



General Assembly

Amendment

January Session, 2009

LCO No. 8531

HB0652908531HDO

Offered by:

REP. FONTANA, 87th Dist.

SEN. CRISCO, 17th Dist.

To: Subst. House Bill No. 6529

File No. 311

Cal. No. 251

**"AN ACT CONCERNING THE LICENSING AND REGULATION OF
THIRD-PARTY ADMINISTRATORS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2009*) As used in sections 1 to
4 15, inclusive, of this act:

5 (1) "Adjuster" means an individual who investigates or settles loss
6 claims. "Adjuster" does not include an employee of an insurer who
7 investigates or settles claims incurred under insurance contracts
8 written by the insurer or an affiliated insurer.

9 (2) "Affiliate" or "affiliated" has the same meaning as provided in
10 section 38a-1 of the general statutes.

11 (3) "Business entity" means a corporation, a limited liability
12 company or any other similar form of business organization, whether
13 for profit or nonprofit.

- 14 (4) "Commissioner" means the Insurance Commissioner.
- 15 (5) "Control" or "controlled by" has the same meaning as provided
16 in section 38a-1 of the general statutes.
- 17 (6) "Insurance producer" has the same meaning as provided in
18 section 38a-702a of the general statutes.
- 19 (7) "Insurer" or "insurance company" means any person or
20 combination of persons doing any kind or form of insurance business
21 other than a fraternal benefit society, and includes a captive insurance
22 company, as defined in section 38a-91aa of the general statutes, a
23 captive insurer as defined in section 38-91k of the general statutes, a
24 licensed insurance company, a medical service corporation, a hospital
25 service corporation, a health care center, and a consumer dental plan
26 that provides employee welfare benefits on a self-funded basis or as
27 defined in section 38a-577 of the general statutes.
- 28 (8) "NAIC" means the National Association of Insurance
29 Commissioners.
- 30 (9) "Person" has the same meaning as provided in section 38a-1 of
31 the general statutes.
- 32 (10) "Sell" means the exchange of an insurance contract for money or
33 other consideration, by any means, on behalf of an insurance company.
- 34 (11) "Third-party administrator" means any person who directly or
35 indirectly underwrites, collects premiums or charges from, or adjusts
36 or settles claims on, residents of this state in connection with life,
37 annuity or health coverage offered or provided by an insurer. "Third-
38 party administrator" does not include:
- 39 (A) An employer administering its employee benefit plan or the
40 benefit plan of an affiliated employer under common management and
41 control;
- 42 (B) A union administering a benefit plan on behalf of its members;

43 (C) An insurer that is licensed in this state or is acting as an
44 authorized insurer with respect to insurance lawfully issued to cover a
45 Connecticut resident, and sales representatives thereof;

46 (D) An insurance producer who is licensed to sell life, annuity or
47 health coverage in this state, whose activities are limited exclusively to
48 the sale of insurance;

49 (E) A creditor acting on behalf of its debtors with respect to
50 insurance covering a debt between the creditor and its debtors;

51 (F) A trust and its trustees, agents and employees acting pursuant to
52 such trust established in conformity with 29 USC Section 186, as
53 amended from time to time;

54 (G) A trust exempt from taxation under Section 501(a) of the
55 Internal Revenue Code of 1986, or any subsequent corresponding
56 internal revenue code of the United States, as amended from time to
57 time, and its trustees and employees acting pursuant to such trust, or a
58 custodian and the custodian's agents and employees acting pursuant
59 to a custodian account that meets the requirements of Section 401(f) of
60 the Internal Revenue Code of 1986, or any subsequent corresponding
61 internal revenue code of the United States, as amended from time to
62 time;

63 (H) A credit union or a financial institution that is subject to
64 supervision or examination by federal or state banking authorities, or a
65 mortgage lender, to the extent such credit union, financial institution
66 or mortgage lender collects or remits premiums to licensed insurance
67 producers or limited lines producers or to authorized insurers, in
68 connection with loan payments;

69 (I) A credit card issuing company that advances or collects
70 premiums or charges from its credit cardholders who have authorized
71 collection;

72 (J) An attorney-at-law who adjusts or settles claims in the normal

73 course of such attorney's practice or employment and who does not
74 collect premiums or charges in connection with life, annuity or health
75 coverage;

76 (K) An adjuster who is licensed in this state or is not subject to the
77 licensure requirements of chapter 702 of the general statutes and
78 whose activities are limited to adjusting claims;

79 (L) An insurance producer who is licensed in this state and acting as
80 a managing general agent, as defined in section 38a-90a of the general
81 statutes, whose activities are limited exclusively to those specified in
82 said section;

83 (M) A business entity that is affiliated with an insurer licensed in
84 this state and that undertakes activities as a third-party administrator
85 only for the direct and assumed insurance business of the affiliated
86 insurer;

87 (N) A consortium of federally qualified health centers funded by the
88 state, providing services only to the recipients of programs
89 administered by the Department of Social Services;

90 (O) A pharmacy benefits manager registered under section 38a-
91 479bbb of the general statutes; or

92 (P) An entity providing administrative services to the Health
93 Reinsurance Association established under section 38a-556 of the
94 general statutes.

95 (12) "Underwrites" or "underwriting" means, but is not limited to,
96 the acceptance of employer or individual applications for coverage of
97 individuals in accordance with the written rules of the insurer or self-
98 funded plan, and the overall planning and coordination of a benefits
99 program.

100 (13) "Uniform application" means the current version of the
101 National Association of Insurance Commissioners' Uniform
102 Application for Third Party Administrators.

103 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) No person shall offer to
104 act as or hold himself out to be a third-party administrator in this state
105 unless such person is licensed pursuant to section 11 of this act, or is
106 exempt from licensure pursuant to subsection (b) of this section. This
107 requirement shall not apply to a person employed by a third-party
108 administrator to the extent that such person's activities are under the
109 supervision and control of the third-party administrator. The authority
110 granted to a third-party administrator pursuant to sections 1 to 10,
111 inclusive, of this act shall not exempt such third-party administrator's
112 employees from the licensing requirements of chapters 701b and 702 of
113 the general statutes.

114 (b) (1) Any insurer licensed in this state that directly or indirectly
115 underwrites, collects premiums or charges from, or adjusts or settles
116 claims for other than its policyholders, subscribers and certificate
117 holders shall be exempt from sections 1 to 15, inclusive, of this act,
118 provided such activities only involve the lines of insurance for which
119 such insurer is licensed in this state. Any such insurer shall (A) be
120 subject to the provisions of chapter 704 of the general statutes, (B)
121 respond to all complaint inquiries received from the Insurance
122 Department, not later than ten calendar days after the date a complaint
123 is received by the insurer, and (C) with respect to any advertising that
124 mentions any customer, obtain such customer's prior written consent.

125 (2) Nothing in this section shall authorize the commissioner to
126 regulate a self-insured health plan subject to the Employee Retirement
127 Income Security Act of 1974. The commissioner is authorized to
128 regulate those activities an insurer undertakes for the administration of
129 a self-insured health plan that do not relate to the health benefit plan
130 and that comport with the commissioner's statutory authority to
131 regulate insurance and the business of insurance as provided for in 29
132 USC 1144, as amended from time to time.

133 (c) No third-party administrator shall act as such without a written
134 agreement between such third-party administrator and an insurer or
135 other person utilizing the services of the third-party administrator,

136 which shall be retained as part of the official records of both the third-
137 party administrator and such insurer or other person for the duration
138 of such agreement and for five years thereafter. The agreement shall
139 contain all provisions required by this section, except insofar as those
140 provisions that do not apply to the activities performed by the third-
141 party administrator.

142 (d) The written agreement set forth in subsection (c) of this section
143 shall include, but not be limited to:

144 (1) A statement of activities that the third-party administrator shall
145 undertake on behalf of the insurer or other person utilizing the services
146 of the third-party administrator, and the lines, classes or types of
147 insurance such third-party administrator is authorized to administer;

148 (2) A statement of the activities and responsibilities of the third-
149 party administrator regarding the administration of or any standards
150 pertaining to business underwritten by the insurer, benefits, premium
151 rates, underwriting criteria or claims payment;

152 (3) A provision requiring the third-party administrator to render an
153 accounting, on such frequency as the parties agree, that details all
154 transactions performed by the third-party administrator pertaining to
155 the business underwritten by the insurer or the business of the person
156 utilizing the services of the third-party administrator;

157 (4) The procedures for any withdrawals to be made by the third-
158 party administrator from the fiduciary account established under
159 section 7 of this act. Such procedures shall address, but not be limited
160 to: (A) Remittance to an insurer or other person utilizing the services of
161 the third-party administrator who is entitled to remittance; (B) deposit
162 in an account maintained in the name of the insurer or other person
163 utilizing the services of the third-party administrator; (C) transfer to
164 and deposit in a claims-paying account, with claims to be paid as
165 provided for in subsection (d) of section 7 of this act; (D) payment to a
166 group policyholder for remittance to the insurer or other person
167 utilizing the services of the third-party administrator entitled to such

168 remittance; (E) payment to the third-party administrator for its
169 commissions, fees or charges; and (F) remittance of return premiums to
170 the person or persons entitled to such return premiums;

171 (5) Procedures and requirements for the disclosures required to be
172 made by the third-party administrator under section 9 of this act; and

173 (6) A termination provision, by which either party to the written
174 agreement may terminate such agreement for cause, that includes a
175 procedure to resolve any disputes regarding the cause for termination
176 of such agreement.

177 (e) A third-party administrator or insurer or other person utilizing
178 the services of the third-party administrator may, with written notice,
179 terminate the written agreement for cause as provided in such written
180 agreement. The insurer may suspend the underwriting authority of the
181 third-party administrator during the pendency of any dispute
182 regarding the cause for termination of the written agreement. The
183 insurer or other person utilizing the services of the third-party
184 administrator shall fulfill any legal obligations with respect to policies
185 or plans affected by the written agreement, regardless of any dispute
186 between the third-party administrator and the insurer or other person
187 utilizing the services of the third-party administrator.

188 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) If an insurer or other
189 person utilizes the services of a third-party administrator, the payment
190 of any premiums or charges by or on behalf of an insured to the third-
191 party administrator shall be deemed to have been received by the
192 insurer or other person utilizing the services of the third-party
193 administrator.

194 (b) Return premium payments or claim payments forwarded by the
195 insurer or other person utilizing the services of the third-party
196 administrator to the third-party administrator shall not be deemed to
197 have been paid to the insured or claimant until such payments are
198 received by such insured or claimant.

199 (c) Nothing in this section shall limit any right of an insurer or other
200 person utilizing the services of a third-party administrator to bring a
201 cause of action arising from the failure of such third-party
202 administrator to make payments to the insurer, other person utilizing
203 the services of the third-party administrator, insureds or claimants.

204 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) (1) Each third-party
205 administrator shall maintain and make available to the insurer or other
206 person utilizing the services of the third-party administrator complete
207 books and records of all transactions performed on behalf of the
208 insurer or other person utilizing the services of the third-party
209 administrator. Each third-party administrator shall (A) maintain such
210 books and records in accordance with prudent standards of insurance
211 record keeping, and (B) retain such books and records for a period of
212 not less than five years from the date of their creation.

213 (2) The insurer or other person utilizing the services of a third-party
214 administrator shall own any records generated by such third-party
215 administrator pertaining to such insurer or other person utilizing the
216 services of such third-party administrator. The third-party
217 administrator shall retain the right to maintain continued access to
218 books and records to permit the third-party administrator to fulfill all
219 of its contractual obligations to the insurer, other person utilizing the
220 services of the third-party administrator, insureds or claimants.

221 (b) An insurer that is affiliated with a business entity as set forth in
222 subparagraph (M) of subdivision (11) of section 1 of this act shall be
223 responsible for the acts of such business entity to the extent of such
224 business entity's activities as a third-party administrator for such
225 insurer. Such insurer shall be responsible for furnishing the books and
226 records of all transactions performed on behalf of the insurer to the
227 commissioner upon the commissioner's request.

228 (c) The commissioner shall have access for the purposes of
229 examination, audit and inspection to books and records maintained by
230 a third-party administrator. Any documents, materials or other

231 information in the possession or control of the commissioner that are
232 furnished by a third-party administrator, insurer, insurance producer
233 or employee or agent thereof acting on behalf of such third-party
234 administrator, insurer or insurance producer, or obtained by the
235 commissioner in an investigation shall (1) be confidential by law and
236 privileged, (2) not be subject to disclosure under section 1-210 of the
237 general statutes, (3) not be subject to subpoena, and (4) not be subject
238 to discovery or admissible in evidence in any private civil action. The
239 commissioner may use such documents, materials or other information
240 in the furtherance of any regulatory or legal action brought as a part of
241 the commissioner's official duties.

242 (d) Neither the commissioner nor any person who receives
243 documents, materials or other information as set forth in subsection (c)
244 of this section while acting under the authority of the commissioner
245 shall testify or be required to testify in any private civil action
246 concerning such documents, materials or information.

247 (e) To assist the commissioner in the performance of the
248 commissioner's duties, the commissioner may:

249 (1) Share documents, materials or other information, including
250 documents, materials or other information deemed confidential and
251 privileged pursuant to subsection (c) of this section, with other state,
252 federal and international regulatory agencies, the National Association
253 of Insurance Commissioners or its affiliates or subsidiaries and state,
254 federal and international law enforcement authorities, provided the
255 recipient of such documents, materials or other information agrees to
256 maintain the confidentiality and privileged status of such documents,
257 materials or other information;

258 (2) Receive documents, materials or other information, including
259 confidential and privileged documents, materials or other information
260 from the National Association of Insurance Commissioners or its
261 affiliates or subsidiaries and from regulatory and law enforcement
262 officials of foreign or domestic jurisdictions. The commissioner shall

263 maintain as confidential or privileged any documents, materials or
264 other information received with notice or the understanding that such
265 documents, materials or other information are confidential or
266 privileged under the laws of the jurisdiction that is the source of such
267 documents, materials or other information; and

268 (3) Enter into agreements governing the sharing and use of
269 information consistent with this subsection.

270 (f) No waiver of any applicable privilege or claim of confidentiality
271 in any documents, materials or other information shall occur as a
272 result of disclosure to the commissioner or of sharing in accordance
273 with subsection (e) of this section.

274 (g) Nothing in sections 1 to 15, inclusive, of this act shall prohibit the
275 commissioner from releasing final, adjudicated actions, including for
276 cause terminations of licenses issued to third-party administrators, to a
277 database or other clearinghouse service maintained by the National
278 Association of Insurance Commissioners or its affiliates or subsidiaries.

279 (h) Notwithstanding the provisions of subparagraph (B) of
280 subdivision (1) of subsection (a) of this section, if a written agreement
281 set forth in subsection (c) of this section is terminated, the third-party
282 administrator may, by a separate written agreement with the insurer
283 or other person utilizing the services of the third-party administrator,
284 transfer all books and records to a new third-party administrator. Such
285 new third-party administrator shall acknowledge to the insurer or
286 other person utilizing the services of the new third-party
287 administrator, in writing, that the new third-party administrator shall
288 be responsible for retaining the books and records of the prior third-
289 party administrator as required under subparagraph (B) of subdivision
290 (1) of subsection (a) of this section.

291 Sec. 5. (NEW) (*Effective October 1, 2009*) A third-party administrator
292 shall only use advertising pertaining to the business underwritten by
293 an insurer that has been approved, in writing, by the insurer prior to
294 its use. A third-party administrator that mentions any customer or

295 person utilizing the services of the third-party administrator in its
296 advertising shall obtain such customer's or person's prior written
297 consent.

298 Sec. 6. (NEW) (*Effective October 1, 2009*) (a) Each insurer or other
299 person utilizing the services of a third-party administrator shall be
300 responsible for determining the benefits, premium rates, underwriting
301 criteria and claims payment procedures for the lines, classes or types of
302 insurance such third-party administrator is authorized to administer,
303 and for securing reinsurance, if any. The insurer or other person
304 utilizing the services of a third-party administrator shall provide to
305 such third-party administrator, in writing, procedures pertaining to
306 such third-party administrator's administration of benefits, premium
307 rates, underwriting criteria and claims payment. Each insurer or other
308 person utilizing the services of a third-party administrator shall be
309 responsible for the competent administration of such insurer's or other
310 person's benefit and service programs.

311 (b) If a third-party administrator administers benefits for more than
312 one hundred certificate holders on behalf of an insurer or other person
313 utilizing the services of a third-party administrator, such insurer or
314 other person shall, at least semiannually, conduct a review of the
315 operations of the third-party administrator. At least one such review
316 shall be an on-site audit of the operations of the third-party
317 administrator.

318 Sec. 7. (NEW) (*Effective October 1, 2009*) (a) All premiums or charges
319 collected by a third-party administrator on behalf of or for an insurer
320 or other person utilizing the services of a third-party administrator,
321 and the return of premiums received from such insurer or other
322 person, shall be held by the third-party administrator in a fiduciary
323 capacity. The funds shall be immediately remitted to the person
324 entitled to them or deposited promptly in a fiduciary account
325 established and maintained by the third-party administrator in a
326 federal or state chartered, federally insured financial institution. The
327 third-party administrator shall render an accounting to the insurer or

328 other person utilizing the services of a third-party administrator that
329 details all transactions performed by the third-party administrator
330 pertaining to the business underwritten by the insurer or the business
331 of the person utilizing the services of a third-party administrator.

332 (b) Each third-party administrator that deposits in a fiduciary
333 account charges or premiums collected on behalf of or for one or more
334 insurers or other persons utilizing the services of the third-party
335 administrator shall keep clear records of the deposits in and
336 withdrawals from the account on behalf of each insurer or other
337 person utilizing the services of the third-party administrator. The
338 third-party administrator shall keep copies of all the records and, upon
339 request by the insurer or other person utilizing the services of the
340 third-party administrator, shall furnish such insurer or other person
341 with a copy of the records of the deposits and withdrawals pertaining
342 to such insurer or other person.

343 (c) A third-party administrator shall not pay any claim by making
344 withdrawals from a fiduciary account in which premiums or charges
345 are deposited. Withdrawals from the account shall be made as
346 provided in the written agreement set forth in subsection (c) of section
347 2 of this act.

348 (d) All claims paid by the third-party administrator from funds
349 collected on behalf of or for an insurer or other person utilizing the
350 services of the third-party administrator shall be paid only by drafts or
351 checks of, and as authorized by, such insurer or other person.

352 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) A third-party
353 administrator shall not enter into any written or oral agreement or
354 understanding with an insurer or other person utilizing the services of
355 the third-party administrator that makes or has the effect of making
356 the amount of the third-party administrator's commissions, fees, or
357 charges contingent upon savings effected in the adjustment, settlement
358 or payment of losses covered by the insurer's or other person utilizing
359 the services of the third-party administrator's obligations. This

360 provision shall not prohibit a third-party administrator from receiving
361 performance-based compensation for providing hospital auditing or
362 other auditing services.

363 (b) This section shall not prevent the compensation of a third-party
364 administrator from being based on premiums or charges collected or
365 the number of claims paid or processed.

366 Sec. 9. (NEW) (*Effective October 1, 2009*) (a) When the services of a
367 third-party administrator are utilized, such third-party administrator
368 shall provide a written notice, approved by the insurer or other person
369 utilizing the services of the third-party administrator, to insureds
370 advising them of the identity of, and relationship among, the third-
371 party administrator, the policyholder and the insurer or other person
372 utilizing the services of the third-party administrator.

373 (b) When a third-party administrator collects premiums, charges or
374 fees, the reason for collection of each item shall be identified to the
375 insured and each item shall be shown separately. Additional charges
376 shall not be made for services to the extent the services have been paid
377 for by the insurer or other person utilizing the services of the third-
378 party administrator.

379 (c) The third-party administrator shall disclose to the insurer or
380 other person utilizing the services of the third-party administrator all
381 charges, fees and commissions that the third-party administrator
382 receives arising from services it provides for the insurer or other
383 person utilizing the services of the third-party administrator, including
384 any fees or commissions paid by insurers providing reinsurance or
385 stop loss coverage.

386 Sec. 10. (NEW) (*Effective October 1, 2009*) Any policies, certificates,
387 booklets, termination notices or other written communications
388 delivered by an insurer or other person utilizing the services of a third-
389 party administrator to such third-party administrator for delivery to
390 such insurer's or other person's insureds shall be delivered by the
391 third-party administrator promptly after receipt of instructions to

392 deliver them from an insurer or other person utilizing the services of
393 the third-party administrator.

394 Sec. 11. (NEW) (*Effective October 1, 2009*) (a) A third-party
395 administrator applying for licensure shall submit an application to the
396 commissioner by using the uniform application and paying a fee
397 pursuant to section 38a-11 of the general statutes, as amended by this
398 act. The uniform application shall include or be accompanied by the
399 following information and documents: (1) All basic organizational
400 documents of the applicant, including any articles of incorporation,
401 articles of association, partnership agreement, trade name certificate,
402 trust agreement, shareholder agreement and other applicable
403 documents and all amendments to such documents; (2) the bylaws,
404 rules, regulations or similar documents regulating the internal affairs
405 of the applicant; (3) a NAIC biographical affidavit for the individuals
406 responsible for the conduct of affairs of the applicant, including (A) all
407 members of the board of directors, board of trustees, executive
408 committee or other governing board or committee; (B) the principal
409 officers in the case of a corporation or the partners or members in the
410 case of a partnership, association or limited liability company; (C) any
411 shareholders or member holding directly or indirectly ten per cent or
412 more of the voting stock, voting securities or voting interest of the
413 applicant; and (D) any other person who exercises control or influence
414 over the affairs of the applicant; (4) audited annual financial
415 statements or reports for the two most recent fiscal years that prove the
416 applicant has a positive net worth. If the applicant has been in
417 existence for less than two fiscal years, the uniform application shall
418 include financial statements or reports, certified by an officer of the
419 applicant and prepared in accordance with generally accepted
420 accounting principles, for any completed fiscal years and for any
421 month during the current fiscal year for which such financial
422 statements or reports have been completed. An audited annual
423 financial statement or report prepared on a consolidated basis shall
424 include a columnar consolidating or combining worksheet that shall be
425 filed with the report and include the following: (A) Amounts shown on

426 the consolidated audited financial report shall be shown on the
427 worksheet; (B) amounts for each entity shall be stated separately; and
428 (C) explanations of consolidating and eliminating entries shall be
429 included. The applicant shall include such other information as the
430 commissioner may require to review the current financial condition of
431 the applicant; (5) a statement describing the business plan including
432 information on staffing levels and activities proposed in this state and
433 nationwide. The plan shall provide details setting forth the applicant's
434 capability for providing a sufficient number of experienced and
435 qualified personnel in the areas of claims processing, recordkeeping
436 and underwriting; and (6) such other pertinent information as may be
437 required by the commissioner.

438 (b) A third-party administrator applying for licensure shall make
439 available for inspection by the commissioner copies of all written
440 agreements with insurers or other persons utilizing the services of the
441 third-party administrator.

442 (c) A third-party administrator applying for licensure shall produce
443 its accounts, records and files for examination and shall make its
444 officers available to give information with respect to its affairs, as often
445 as is reasonably required by the commissioner.

446 (d) The commissioner may refuse to issue a license if the
447 commissioner determines that the third-party administrator or any
448 individual responsible for the conduct of the affairs of the third-party
449 administrator is not competent, trustworthy, financially responsible or
450 of good personal and business reputation, or has had an insurance or a
451 third-party administrator certificate of authority or license denied or
452 revoked for cause by any jurisdiction, or if the commissioner
453 determines that any of the grounds set forth in section 14 of this act
454 exists with respect to the third-party administrator.

455 (e) Any license issued to a third-party administrator shall be in force
456 until September thirtieth of each year, unless sooner revoked or
457 suspended as provided in this section. The license may be renewed, at

458 the discretion of the commissioner, upon payment of the fee specified
459 in section 38a-11 of the general statutes, as amended by this act,
460 without the resubmission of the detailed information required in the
461 original application.

462 (f) A third-party administrator licensed or applying for licensure
463 under this section shall notify the commissioner immediately of any
464 material change in its ownership, control or other fact or circumstance
465 affecting its qualification for a license in this state.

466 (g) A third-party administrator licensed or applying for a license
467 under this section that administers or will administer governmental or
468 church self-insured plans in this state or any other state shall maintain
469 a surety bond, for use by the commissioner and the insurance
470 regulatory authority of any additional state in which the third-party
471 administrator is authorized to conduct business, to cover individuals
472 and persons who have remitted premiums, charges or fees to the third-
473 party administrator in the course of the third-party administrator's
474 business, in the greater of the following amounts: (1) One hundred
475 thousand dollars; or (2) ten per cent of the aggregate total amount of
476 self-funded coverage under governmental plans or church plans
477 handled in this state and all additional states in which the third-party
478 administrator is authorized to conduct business.

479 Sec. 12. (NEW) (*Effective October 1, 2009*) A person who is not
480 required to be licensed as a third-party administrator under
481 subdivision (11) of section 1 or section 2 of this act and who directly or
482 indirectly underwrites, collects charges or premiums from, or adjusts
483 or settles claims on residents of this state, only in connection with life,
484 annuity or health coverage provided by a self-funded plan other than
485 governmental or church plans, shall register annually with the
486 commissioner not later than October first on a form designated by the
487 commissioner.

488 Sec. 13. (NEW) (*Effective October 1, 2009*) (a) Each third-party
489 administrator licensed under section 11 of this act shall file an annual

490 report for the preceding calendar year with the commissioner on or
491 before July first of each year or within such extension of time as the
492 commissioner may grant for good cause. The annual report shall
493 include an audited financial statement performed by an independent
494 certified public accountant. An audited annual financial statement or
495 report prepared on a consolidated basis shall include a columnar
496 consolidating or combining worksheet that shall be filed with the
497 report and include the following: (1) Amounts shown on the
498 consolidated audited financial report shall be shown on the worksheet;
499 (2) amounts for each entity shall be stated separately; and (3)
500 explanations of consolidating and eliminating entries shall be
501 included. The report shall be in the form and contain such information
502 as the commissioner prescribes and shall be verified by at least two
503 officers of the third-party administrator.

504 (b) The annual report shall include the complete names and
505 addresses of all insurers or other persons with which the third-party
506 administrator had written agreements during the preceding fiscal year.

507 (c) At the time of filing the annual report, the third-party
508 administrator shall pay a filing fee as specified in section 38a-11 of the
509 general statutes, as amended by this act.

510 (d) The commissioner shall review the most recently filed annual
511 report of each third-party administrator on or before September first of
512 each year. Upon completion of its review, the commissioner shall: (1)
513 Issue a certification to the third-party administrator that the annual
514 report shows the third-party administrator has a positive net worth as
515 evidenced by audited financial statements and is currently licensed
516 and in good standing, or noting any deficiencies found in such annual
517 report or financial statements; or (2) update any electronic database
518 maintained by the National Association of Insurance Commissioners,
519 its affiliates or subsidiaries, indicating that the annual report shows the
520 third-party administrator has a positive net worth as evidenced by
521 audited financial statements and complies with existing law, or noting
522 any deficiencies found in such annual report or financial statements.

523 Sec. 14. (NEW) (*Effective October 1, 2009*) (a) The commissioner shall
524 suspend or revoke the license of a third-party administrator, or shall
525 issue a cease and desist order if the third-party administrator does not
526 have a license if, after notice and hearing, the commissioner finds that
527 the third-party administrator: (1) Is in an unsound financial condition;
528 (2) is using such methods or practices in the conduct of its business so
529 as to render its further transaction of business in this state hazardous
530 or injurious to insured persons or the public; or (3) has failed to pay
531 any judgment rendered against it in this state within sixty days after
532 the judgment has become final.

533 (b) The commissioner may suspend or revoke the license of a third-
534 party administrator, or may issue a cease and desist order if the third-
535 party administrator does not have a license if, after notice and hearing,
536 the commissioner finds that the third-party administrator: (1) Has
537 violated any lawful rule or order of the commissioner or any provision
538 of the insurance laws of this state; (2) (A) has refused to be examined
539 or to produce its accounts, records and files for examination, or (B) if
540 any individual responsible for the conduct of the affairs of the third-
541 party administrator, including (i) members of the board of directors,
542 board of trustees, executive committee or other governing board or
543 committee, (ii) the principal officers in the case of a corporation or the
544 partners or members in the case of a partnership, association or limited
545 liability company, (iii) any shareholder or member holding directly or
546 indirectly ten per cent or more of the voting stock, voting securities or
547 voting interest of the third-party administrator, and (iv) any other
548 person who exercises control or influence over the affairs of the third-
549 party administrator, has refused to provide information with respect to
550 its affairs or to perform other legal obligations as to an examination,
551 when required by the commissioner; (3) has, without just cause,
552 refused to pay proper claims or perform services arising under its
553 contracts or has, without just cause, caused insureds to accept less than
554 the amount due or caused insureds to employ attorneys or bring suit
555 against the third-party administrator to secure full payment or
556 settlement of such claims; (4) fails at any time to meet any qualification

557 for which issuance of a license could have been refused had the failure
558 then existed and been known to the commissioner; (5) has any
559 individual who is responsible for the conduct of its affairs, including
560 (A) members of the board of directors, board of trustees, executive
561 committee or other governing board or committee, (B) the principal
562 officers in the case of a corporation or the partners or members in the
563 case of a partnership, association or limited liability company, (C) any
564 shareholder or member holding directly or indirectly ten per cent or
565 more of its voting stock, voting securities or voting interest, and (D)
566 any other person who exercises control or influence over its affairs,
567 who has been convicted of or has entered a plea of guilty or nolo
568 contendere to a felony, without regard to whether adjudication was
569 withheld; (6) is under suspension or revocation in another state; or (7)
570 has failed to file a timely annual report pursuant to section 13 of this
571 act.

572 (c) (1) The commissioner may, without advance notice and before a
573 hearing, issue an order immediately suspending the license of a third-
574 party administrator, or may issue a cease and desist order if the third-
575 party administrator does not have a license, if the commissioner finds
576 that one or more of the following circumstances exist: (A) The third-
577 party administrator is insolvent or impaired; (B) a proceeding for
578 receivership, conservatorship, rehabilitation or other delinquency
579 proceeding regarding the third-party administrator has been
580 commenced in any state; or (C) the financial condition or business
581 practices of the third-party administrator otherwise pose an imminent
582 threat to the public health, safety or welfare of the residents of this
583 state.

584 (2) At the time the commissioner issues an order pursuant to
585 subdivision (1) of this subsection, the commissioner shall serve notice
586 to the third-party administrator that such third-party administrator
587 may request a hearing not later than ten business days after the receipt
588 of the order. If a hearing is requested, the commissioner shall schedule
589 a hearing not later than ten business days after receipt of the request. If
590 a hearing is not requested and the commissioner does not choose to

591 hold one, the order shall remain in effect until modified or vacated by
592 the commissioner.

593 Sec. 15. (NEW) (*Effective October 1, 2009*) The Insurance
594 Commissioner may adopt regulations, in accordance with chapter 54
595 of the general statutes, to implement the provisions of sections 1 to 14,
596 inclusive, of this act.

597 Sec. 16. Subsection (a) of section 38a-15 of the general statutes is
598 repealed and the following is substituted in lieu thereof (*Effective*
599 *October 1, 2009*):

600 (a) The commissioner shall, as often as [he] the commissioner deems
601 it expedient, undertake a market conduct examination of the affairs of
602 any insurance company, health care center, third-party administrator,
603 as defined in section 1 of this act, or fraternal benefit society doing
604 business in this state.

605 Sec. 17. Subsection (a) of section 38a-11 of the general statutes is
606 repealed and the following is substituted in lieu thereof (*Effective*
607 *October 1, 2009*):

608 (a) The commissioner shall demand and receive the following fees:
609 (1) For the annual fee for each license issued to a domestic insurance
610 company, one hundred dollars; (2) for receiving and filing annual
611 reports of domestic insurance companies, twenty-five dollars; (3) for
612 filing all documents prerequisite to the issuance of a license to an
613 insurance company, one hundred seventy-five dollars, except that the
614 fee for such filings by any health care center, as defined in section 38a-
615 175, shall be one thousand one hundred dollars; (4) for filing any
616 additional paper required by law, fifteen dollars; (5) for each certificate
617 of valuation, organization, reciprocity or compliance, twenty dollars;
618 (6) for each certified copy of a license to a company, twenty dollars; (7)
619 for each certified copy of a report or certificate of condition of a
620 company to be filed in any other state, twenty dollars; (8) for
621 amending a certificate of authority, one hundred dollars; (9) for each
622 license issued to a rating organization, one hundred dollars. In

623 addition, insurance companies shall pay any fees imposed under
624 section 12-211; (10) a filing fee of twenty-five dollars for each initial
625 application for a license made pursuant to section 38a-769; (11) with
626 respect to insurance agents' appointments: (A) A filing fee of twenty-
627 five dollars for each request for any agent appointment, except that no
628 filing fee shall be payable for a request for agent appointment by an
629 insurance company domiciled in a state or foreign country which does
630 not require any filing fee for a request for agent appointment for a
631 Connecticut insurance company; (B) a fee of forty dollars for each
632 appointment issued to an agent of a domestic insurance company or
633 for each appointment continued; and (C) a fee of twenty dollars for
634 each appointment issued to an agent of any other insurance company
635 or for each appointment continued, except that no fee shall be payable
636 for an appointment issued to an agent of an insurance company
637 domiciled in a state or foreign country which does not require any fee
638 for an appointment issued to an agent of a Connecticut insurance
639 company; (12) with respect to insurance producers: (A) An
640 examination fee of seven dollars for each examination taken, except
641 when a testing service is used, the testing service shall pay a fee of
642 seven dollars to the commissioner for each examination taken by an
643 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of
644 forty dollars per year, or any portion thereof, for each license renewed;
645 and (D) a fee of forty dollars for any license renewed under the
646 transitional process established in section 38a-784; (13) with respect to
647 public adjusters: (A) An examination fee of seven dollars for each
648 examination taken, except when a testing service is used, the testing
649 service shall pay a fee of seven dollars to the commissioner for each
650 examination taken by an applicant; and (B) a fee of one hundred
651 twenty-five dollars for each license issued or renewed; (14) with
652 respect to casualty adjusters: (A) An examination fee of ten dollars for
653 each examination taken, except when a testing service is used, the
654 testing service shall pay a fee of ten dollars to the commissioner for
655 each examination taken by an applicant; (B) a fee of forty dollars for
656 each license issued or renewed; and (C) the expense of any
657 examination administered outside the state shall be the responsibility

658 of the entity making the request and such entity shall pay to the
659 commissioner one hundred dollars for such examination and the
660 actual traveling expenses of the examination administrator to
661 administer such examination; (15) with respect to motor vehicle
662 physical damage appraisers: (A) An examination fee of forty dollars
663 for each examination taken, except when a testing service is used, the
664 testing service shall pay a fee of forty dollars to the commissioner for
665 each examination taken by an applicant; (B) a fee of forty dollars for
666 each license issued or renewed; and (C) the expense of any
667 examination administered outside the state shall be the responsibility
668 of the entity making the request and such entity shall pay to the
669 commissioner one hundred dollars for such examination and the
670 actual traveling expenses of the examination administrator to
671 administer such examination; (16) with respect to certified insurance
672 consultants: (A) An examination fee of thirteen dollars for each
673 examination taken, except when a testing service is used, the testing
674 service shall pay a fee of thirteen dollars to the commissioner for each
675 examination taken by an applicant; (B) a fee of two hundred dollars for
676 each license issued; and (C) a fee of one hundred twenty-five dollars
677 for each license renewed; (17) with respect to surplus lines brokers: (A)
678 An examination fee of ten dollars for each examination taken, except
679 when a testing service is used, the testing service shall pay a fee of ten
680 dollars to the commissioner for each examination taken by an
681 applicant; and (B) a fee of five hundred dollars for each license issued
682 or renewed; (18) with respect to fraternal agents, a fee of forty dollars
683 for each license issued or renewed; (19) a fee of thirteen dollars for
684 each license certificate requested, whether or not a license has been
685 issued; (20) with respect to domestic and foreign benefit societies shall
686 pay: (A) For service of process, twenty-five dollars for each person or
687 insurer to be served; (B) for filing a certified copy of its charter or
688 articles of association, five dollars; (C) for filing the annual report, ten
689 dollars; and (D) for filing any additional paper required by law, three
690 dollars; (21) with respect to foreign benefit societies: (A) For each
691 certificate of organization or compliance, four dollars; (B) for each
692 certified copy of permit, two dollars; and (C) for each copy of a report

693 or certificate of condition of a society to be filed in any other state, four
 694 dollars; (22) with respect to reinsurance intermediaries: A fee of five
 695 hundred dollars for each license issued or renewed; (23) with respect
 696 to life settlement providers: (A) A filing fee of thirteen dollars for each
 697 initial application for a license made pursuant to section 38a-465a; and
 698 (B) a fee of twenty dollars for each license issued or renewed; (24) with
 699 respect to life settlement brokers: (A) A filing fee of thirteen dollars for
 700 each initial application for a license made pursuant to section 38a-465a;
 701 and (B) a fee of twenty dollars for each license issued or renewed; (25)
 702 with respect to preferred provider networks, a fee of two thousand five
 703 hundred dollars for each license issued or renewed; (26) with respect
 704 to rental companies, as defined in section 38a-799, a fee of forty dollars
 705 for each permit issued or renewed; (27) with respect to medical
 706 discount plan organizations licensed under section 38a-479rr, a fee of
 707 five hundred dollars for each license issued or renewed; (28) with
 708 respect to pharmacy benefits managers, an application fee of fifty
 709 dollars for each registration issued or renewed; (29) with respect to
 710 captive insurance companies, as defined in section 38a-91aa, a fee of
 711 three hundred dollars for each license issued or renewed; [and] (30)
 712 with respect to each duplicate license issued a fee of twenty-five
 713 dollars for each license issued; and (31) with respect to third-party
 714 administrators, as defined in section 1 of this act, (A) a fee of five
 715 hundred dollars for each license issued, (B) a fee of three hundred fifty
 716 dollars for each license renewed, and (C) a fee of one hundred dollars
 717 for each annual report filed pursuant to section 13 of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section
Sec. 4	<i>October 1, 2009</i>	New section
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	New section

Sec. 9	<i>October 1, 2009</i>	New section
Sec. 10	<i>October 1, 2009</i>	New section
Sec. 11	<i>October 1, 2009</i>	New section
Sec. 12	<i>October 1, 2009</i>	New section
Sec. 13	<i>October 1, 2009</i>	New section
Sec. 14	<i>October 1, 2009</i>	New section
Sec. 15	<i>October 1, 2009</i>	New section
Sec. 16	<i>October 1, 2009</i>	38a-15(a)
Sec. 17	<i>October 1, 2009</i>	38a-11(a)