



General Assembly

January Session, 2011

Committee Bill No. 309

LCO No. 2578

02578SB00309INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

**AN ACT ESTABLISHING A DIVISION OF INSURANCE FRAUD IN THE
INSURANCE DEPARTMENT.**

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

1 Section 1. Section 38a-9 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

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

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

30 (b) (1) The Division of Consumer Affairs shall provide an
31 independent arbitration procedure for the settlement of disputes
32 between claimants and insurance companies concerning automobile
33 physical damage and automobile property damage liability claims in
34 which liability and coverage are not in dispute. Such procedure shall
35 apply only to disputes involving private passenger motor vehicles as
36 defined in subsection (e) of section 38a-363. Any company licensed to
37 write private passenger automobile insurance, including collision,
38 comprehensive and theft, in this state shall participate in the
39 arbitration procedure. The commissioner shall appoint an
40 administrator for such procedure. Only those disputes in which
41 attempts at mediation by the Division of Consumer Affairs have failed
42 shall be accepted as arbitrable. The referral of the complaint to
43 arbitration shall be made by the Insurance Department examiner who
44 investigated the complaint. Each party to the dispute shall pay a filing
45 fee of twenty dollars. The insurance company shall pay the consumer
46 the undisputed amount of the claim upon written notification from the
47 department that the complaint has been referred to arbitration. Such
48 payment shall not affect any right of the consumer to pursue the
49 disputed amount of the claim.

50 (2) The commissioner shall prepare a list of at least ten persons, who
51 have not been employed by the department or an insurance company
52 during the preceding twelve months, to serve as arbitrators in the
53 settlement of such disputes. The arbitrators shall be members of any
54 dispute resolution organization approved by the commissioner. One
55 arbitrator shall be appointed to hear and decide each complaint.
56 Appointment shall be based solely on the order of the list. If an
57 arbitrator is unable to serve on a given day, or if either party objects to
58 the arbitrator, then the next arbitrator on the list shall be selected. The
59 department shall schedule arbitration hearings as often, and in such
60 locations, as it deems necessary. Parties to the dispute shall be
61 provided written notice of the hearing at least ten days prior to the
62 hearing date. The commissioner may issue subpoenas on behalf of the
63 arbitrator to compel the attendance of witnesses and the production of
64 documents, papers and records relevant to the dispute. Decisions shall
65 be made on the basis of the evidence presented at the arbitration
66 hearing. Where the arbitrator believes that technical expertise is
67 necessary to decide a case, such arbitrator may consult with an
68 independent expert recommended by the commissioner. The arbitrator
69 and any independent technical expert shall be paid by the department
70 on a per dispute basis as established by the commissioner. The
71 arbitrator, as expeditiously as possible but not later than fifteen days
72 after the arbitration hearing, shall render a written decision based on
73 the information gathered and disclose the findings and the reasons to
74 the parties involved. The arbitrator shall award filing fees to the
75 prevailing party. If the decision favors the consumer the decision shall
76 provide specific and appropriate remedies including interest at the rate
77 of fifteen per cent per year on the arbitration award concerning the
78 disputed amount of the claim, retroactive to the date of payment for
79 the undisputed amount of the claim. The decision may include costs
80 for loss of use and storage of the motor vehicle and shall specify a date
81 for performance and completion of all awarded remedies.
82 Notwithstanding any provision of the general statutes or any
83 regulation, the Insurance Department shall not amend, reverse,

84 rescind, or revoke any decision or action of any arbitrator. The
85 department shall contact the consumer not later than ten business days
86 after the date for performance, to determine whether performance has
87 occurred. Either party may make application to the superior court for
88 the judicial district in which one of the parties resides or, when the
89 court is not in session, any judge thereof for an order confirming,
90 vacating, modifying or correcting any award, in accordance with the
91 provisions of sections 52-417, 52-418, 52-419 and 52-420. If it is
92 determined by the court that either party's position after review has
93 been improved by at least ten per cent over that party's position after
94 arbitration, the court may grant to that party its costs and reasonable
95 attorney's fees. No evidence, testimony, findings, or decision from the
96 department arbitration procedure shall be admissible in any civil
97 proceeding, except judicial review of the arbitrator's decision as
98 contemplated by this subsection.

99 (3) The department shall maintain records of each dispute,
100 including names of parties to the arbitration, the decision of the
101 arbitrator, compliance, the appeal, if any, and the decision of the court.
102 The department shall annually compile such statistics and send a copy
103 to the committee of the General Assembly having cognizance of
104 matters relating to insurance. The report shall be considered a public
105 document.

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

117 supplementary rate information, and any suspected violation of the
118 statutory requirements and standards of sections 38a-663 to 38a-696,
119 inclusive, found pursuant to such review shall be referred to the
120 commissioner for appropriate action. The division may assist the
121 commissioner in formalizing the commissioner's findings regarding
122 such actions. The commissioner shall report, in accordance with
123 section 11-4a, to the joint standing committee of the General Assembly
124 having cognizance of matters relating to insurance on or before
125 January fifteenth annually, concerning (1) the number and type of
126 reviews conducted by the division in the prior calendar year, and (2)
127 the percentage of increase or decrease in rates reviewed by the division
128 during the preceding calendar year, by line and subline of insurance.

129 (d) (1) Notwithstanding the provisions of section 4-8, there shall be a
130 Division of Insurance Fraud within the Insurance Department, which
131 division shall act on the Insurance Commissioner's behalf and at his
132 direction in order to carry out his responsibilities under this title with
133 respect to such matters. The division shall enforce the insurance laws
134 of the state, develop a system to detect actual or potential insurance
135 fraud in the state and receive and investigate complaints of insurance
136 fraud. There shall be a director of said division, who shall be provided
137 with sufficient staff. The division shall serve to coordinate all
138 appropriate facilities in the department in detecting actual or potential
139 insurance fraud and addressing and investigating such complaints,
140 and the director shall work with the Attorney General, as appropriate,
141 in such investigations. The director shall submit quarterly reports to
142 the commissioner, which shall state the number of complaints received
143 and the number of investigations undertaken by the division in such
144 calendar quarter, the types of complaints received and investigations
145 undertaken, and the current status of such complaints and
146 investigations. Such reports shall be published every six months and
147 copies shall be made available to any interested resident of this state
148 upon request. The commissioner shall report, in accordance with
149 section 11-4a, to the joint standing committee of the General Assembly

150 having cognizance of matters relating to insurance on or before
151 January fifteenth annually, concerning the findings of such reports and
152 suggestions for legislative initiatives to address recurring problems.

153 (2) The start-up costs of the division shall be funded by the proceeds
154 of the settlement reached between the Attorney General and Liberty
155 Mutual Insurance Company in December 2010. Such proceeds shall be
156 transferred from the resources of the General Fund to the account
157 established under subdivision (3) of this subsection.

158 (3) There is established an account to be known as the "insurance
159 fraud account" which shall be a separate, nonlapsing account within
160 the Insurance Fund established under section 38a-52a. The account
161 shall contain any moneys required by law to be deposited in the
162 account. Moneys in the account shall be expended by the Division of
163 Insurance Fraud for the purposes of enforcing the insurance laws of
164 the state and receiving and investigating complaints of insurance
165 fraud. Any fines, fees or settlement proceeds received by the state or
166 the Insurance Department as a result of any enforcement actions or
167 investigations initiated by said division shall be deposited in said
168 account.

169 [(d)] (e) The directors and staff of [both] the Division of Consumer
170 Affairs, [and] the Division of Rate Review and the Division of
171 Insurance Fraud shall be appointed by the commissioner under the
172 provisions of chapter 67.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	38a-9

Statement of Purpose:
To establish a Division of Insurance Fraud in the Insurance Department to enforce the insurance laws of the state, develop a system to detect actual or potential insurance fraud in the state and receive and investigate complaints of insurance fraud.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. FASANO, 34th Dist.

S.B. 309