1) Direct premiums written; (2) direct premiums earned; (3) incurred loss and loss adjustment expense; (4) incurred expenses; and (5) policyholder dividends. For purposes of this subsection, estimates may be used where credible data are unavailable.

Sec. 27. Subsection (f) of section 38a-860 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) (1) Sections 38a-858 to 38a-875, inclusive, shall provide coverage to the persons specified in subsections (a) to (d), inclusive, of this section for direct, nongroup life, health or annuity policies or contracts and supplemental contracts to such policies or contracts, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by said sections. Annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement annuities, annuities issued to or in connection with government lotteries and any immediate or deferred annuity contracts. (2) Said sections 38a-858 to 38a-875, inclusive, shall not provide coverage for: (A) Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder; (B) any policy or contract of reinsurance, unless assumption certificates have been issued; (C) any portion of a policy or contract to the extent that the rate of interest on which it is based or the interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value (i) averaged over the period of

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four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, exceeds the rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, whichever is earlier; and (ii) on and after the date on which the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available; (D) any plan or program of an employer, association or similar entity to provide life, health or annuity benefits to its employees or members to the extent that such plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or similar entity under (i) a multiple employer welfare arrangement as defined in Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended from time to time; (ii) a minimum premium group insurance plan; or (iii) an administrative services only contract; (E) any stop-loss or excess loss insurance policy or contract providing for the indemnification of or payment to a policy owner, a contract owner, a plan or another person obligated to pay life, health or annuity benefits; (F) any portion of a policy or contract to the extent that it provides dividends, experience rating credits, voting rights or provides that any fees or allowances be paid to any person, including, but not limited to, the policy or contract holder, in connection with the service to or administration of such policy or contract; (G) any policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue such policy or contract in this state; (H) any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation,

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regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payments with respect to the benefit plan; (I) any portion of an unallocated annuity contract that is not issued to, or in connection with a specific employee, union or association of natural persons benefit plan or a government lottery; (J) any subscriber contract issued by a health care center; (K) a contractual agreement that establishes the insurer's obligation by reference to a portfolio of assets that is not owned or possessed by the insurance company; (L) an obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including, but not limited to: (i) A claim based on marketing materials; (ii) a claim based on side letters, riders or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements; (iii) a misrepresentation of or regarding policy benefits; (iv) an extra-contractual claim; or (v) a claim for penalties or consequential or incidental damages; (M) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer; and (N) a portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under sections 38a-858 to 38a-875, inclusive, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subparagraph, the interest or change in value determined by using the procedures defined in the policy or contract shall be credited as if the

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contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and shall not be subject to forfeiture.

Sec. 28. Subsection (g) of section 38a-860 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(g) The benefits for which the association may become liable shall in no event exceed the lesser of: (1) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired insurer, or (2) (A) with respect to any one life, regardless of the number of policies or contracts: (i) Five hundred thousand dollars in life insurance death benefits, but no more than five hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance; (ii) five hundred thousand dollars in health insurance benefits, including, but not limited to, any net cash surrender and net cash withdrawal values; (iii) five hundred thousand dollars in the present value of annuity benefits, including, but not limited to, net cash surrender and net cash withdrawal values; (B) with respect to each individual participating in a governmental retirement plan established under Section 401, 403(b) or 457 of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, five hundred thousand dollars in present value annuity benefits, including, but not limited to, net cash surrender and net cash withdrawal values; (C) with respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, five hundred thousand dollars in present value annuity benefits, in the aggregate, including, but not limited to, net cash surrender and net cash withdrawal values, if any, provided in no event shall the association be liable to expend (i) more than the five hundred thousand dollars in the aggregate with respect to any one individual

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under subparagraphs (A), (B) and (C) of this subdivision, and (ii) with respect to one owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, more than five million dollars in benefits, regardless of the number of policies and contracts held by the owner; (D) with respect to either (i) one contract owner provided coverage under [subparagraph (B) of] subdivision (2) of subsection (b) of this section, or (ii) one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in [subdivision (2) of subsection (f) of this section] subparagraph (B) of subdivision (2) of this subsection, five million dollars in benefits regardless of the number of contracts with respect to the contract owner or plan sponsor, except that in the case where one or more unallocated annuity contracts are covered contracts under sections 38a-858 to 38a-875, inclusive, and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state and in no event shall the association be obligated to cover more than five million dollars in benefits with respect to all such unallocated contracts.

Sec. 29. Section 38a-981 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Notwithstanding any provision of the general statutes, [to the contrary,] no insurance institution, agent or insurance-support organization may utilize as its disclosure authorization form in connection with insurance transactions, a form or statement [which] that authorizes the disclosure of personal or privileged information concerning an individual to an insurance institution, agent, or insurance-support organization unless the form or statement: (1) Is

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written in plain language substantially complying with the tests enumerated in subsection (b) of section 42-152; (2) is dated; (3) specifies the types of persons authorized to disclose information concerning the individual; (4) specifies the nature of the information authorized to be disclosed; (5) identifies the insurance institution or agent and the types of representatives of the insurance institution to whom the individual has authorized the information to be disclosed; (6) specifies the purposes for which the information is collected; (7) specifies the length of time such authorization shall remain valid, which shall be [no] not longer than: (A) In the case of authorizations signed for the purpose of collecting information in connection with an application for an insurance policy, a policy reinstatement or a request for a change in policy benefits, [ : (i) Thirty] (i) thirty months from the date the authorization is signed if the application or request involves life, health or disability insurance, or (ii) one year from the date the authorization is signed if the application or request involves property or casualty insurance; [ ] (B) in the case of authorizations signed for the purpose of collecting information in connection with a claim for benefits under an insurance policy, [ : (i) The] (i) the term of coverage of the policy if the claim involves a health insurance benefit, or (ii) the duration of the claim if it involves an insurance benefit which is not a health insurance benefit; and (8) advises the individual or a person authorized to act on [his] such individual's behalf that [he] such individual or authorized person is entitled to receive a copy of the authorization form.

(b) (1) An insurance institution or a third-party administrator providing insurance or administrative services with respect to an employer's employee benefit plan [which] that provides its employees with health benefits shall, upon written request of an exclusive bargaining agent for such employees, provide such bargaining agent with information regarding description of health benefits available to such employees, claim experience regarding such benefits and the cost to the employer for such coverage or administrative services, as the

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case may be, for employees in the bargaining unit represented by such bargaining agent. If such employees constitute a subgroup of a multi-bargaining-unit group, the information provided by the insurance institution or administrator shall, upon written request of the exclusive bargaining agent for the subgroup, include a description of available health benefits, claim experience regarding such benefits and the cost to the employer for such coverage or administrative services, as the case may be, for the entire multi-bargaining-unit group or for subgroups within the multi-bargaining-unit group. A copy of such information shall be provided at the same time to the employer by the insurance institution or administrator. Such information shall be made available to the bargaining agent and the employer only if the bargaining agent agrees in writing to pay all reasonable costs, as determined by the insurance institution or administrator, that are incurred by the insurance institution or administrator in developing and distributing the information. The information provided to such agent shall relate to the group of employees as a whole and shall not include any information relating to specific individuals. No requests made pursuant to this subdivision [may] shall seek information [which] that relates to a period of time more than twenty-four months prior to the date such request was made.

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

(3) The provisions of this subsection shall not apply to employees participating in an employee welfare benefit plan subject to the provisions of Title I of the Employee Retirement Income Security Act

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of 1974, [(ERISA), Public Law] P.L. 93-406, as amended from time to time, or to the exclusive bargaining agents of such employees.

Sec. 30. Subsection (b) of section 38a-984 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) If the insurance institution, agent or insurance-support organization corrects, amends or deletes recorded personal information in accordance with subdivision (1) of subsection (a) of this section, it shall so notify the individual in writing and furnish the correction, amendment or fact of deletion to: (1) Any person specifically designated by the individual who may have, within the preceding two years, received such recorded personal information; (2) any insurance-support organization whose primary source of personal information is insurance institutions if such organization has systematically received such information from the insurance institution within the preceding seven years, [;] provided [that] the correction, amendment or deletion need not be furnished if the organization no longer maintains the information about the individual; and (3) any insurance-support organization that furnished the personal information that has been corrected, amended or deleted.

Sec. 31. Section 20-329e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Before the commission issues any license under [sections 20-329a to 20-329m, inclusive] section 20-329f, as amended by this act, to any person or broker, the Department of Consumer Protection shall fully investigate all information placed before the department as may be required pursuant to sections 20-329a to 20-329m, inclusive, and may carry out a physical examination, investigation or inspection of any subdivision which is the subject of the application. All reasonable expenses incurred in carrying out such examination, investigation or

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inspection shall be paid by the applicant and no such license shall be issued until such expenses have been fully paid.

Sec. 32. Subsection (a) of section 20-329f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The commission shall, upon completion of the investigation and inspection as provided in section 20-329e, as amended by this act, but, in the absence of any agreement to the contrary between the applicant and the commission, not later than three months from the receipt of the completed license application, or receipt of an effective statement of record filed with the Secretary of Housing and Urban Development and filed with the commission pursuant to subsection (c) of section 20-329b, (1) approve or disapprove the prospectus, property report or offering statement submitted under subsection (c) of section 20-329b or section 20-329d, as the case may be, and (2) if satisfied, issue to the applicant, upon payment to the commission of a fee computed as provided in subsection (b) of this section, a license to offer and dispose of in this state the subdivision or parcels, units or other interests in any subdivision that is the subject of the application or such effective statement of record. Such license shall be valid for one year and may be renewed annually upon payment to the commission of a fee, computed as provided in subsection (b) of this section, unless there is a material change affecting such subdivision or lot, parcels, units or other interest in any subdivision or the offer or disposition thereof, in which case all new facts shall be reported to the commission immediately. Upon receipt of such report or in the event that any such material change is discovered by or comes to the attention of the commission through other sources, the commission may, after a hearing pursuant to section 20-321, take such action as the commission considers necessary, including the suspension or revocation of such license if justified.

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Sec. 33. Subsection (b) of section 42-491 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Each such contracting entity that sells, leases, rents, assigns or grants access to any covered entity, a physician panel or a health care provider's health care services, discounted rates or fees shall:

(1) Maintain an Internet web site or a toll-free telephone number through which a health care provider may obtain a listing of the covered entities to which such provider's services, discounted rates or fees [has] have been sold, leased, rented, assigned or granted access; and

(2) Upon request at the time of entering into such contract, provide a list to the health care provider of all known covered entities to which such contracting entity may sell, lease, rent, assign or grant access to such provider's health care services, discounted rates or fees.

Approved May 27, 2009