



General Assembly

**Raised Bill No. 863**

January Session, 2013

LCO No. 2572

\* SB00863 INS \_\_022013\_\_ \*

Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

**AN ACT CONCERNING FACTORS USED IN AUTOMOBILE INSURANCE RATING.**

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

1 Section 1. Subsection (b) of section 38a-686 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2013*):

4 (b) In determining whether rates comply with the excessiveness  
5 standard in a noncompetitive market under subdivision (1) of  
6 subsection (a) of this section, the inadequacy standard under  
7 subdivision (2) of subsection (a) of this section and the requirement  
8 that rates not be unfairly discriminatory, the following criteria shall  
9 apply:

10 (1) [Consideration] Except as provided under subparagraph (B) of  
11 subdivision (4) and subdivision (6) of this subsection, consideration  
12 may be given, to the extent possible, to past and prospective loss  
13 experience within and outside this state, to conflagration and  
14 catastrophe hazards, to a reasonable margin for underwriting profit  
15 and contingencies, to past and prospective expenses both country-

16 wide and those specially applicable to this state, to investment income  
17 earned or realized by insurers both from their unearned premium and  
18 loss reserve funds, and to all other factors, including judgment factors,  
19 deemed relevant within and outside this state and in the case of fire  
20 insurance rates, consideration may be given to the experience of the  
21 fire insurance business during the most recent five-year period for  
22 which such experience is available. Consideration may be given in the  
23 making and use of rates to dividends, savings or unabsorbed premium  
24 deposits allowed or returned by insurers to their policyholders,  
25 members or subscribers.

26 (2) (A) The systems of expense provisions included in the rates for  
27 use by an insurer or group of insurers may differ from those of other  
28 insurers or groups of insurers to reflect the operating methods of any  
29 such insurer or group with respect to any kind of insurance, or with  
30 respect to any subdivision or combination thereof.

31 (B) (i) With respect to private passenger nonfleet automobile  
32 insurance, an insurer shall not allocate as flat dollar amounts to base  
33 rates: (I) Producer commissions; (II) premium taxes; (III) underwriting  
34 profits; or (IV) contingencies.

35 (ii) With respect to private passenger nonfleet automobile insurance,  
36 an insurer shall allocate as flat dollar amounts to base rates: (I) At least  
37 ninety per cent of general expenses, including administration and  
38 overhead costs; (II) at least ninety per cent of other acquisition costs for  
39 marketing and agent field offices, which may be allocated over the  
40 expected life of such insurer's policies; and (III) miscellaneous taxes,  
41 licenses and fees.

42 (iii) Each insurer shall allocate such flat dollar amounts set forth in  
43 subparagraph (B)(ii) of this subdivision after any classification factors  
44 set forth in subdivisions (3) to (5), inclusive, of this subsection have  
45 been applied to base rates.

46 (3) Risks may be grouped by classifications for the establishment of  
47 rates and minimum premiums, provided that with respect to private

48 passenger nonfleet automobile insurance, any change in territorial  
49 classifications shall be subject to prior approval by the Insurance  
50 Commissioner, and provided no surcharge on any motor vehicle  
51 liability or physical damage insurance premium shall be assigned for  
52 (A) any accident involving only property damage of one thousand  
53 dollars or less, (B) the first accident involving only property damage of  
54 more than one thousand dollars which would otherwise result in a  
55 surcharge to the policy of the insured, within the experience period set  
56 forth in the insurer's safe driver classification plan, (C) any violation of  
57 section 14-219 unless such violation results in the suspension or  
58 revocation of the operator's license under section 14-111b, (D) less than  
59 three violations of section 14-218a within any one-year period, (E) any  
60 accident caused by an operator other than the named insured, a  
61 relative residing in the named insured's household, or a person who  
62 customarily operates the insured vehicle, (F) the first or second  
63 accident within the current experience period in relation to which the  
64 insured was not convicted of a moving traffic violation and was not at  
65 fault, or (G) any motor vehicle infraction. Subparagraph (G) of this  
66 subdivision shall not be applicable to any plan established pursuant to  
67 section 38a-329. Classification rates may be modified to produce rates  
68 for individual risks in accordance with rating plans that provide for  
69 recognition of variations in hazards or expense provisions or both.  
70 Such rating plans may include application of the judgment of the  
71 insurer and may measure any differences among risks that can be  
72 demonstrated to have a probable effect upon losses or expenses.

73 (4) (A) Each rating plan for private passenger nonfleet automobile  
74 insurance that includes territorial classifications shall assign a weight  
75 of seventy-five per cent to individual territorial loss cost indication and  
76 twenty-five per cent to the state-wide average loss cost indication.

77 (B) With respect to private passenger nonfleet automobile insurance,  
78 an insurer shall not use an applicant's or insured's marital status, age,  
79 gender or education level as a factor in underwriting or rating.

80 (5) Each rating plan shall establish appropriate eligibility criteria for

81 determining significant risks that are to qualify under the plan. Rating  
82 plans that comply with the provisions of this subdivision shall be  
83 deemed to produce rates that are not unfairly discriminatory.

84 (6) With respect to personal risk insurance, an insurer shall not use  
85 an applicant's or insured's credit history as a factor in underwriting or  
86 rating except in accordance with this subdivision. For the purposes of  
87 this section, "credit history" means any credit-related information  
88 derived from or found in a credit report or credit scoring program or  
89 provided in an application for personal risk insurance, and "financial  
90 history measurement program" means a program that uses an  
91 applicant's credit history to measure such applicant's risk of loss.

92 (A) An insurer shall file with the commissioner any financial history  
93 measurement program it uses to underwrite or rate risks for personal  
94 risk insurance. Such filing shall (i) include a description of the  
95 program, (ii) identify the characteristics used in such program from  
96 which a measurement is derived, (iii) include the rules and procedures  
97 of such program, and (iv) include an explanation of the impact of  
98 credit information and items of public record on insurance rates over  
99 time. Such program shall not unfairly discriminate among applicants  
100 or produce rates that are excessive for the risk assumed. Any filing  
101 made pursuant to this subparagraph shall be considered a trade secret  
102 for the purposes of section 1-210.

103 (B) (i) An insurer that uses a financial history measurement program  
104 shall submit to the commissioner documentation that demonstrates the  
105 correlation between such program and the expected risk of loss, and  
106 how such program impacts consumers (I) in urban territories, versus  
107 consumers in nonurban territories, and (II) based on consumers' ages.  
108 The commissioner may request the insurer to provide a financial  
109 history measurement for a set of test examples that reflect various  
110 characteristics.

111 (ii) An insurer that uses a financial history measurement program  
112 shall disclose to each applicant for personal risk insurance, in writing,

113 by telephone, by electronic mail or orally, at the time of application  
114 that the applicant's credit history may be used in the underwriting or  
115 rating of such applicant's policy, and that the applicant has the right to  
116 request, in writing, that the insurer consider, during its underwriting  
117 or rating process or during a review requested by such applicant of a  
118 rate quote, an extraordinary life circumstance, as set forth in  
119 subparagraph (D) of this subdivision, if such applicant's credit history  
120 has been adversely impacted by such extraordinary life circumstance  
121 and such extraordinary life circumstance occurred within three years  
122 before the date of the application. In addition, such insurer shall  
123 provide to each purchaser of such policy, not later than the date of  
124 issuance of such policy, a written disclosure that includes: (I) The  
125 name, address, telephone number and toll-free telephone number, if  
126 applicable, of the insurer; (II) detailed information about how the  
127 insurer uses credit information to underwrite or rate such policies; and  
128 (III) a summary of consumer protections regarding the use of credit, in  
129 a form determined by the commissioner. Such written disclosure shall  
130 be printed in reasonably conspicuous type and be provided by the  
131 insurer electronically, by mail or by hand delivery.

132 (C) (i) An insurer may use a financial history measurement program  
133 to underwrite or rate risks only (I) for new personal risk insurance  
134 policies, or (II) upon renewal, either at the request of an insured or if  
135 such use reduces the premium for the insured in accordance with the  
136 insurer's filed rates and rules.

137 (ii) An insurer shall not use the following characteristics in a  
138 financial history measurement program: (I) The number of credit  
139 inquiries in an applicant's or insured's credit report or credit history;  
140 (II) the applicant's or insured's use of a particular type of credit card,  
141 debit card or charge card; (III) the applicant's or insured's total  
142 available line of credit; (IV) any disputed credit information while such  
143 dispute is under review by a credit reporting company, provided such  
144 information is identified in an applicant's or insured's credit report or  
145 credit history as being in dispute; (V) collection accounts identified  
146 with a medical industry code in the applicant's or insured's credit

147 report or credit history; and (VI) the applicant's or insured's lack of  
148 credit history, unless the insurer treats the applicant or insured as if  
149 such applicant or insured had neutral credit information, as defined by  
150 the insurer.

151 (iii) A financial history measurement program shall give the same  
152 weight to an applicant's or insured's purchase or financing of a specific  
153 item regardless of the type of item purchased or financed.

154 (D) (i) Upon written request by an applicant, an insurer shall  
155 consider, during its underwriting or rating process or during a review  
156 requested by such applicant of a rate quote, an extraordinary life  
157 circumstance of such applicant if such extraordinary life circumstance  
158 occurred within three years before the date of application. If such  
159 insurer determines that such applicant's credit history has been  
160 adversely impacted by such extraordinary life circumstance, such  
161 insurer shall grant a reasonable exception to such insurer's rates, rating  
162 classifications or underwriting rules for such applicant. As used in this  
163 subparagraph, "extraordinary life circumstance" means (I) a  
164 catastrophic illness or injury, (II) divorce, (III) the death of a spouse,  
165 child or parent, (IV) the involuntary loss of employment for more than  
166 three consecutive months, (V) identity theft, (VI) total or other loss that  
167 makes a home uninhabitable, (VII) other circumstances as may be  
168 adopted in regulations by the commissioner, in accordance with  
169 chapter 54, or (VIII) any other circumstance an insurer may choose to  
170 recognize.

171 (ii) An insurer may require the applicant to provide reasonable,  
172 independently verifiable written documentation of the extraordinary  
173 life circumstance and the effect of such extraordinary life circumstance  
174 on such applicant's credit report or credit history. Any such  
175 documentation shall be kept confidential by the insurer.

176 (iii) If the insurer grants an exception pursuant to subparagraph  
177 (D)(i) of this subdivision, the insurer shall (I) consider only credit  
178 information that is not affected by the extraordinary life circumstance,

179 or (II) treat the applicant as if such applicant had neutral or better than  
180 neutral credit information, as defined by the insurer.

181 (iv) An insurer shall not be deemed to be out of compliance with  
182 any provision of the general statutes or regulations adopted  
183 thereunder concerning underwriting, rating or rate filing solely on the  
184 basis of the granting of an exception pursuant to this subparagraph.

185 (E) (i) If an insurer takes an adverse action that is due at least in part  
186 to the information contained in an applicant's or insured's credit  
187 report, such insurer shall disclose to such applicant or insured: (I) That  
188 such adverse action was based on the credit report of such insured or  
189 applicant; (II) that such applicant or insured is entitled to a free copy of  
190 such credit report and where such report can be obtained; (III) the  
191 types of extraordinary life circumstances set forth in subparagraph (D)  
192 of this subdivision; and (IV) the procedures for an applicant to inform  
193 the insurer of an extraordinary life circumstance and to submit any  
194 required documentation pursuant to subparagraph (D) of this  
195 subdivision.

196 (ii) For the purposes of this subdivision, an "adverse action" means  
197 (I) the denial of coverage to an applicant or insured or the offering of  
198 restricted coverage, (II) the offering of a higher rate, (III) the  
199 assignment of an applicant or insured to a higher rate tier or to a  
200 higher-priced company within an insurer group, or (IV) any other  
201 action that adversely impacts an applicant or insured due to the  
202 financial history measurement program.

203 (F) After an insurer's financial history measurement program has  
204 been in effect for two years, the commissioner may require such  
205 insurer to submit a report to the commissioner on the use of such  
206 program in the state. Such report shall include information that  
207 demonstrates that such program results in rates that are supported by  
208 the data and that are not unfairly discriminatory, and an analysis of  
209 consumer complaints submitted in writing or by electronic mail to the  
210 insurer resulting from such insurer's use of a financial history

211 measurement program, such that is sufficient to identify the basis for  
212 the complaints and any subsequent insurer action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	38a-686(b)

**INS**      *Joint Favorable*