



General Assembly

January Session, 2013

Raised Bill No. 1093

LCO No. 4029



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING REVISIONS TO THE INSURANCE STATUTES.

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

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2 repealed and the following is substituted in lieu thereof (*Effective from*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

4 (d) The commissioner shall develop a program of periodic review to
5 ensure compliance by the Insurance Department with the minimum
6 standards established by the National Association of Insurance
7 Commissioners for effective financial surveillance and regulation of
8 insurance companies operating in this state. The commissioner shall
9 adopt regulations, in accordance with the provisions of chapter 54,
10 pertaining to the financial surveillance and solvency regulation of
11 insurance companies and health care centers as are reasonable and
12 necessary to obtain or maintain the accreditation of the Insurance
13 Department by the National Association of Insurance Commissioners.
14 The commissioner shall maintain [] as confidential [] any confidential
15 documents or information received from the National Association of
16 Insurance Commissioners, [or] the International Association of

17 Insurance Supervisors, the Bank for International Settlements or the
18 Federal Insurance Office, or any documents or information received
19 from state or federal insurance, banking or securities regulators or
20 similar regulators in a foreign country [which] that are confidential in
21 such jurisdictions. The commissioner may share any information,
22 including confidential information, with the National Association of
23 Insurance Commissioners, the International Association of Insurance
24 Supervisors, the Bank for International Settlements or the Federal
25 Insurance Office, or state or federal insurance, banking or securities
26 regulators or similar regulators in a foreign country, [so long as]
27 provided the commissioner determines that such entities agree to
28 maintain the same level of confidentiality in their [jurisdiction]
29 jurisdictions as is available in this state. [The] At the expense of a
30 domestic, alien or foreign insurer, the commissioner may engage the
31 services of [, at the expense of a domestic, alien or foreign insurer,]
32 attorneys, actuaries, accountants and other experts not otherwise part
33 of the commissioner's staff as may be necessary to assist the
34 commissioner in the financial analysis of the insurer, the review of the
35 insurer's license applications, and the review of transactions within a
36 holding company system involving an insurer domiciled in this state.
37 No duties of a person employed by the Insurance Department on
38 November 1, 2002, shall be performed by such attorney, actuary,
39 accountant or expert.

40 Sec. 2. Subsection (e) of section 38a-14 of the general statutes is
41 repealed and the following is substituted in lieu thereof (*Effective*
42 *October 1, 2013*):

43 (e) (1) Nothing contained in this section shall be construed to limit
44 the commissioner's authority to terminate or suspend any examination
45 in order to pursue legal or regulatory action pursuant to the insurance
46 laws of this state. Findings of fact and conclusions made pursuant to
47 any examination shall be prima facie evidence in any legal or
48 regulatory action.

49 (2) Nothing contained in this section shall be construed to limit the
50 commissioner's authority in such legal or regulatory action to use and,
51 if appropriate, to make public any final or preliminary examination
52 report, any examiner or company workpapers or other documents, or
53 any other information discovered or developed during the course of
54 any examination.

55 (3) Not later than sixty days following completion of the
56 examination, the examiner in charge shall file, under oath, with the
57 Insurance Department a verified written report of examination. Upon
58 receipt of the verified report, the Insurance Department shall transmit
59 the report to the [company] entity examined, together with a notice
60 [which] that shall afford the [company] entity examined a reasonable
61 opportunity, not to exceed thirty days, to make a written submission
62 or rebuttal with respect to any matters contained in the examination
63 report. Not later than thirty days after the period allowed for the
64 receipt of written submissions or rebuttals, the commissioner shall
65 fully consider and review the report, together with any written
66 submissions or rebuttals and any relevant portions of the examiner's
67 workpapers and enter an order: (A) Adopting the examination report
68 as filed or with modification or corrections. If the examination report
69 reveals that the [company] entity is operating in violation of any law,
70 regulation or prior order of the commissioner, the commissioner may
71 order the company to take any action the commissioner considers
72 necessary and appropriate to cure such violation; (B) rejecting the
73 examination report with directions to the examiners to reopen the
74 examination for purposes of obtaining additional data, documentation
75 or information, and refiling pursuant to [subparagraph (A) of] this
76 subdivision; or (C) calling for an investigatory hearing with not less
77 than twenty days' notice to the company for purposes of obtaining
78 additional documentation, data, information and testimony.

79 (4) (A) The commissioner shall transmit the examination report
80 adopted pursuant to subparagraph (A) of subdivision (3) of this
81 subsection or a summary thereof to the entity examined, together with

82 any recommendations or written statements from the commissioner or
83 the examiner. The secretary of the board of directors or similar
84 governing body of the entity shall provide a copy of the report or
85 summary to each director and shall certify to the commissioner, in
86 writing, that a copy of the report or summary has been provided to
87 each director.

88 (B) Not later than ninety days after receiving the report or summary,
89 the chief executive officer of the entity examined shall present the
90 report or summary to the entity's board of directors or similar
91 governing body at a regular or special meeting.

92 Sec. 3. Subsection (e) of section 38a-53 of the general statutes is
93 repealed and the following is substituted in lieu thereof (*Effective*
94 *October 1, 2013*):

95 (e) Any insurance company or health care center doing business in
96 this state [which] that fails to file any report or statement required
97 under this section shall pay a late filing fee of one hundred seventy-
98 five dollars per day for each day from the due date of such report or
99 statement to the date of filing. The commissioner may waive the late
100 filing fee if (1) the insurance company or health care center cannot file
101 such report or statement because the governor of such company's or
102 health care center's state of domicile has proclaimed a state of
103 emergency in such state and such state of emergency impairs the
104 company's or health care center's ability to file the report or statement,
105 or (2) the insurance regulatory official of the state of domicile of a
106 foreign insurance company has permitted the company, or the
107 commissioner has permitted a health care center, to file such report or
108 statement late.

109 Sec. 4. Subsection (a) of section 38a-58a of the general statutes is
110 repealed and the following is substituted in lieu thereof (*Effective*
111 *October 1, 2013*):

112 (a) Any insurer [which] that is organized under the laws of any

113 other state and is admitted to do business in this state for the purpose
114 of writing insurance and any alien captive insurance company, as
115 defined in section 38a-591aa, may become a domestic insurer by
116 complying with all of the requirements of law relative to the
117 organization and licensing of a domestic insurer of the same type and
118 by designating its principal place of business at a location in this state.
119 The domestic insurer shall be entitled to like certificates and licenses to
120 transact business in this state and shall be subject to the authority and
121 jurisdiction of this state. The articles of incorporation of the domestic
122 insurer may be amended to provide that the corporation is a
123 continuation of the corporate existence of the original foreign
124 corporation through adoption of this state as its corporate domicile
125 and that the original date of incorporation in its original domiciliary
126 state is the date of incorporation of the domestic insurer.

127 Sec. 5. Subdivision (5) of subsection (a) of section 38a-91bb of the
128 general statutes is repealed and the following is substituted in lieu
129 thereof (*Effective October 1, 2013*):

130 (5) No captive insurance company may provide personal risk
131 insurance, as defined in section 38a-663, for private passenger motor
132 vehicle or homeowners insurance coverage or any component thereof;

133 Sec. 6. Subsection (e) of section 38a-91ff of the general statutes is
134 repealed and the following is substituted in lieu thereof (*Effective*
135 *October 1, 2013*):

136 (e) [A branch captive insurance company may be established in this
137 state to write in this state only insurance or reinsurance of the
138 employee benefit business of its parent and affiliated companies that is
139 subject to the Employee Retirement Income Security Act of 1974, as
140 amended from time to time.] No branch captive insurance company
141 shall do any insurance business in this state unless it maintains [the
142 principal] a place of business for its [branch] operations in this state.

143 Sec. 7. Subsection (n) of section 38a-91ff of the general statutes is

144 repealed and the following is substituted in lieu thereof (*Effective*
145 *October 1, 2013*):

146 (n) The provisions of this chapter pertaining to mergers,
147 consolidations, [and] conversions and transfers of domicile shall apply
148 in determining the procedures to be followed by captive insurance
149 companies in carrying out any of the transactions described in this
150 chapter.

151 Sec. 8. Subsection (b) of section 38a-91kk of the general statutes is
152 repealed and the following is substituted in lieu thereof (*Effective*
153 *October 1, 2013*):

154 (b) A captive insurance company may only take credit for the
155 reinsurance of risks or portions of risks ceded to reinsurers that
156 [complies] comply with the provisions of [section] sections 38a-85 [or
157 38a-86] to 38a-88, inclusive, unless the commissioner has given prior
158 written approval allowing the captive insurance company to take
159 credit for the reinsurance of risks or portions of risks ceded to
160 reinsurers that do not comply with the provisions of sections 38a-85 to
161 38a-88, inclusive.

162 Sec. 9. Section 38a-91oo of the general statutes is repealed and the
163 following is substituted in lieu thereof (*Effective October 1, 2013*):

164 (a) Unless otherwise provided in sections 38a-91aa to 38a-91tt,
165 inclusive, no provision of this title shall apply to captive insurance
166 companies, unless expressly included therein, except for the following:
167 [(1)] Sections 38a-8, as amended by this act, 38a-16, 38a-17, 38a-54 to
168 [38a-57, inclusive,] 38a-59, inclusive, 38a-69a, [38a-129 to 38a-140,
169 inclusive, and] 38a-102h and 38a-250 to 38a-266, inclusive, and chapter
170 704c. [; and (2) section]

171 (b) Sections 38a-73 [which] and 38a-129 to 38a-140, inclusive, shall
172 apply [only] to captive insurance companies formed as risk retention
173 groups, as defined in section 38a-91aa.

174 (c) The commissioner may adopt regulations, in accordance with the
175 provisions of chapter 54, to establish the circumstances under which a
176 captive insurance company will be required to comply with the
177 provisions of sections 38a-73 and 38a-129 to 38a-140, inclusive.

178 Sec. 10. Subsection (b) of section 38a-162 of the general statutes is
179 repealed and the following is substituted in lieu thereof (*Effective*
180 *October 1, 2013*):

181 (b) All licenses issued under the provisions of sections 38a-160 to
182 38a-170, inclusive, shall expire on the thirtieth day of June following
183 the date of their issuance. At the time of application for an insurance
184 premium finance company license and for every annual renewal
185 thereof there shall be paid to the commissioner the sum of [fifty] three
186 hundred dollars. If a license is not issued the fee shall be returned.

187 Sec. 11. Subsection (a) of section 38a-163 of the general statutes is
188 repealed and the following is substituted in lieu thereof (*Effective*
189 *October 1, 2013*):

190 (a) Each applicant for an insurance premium finance company
191 license or for any renewal of such license shall file with the
192 commissioner a written application in such manner and form as the
193 commissioner shall prescribe together with [said fee of fifty dollars
194 which fee shall be returned to the applicant if such license is not
195 granted] the fee specified in subsection (b) of section 38a-162, as
196 amended by this act.

197 Sec. 12. Section 38a-188 of the general statutes is repealed and the
198 following is substituted in lieu thereof (*Effective October 1, 2013*):

199 Each health care center governed by sections 38a-175 to 38a-192,
200 inclusive, shall be exempt from the provisions of the general statutes
201 relating to insurance in the conduct of its operations under said
202 sections and in such other activities as do constitute the business of
203 insurance, unless expressly included therein, and except for the

204 following: Sections 38a-11, 38a-14a, 38a-17, 38a-51, 38a-52, 38a-56, 38a-
205 57, 38a-129 to 38a-140, inclusive, 38a-147 and 38a-815 to 38a-819,
206 inclusive, provided a health care center shall not be deemed in
207 violation of sections 38a-815 to 38a-819, inclusive, solely by virtue of
208 such center selectively contracting with certain providers in one or
209 more specialties, and sections 38a-80, 38a-492b, 38a-518b, 38a-543, 38a-
210 702j, 38a-703 to 38a-718, inclusive, 38a-731 to 38a-735, inclusive, 38a-
211 741 to 38a-745, inclusive, as amended by this act, 38a-769, 38a-770, 38a-
212 772 to 38a-776, inclusive, 38a-786, 38a-790, 38a-792 and 38a-794,
213 provided a health care center organized as a nonprofit, nonstock
214 corporation shall be exempt from sections 38a-146, 38a-702j, 38a-703 to
215 38a-718, inclusive, 38a-731 to 38a-735, inclusive, 38a-741 to 38a-745,
216 inclusive, as amended by this act, 38a-769, 38a-770, 38a-772 to 38a-776,
217 inclusive, 38a-786, 38a-790, 38a-792 and 38a-794. If a health care center
218 is operated as a line of business, the foregoing provisions shall, where
219 possible, be applied only to that line of business and not to the
220 organization as a whole. The commissioner may adopt regulations, in
221 accordance with chapter 54, stating the circumstances under which the
222 resources of a person which controls a health care center, or operates a
223 health care center as a line of business will be considered in evaluating
224 the financial condition of a health care center. Such regulations, if
225 adopted, shall require as a condition to the consideration of the
226 resources of such person which controls a health care center, or
227 operates a health care center as a line of business to provide
228 satisfactory assurances to the commissioner that such person will
229 assume the financial obligations of the health care center. During the
230 period prior to the effective date of regulations issued under this
231 section, the commissioner shall, upon request, consider the resources
232 of a person which controls a health care center, or operates a health
233 care center as a line of business, if the commissioner receives
234 satisfactory assurances from such person that it will assume the
235 financial obligations of the health care center and determines that such
236 person meets such other requirements as the commissioner determines
237 are necessary. A health care center organized as a nonprofit, nonstock

238 corporation shall be exempt from the sales and use tax and all property
239 of each such corporation shall be exempt from state, district and
240 municipal taxes. Each corporation governed by sections 38a-175 to 38a-
241 192, inclusive, shall be subject to the provisions of sections 38a-903 to
242 38a-961, inclusive. Nothing in this section shall be construed to
243 override contractual and delivery system arrangements governing a
244 health care center's provider relationships.

245 Sec. 13. Subsection (e) of section 38a-363 of the general statutes is
246 repealed and the following is substituted in lieu thereof (*Effective*
247 *October 1, 2013*):

248 (e) "Private passenger motor vehicle" means a: (1) Private passenger
249 type automobile; (2) station-wagon-type automobile; (3) camper-type
250 motor vehicle; (4) high-mileage-type motor vehicle, as defined in
251 section 14-1; (5) truck-type motor vehicle with a load capacity of fifteen
252 hundred pounds or less, registered as a passenger motor vehicle, as
253 defined in said section 14-1, or as a passenger and commercial motor
254 vehicle, as defined in said section 14-1, or used for farming purposes;
255 or (6) a vehicle with a commercial registration, as defined in
256 subdivision (12) of said section 14-1. It does not include a motorcycle
257 or motor vehicle used as a public or livery conveyance.

258 Sec. 14. Section 38a-483b of the general statutes is repealed and the
259 following is substituted in lieu thereof (*Effective October 1, 2013*):

260 Except as otherwise provided in this title, each insurer, health care
261 center, hospital service corporation, medical service corporation or
262 other entity delivering, issuing for delivery, renewing, amending or
263 continuing any individual health insurance policy in this state
264 providing coverage of the type specified in subdivisions (1), (2), (4),
265 (11), ~~[and]~~ (12) and (16) of section 38a-469 shall complete any coverage
266 determination with respect to such policy and notify the insured or the
267 insured's health care provider of its decision not later than ~~[forty-five]~~
268 sixty days for claims filed in paper format and twenty days for claims

269 filed in electronic format after a request for such determination is
270 received by the insurer, health care center, hospital service
271 corporation, medical service corporation or other entity. In the case of
272 a denial of coverage, such entity shall notify the insured and the
273 insured's health care provider of the reasons for such denial. If the
274 reasons for such denial include that the requested service is not
275 medically necessary or is not a covered benefit under such policy, the
276 entity shall (1) notify the insured that such insured may contact the
277 Office of the Healthcare Advocate if the insured believes the insured
278 has been given erroneous information, and (2) provide to such insured
279 the contact information for said office.

280 Sec. 15. Section 38a-513a of the general statutes is repealed and the
281 following is substituted in lieu thereof (*Effective October 1, 2013*):

282 Except as otherwise provided in this title, each insurer, health care
283 center, hospital service corporation, medical service corporation or
284 other entity delivering, issuing for delivery, renewing, amending or
285 continuing any group health insurance policy in this state providing
286 coverage of the type specified in subdivisions (1), (2), (4), (11), [and]
287 (12) and (16) of section 38a-469 shall complete any coverage
288 determination with respect to such policy and notify the insured or the
289 insured's health care provider of its decision not later than [forty-five]
290 sixty days for claims filed in paper format and twenty days for claims
291 filed in electronic format after a request for such determination is
292 received by the insurer, health care center, hospital service
293 corporation, medical service corporation or other entity. In the case of
294 a denial of coverage, such entity shall notify the insured and the
295 insured's health care provider of the reasons for such denial. If the
296 reasons for such denial include that the requested service is not
297 medically necessary or is not a covered benefit under such policy, the
298 entity shall (1) notify the insured that such insured may contact the
299 Office of the Healthcare Advocate if the insured believes the insured
300 has been given erroneous information, and (2) provide to such insured
301 the contact information for said office.

302 Sec. 16. Subdivision (3) of subsection (k) of section 38a-660 of the
303 general statutes is repealed and the following is substituted in lieu
304 thereof (*Effective from passage*):

305 (3) There is established an account to be known as the "surety bail
306 bond agent examination account", which shall be a separate,
307 nonlapsing account within the Insurance Fund established under
308 section 38a-52a. The account shall contain any moneys required by law
309 to be deposited in the account and any such moneys remaining in the
310 account at the [close of the fiscal] end of each calendar year shall be
311 transferred to the General Fund.

312 Sec. 17. Subdivision (11) of section 38a-720 of the general statutes is
313 repealed and the following is substituted in lieu thereof (*Effective from*
314 *passage*):

315 (11) "Third-party administrator" means any person who directly or
316 indirectly underwrites, collects premiums or charges from, or adjusts
317 or settles claims on, residents of this state in connection with life,
318 annuity or health coverage. [offered or provided by an insurer.]
319 "Third-party administrator" does not include:

320 (A) An employer administering its employee benefit plan or the
321 benefit plan of an affiliated employer under common management and
322 control;

323 (B) A union administering a benefit plan on behalf of its members;

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

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

330 (E) A creditor acting on behalf of its debtors with respect to

331 insurance covering a debt between the creditor and its debtors;

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

335 (G) A trust exempt from taxation under Section 501(a) of the
336 Internal Revenue Code of 1986, or any subsequent corresponding
337 internal revenue code of the United States, as amended from time to
338 time, and its trustees and employees acting pursuant to such trust, or a
339 custodian and the custodian's agents and employees acting pursuant
340 to a custodian account that meets the requirements of Section 401(f) of
341 the Internal Revenue Code of 1986, or any subsequent corresponding
342 internal revenue code of the United States, as amended from time to
343 time;

344 (H) A credit union or a financial institution that is subject to
345 supervision or examination by federal or state banking authorities, or a
346 mortgage lender, to the extent such credit union, financial institution
347 or mortgage lender collects or remits premiums to licensed insurance
348 producers or limited lines producers or to authorized insurers, in
349 connection with loan payments;

350 (I) A credit card issuing company that advances or collects
351 premiums or charges from its credit cardholders who have authorized
352 collection;

353 (J) An attorney-at-law who adjusts or settles claims in the normal
354 course of such attorney's practice or employment and who does not
355 collect premiums or charges in connection with life, annuity or health
356 coverage;

357 (K) An adjuster who is licensed in this state or is not subject to the
358 licensure requirements of chapter 702 and whose activities are limited
359 to adjusting claims;

360 (L) An insurance producer who is licensed in this state and acting as
361 a managing general agent, as defined in section 38a-90a, whose
362 activities are limited exclusively to those specified in said section;

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

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

370 (O) A pharmacy benefits manager registered under section 38a-
371 479bbb;

372 (P) An entity providing administrative services to the Health
373 Reinsurance Association established under section 38a-556; or

374 (Q) A nonprofit association or one of its direct subsidiaries that
375 provides access to insurance as part of the benefits or services such
376 association or subsidiary makes available to its members.

377 Sec. 18. Subsection (b) of section 38a-720a of the general statutes is
378 repealed and the following is substituted in lieu thereof (*Effective from*
379 *passage*):

380 (b) (1) Any insurer licensed in this state that [directly or indirectly
381 underwrites, collects premiums or charges from, or adjusts or settles
382 claims for other than its policyholders, subscribers and certificate
383 holders] also acts as a third-party administrator shall be exempt from
384 subsections (c) to (e), inclusive, of this section and sections [38a-720]
385 38a-720b to 38a-720n, inclusive, provided such activities extend only
386 [involve the lines of insurance] to life, annuity or health coverage for
387 which such [insurer] entity is licensed as an insurer in this state. Any
388 such [insurer] entity shall (A) be subject to the provisions of chapter

389 704, (B) respond to all complaint inquiries received from the Insurance
390 Department, not later than ten calendar days after the date a complaint
391 is received by the insurer, and (C) with respect to any advertising that
392 mentions any customer, obtain such customer's prior written consent.

393 (2) Nothing in this section shall authorize the commissioner to
394 regulate a self-insured health plan subject to the Employee Retirement
395 Income Security Act of 1974. The commissioner is authorized to
396 regulate those activities an insurer, acting as a third-party
397 administrator, undertakes for the administration of a self-insured
398 health plan that do not relate to the health benefit plan and that
399 comport with the commissioner's statutory authority to regulate
400 insurance and the business of insurance as provided for in 29 USC
401 1144, as amended from time to time.

402 Sec. 19. Subdivision (1) of subsection (b) of section 38a-741 of the
403 general statutes is repealed and the following is substituted in lieu
404 thereof (*Effective from passage*):

405 (b) (1) When any policy of insurance is procured under the authority
406 of such license providing a line of insurance or its component that does
407 not, on the effective date of coverage, appear on the current published
408 list, both the licensee and the insured shall execute affidavits setting
409 forth facts showing that such licensee and such insured were unable
410 after diligent effort to procure, from any authorized insurer or
411 insurers, the full amount of insurance required to protect the interest of
412 such insured, and further showing that the amount of insurance
413 procured from an unauthorized insurer or insurers is only the excess
414 over the amount so procurable from authorized insurers. Such licensee
415 shall file such affidavits in electronic format with the commissioner
416 [not later than forty-five days after such policies have been procured]
417 on February first, May first, August first and November first of each
418 year.

419 Sec. 20. Subsection (f) of section 38a-860 of the general statutes is

420 repealed and the following is substituted in lieu thereof (*Effective*
421 *October 1, 2013*):

422 (f) (1) Sections 38a-858 to 38a-875, inclusive, shall provide coverage
423 to the persons specified in subsections (a) to (d), inclusive, of this
424 section for direct, nongroup life, health or annuity policies or contracts
425 and supplemental contracts to such policies or contracts, for certificates
426 under direct group policies and contracts, and for unallocated annuity
427 contracts issued by member insurers, except as limited by said
428 sections. Annuity contracts and certificates under group annuity
429 contracts include, but are not limited to, guaranteed investment
430 contracts, deposit administration contracts, unallocated funding
431 agreements, allocated funding agreements, structured settlement
432 annuities, annuities issued to or in connection with government
433 lotteries and any immediate or deferred annuity contracts. (2) Said
434 sections 38a-858 to 38a-875, inclusive, shall not provide coverage for:
435 (A) Any portion of a policy or contract not guaranteed by the insurer,
436 or under which the risk is borne by the policy or contract holder; (B)
437 any policy or contract of reinsurance, unless assumption certificates
438 have been issued; (C) any portion of a policy or contract to the extent
439 that the rate of interest on which it is based or the interest rate,
440 crediting rate or similar factor determined by use of an index or other
441 external reference stated in the policy or contract employed in
442 calculating returns or changes in value (i) averaged over the period of
443 four years prior to the date on which the member insurer becomes an
444 impaired or insolvent insurer under sections 38a-858 to 38a-875,
445 inclusive, exceeds the rate of interest determined by subtracting two
446 percentage points from Moody's corporate bond yield average
447 averaged for that same four-year period or for such lesser period if the
448 policy or contract was issued less than four years before the member
449 insurer becomes an impaired or insolvent insurer under sections 38a-
450 858 to 38a-875, inclusive, whichever is earlier; and (ii) on and after the
451 date on which the member insurer becomes an impaired or insolvent
452 insurer under sections 38a-858 to 38a-875, inclusive, whichever is

453 earlier, exceeds the rate of interest determined by subtracting three
454 percentage points from Moody's corporate bond yield average as most
455 recently available; (D) a portion of a policy or contract issued to any
456 plan or program of an employer, association or similar entity to
457 provide life, health or annuity benefits to its employees or members to
458 the extent that such plan or program is self-funded or uninsured,
459 including, but not limited to, benefits payable by an employer,
460 association or similar entity under (i) a multiple employer welfare
461 arrangement as defined in Section 514 of the federal Employee
462 Retirement Income Security Act of 1974, as amended from time to
463 time; (ii) a minimum premium group insurance plan; or (iii) an
464 administrative services only contract; (E) any stop-loss or excess loss
465 insurance policy or contract providing for the indemnification of or
466 payment to a policy owner, a contract owner, a plan or another person
467 obligated to pay life, health or annuity benefits; (F) any portion of a
468 policy or contract to the extent that it provides dividends, experience
469 rating credits, voting rights or provides that any fees or allowances be
470 paid to any person, including, but not limited to, the policy or contract
471 holder, in connection with the service to or administration of such
472 policy or contract; (G) any policy or contract issued in this state by a
473 member insurer at a time when it was not licensed or did not have a
474 certificate of authority to issue such policy or contract in this state; (H)
475 any unallocated annuity contract issued to an employee benefit plan
476 protected under the federal Pension Benefit Guaranty Corporation,
477 regardless of whether the federal Pension Benefit Guaranty
478 Corporation has yet become liable to make any payments with respect
479 to the benefit plan; (I) any portion of an unallocated annuity contract
480 that is not issued to, or in connection with a specific employee, union
481 or association of natural persons benefit plan or a government lottery;
482 (J) any subscriber contract issued by a health care center; (K) a
483 contractual agreement that establishes the insurer's obligation by
484 reference to a portfolio of assets that is not owned or possessed by the
485 insurance company; (L) an obligation that does not arise under the
486 express written terms of the policy or contract issued by the insurer to

487 the contract owner or policy owner, including, but not limited to: (i) A
 488 claim based on marketing materials; (ii) a claim based on side letters,
 489 riders or other documents that were issued by the insurer without
 490 meeting applicable policy form filing or approval requirements; (iii) a
 491 misrepresentation of or regarding policy benefits; (iv) an extra-
 492 contractual claim; or (v) a claim for penalties or consequential or
 493 incidental damages; (M) a contractual agreement that establishes the
 494 member insurer's obligations to provide a book value accounting
 495 guaranty for defined contribution benefit plan participants by
 496 reference to a portfolio of assets that is owned by the benefit plan or its
 497 trustee, which in each case is not an affiliate of the member insurer;
 498 [and] (N) a portion of a policy or contract to the extent it provides for
 499 interest or other changes in value to be determined by the use of an
 500 index or other external reference stated in the policy or contract, but
 501 which have not been credited to the policy or contract, or as to which
 502 the policy or contract owner's rights are subject to forfeiture, as of the
 503 date the member insurer becomes an impaired or insolvent insurer
 504 under sections 38a-858 to 38a-875, inclusive, whichever is earlier. If a
 505 policy's or contract's interest or changes in value are credited less
 506 frequently than annually, then for purposes of determining the values
 507 that have been credited and are not subject to forfeiture under this
 508 subparagraph, the interest or change in value determined by using the
 509 procedures defined in the policy or contract shall be credited as if the
 510 contractual date of crediting interest or changing values was the date
 511 of impairment or insolvency, whichever is earlier, and shall not be
 512 subject to forfeiture; and (O) any policy or contract providing hospital,
 513 medical, prescription drugs or other health care benefits pursuant to
 514 Part C or Part D of Subchapter XVIII of 42 USC 7, as amended from
 515 time to time, or any regulations issued thereunder.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-8(d)
Sec. 2	<i>October 1, 2013</i>	38a-14(e)

Sec. 3	<i>October 1, 2013</i>	38a-53(e)
Sec. 4	<i>October 1, 2013</i>	38a-58a(a)
Sec. 5	<i>October 1, 2013</i>	38a-91bb(a)(5)
Sec. 6	<i>October 1, 2013</i>	38a-91ff(e)
Sec. 7	<i>October 1, 2013</i>	38a-91ff(n)
Sec. 8	<i>October 1, 2013</i>	38a-91kk(b)
Sec. 9	<i>October 1, 2013</i>	38a-91oo
Sec. 10	<i>October 1, 2013</i>	38a-162(b)
Sec. 11	<i>October 1, 2013</i>	38a-163(a)
Sec. 12	<i>October 1, 2013</i>	38a-188
Sec. 13	<i>October 1, 2013</i>	38a-363(e)
Sec. 14	<i>October 1, 2013</i>	38a-483b
Sec. 15	<i>October 1, 2013</i>	38a-513a
Sec. 16	<i>from passage</i>	38a-660(k)(3)
Sec. 17	<i>from passage</i>	38a-720(11)
Sec. 18	<i>from passage</i>	38a-720a(b)
Sec. 19	<i>from passage</i>	38a-741(b)(1)
Sec. 20	<i>October 1, 2013</i>	38a-860(f)

Statement of Purpose:

To revise various insurance statutes to enhance the Insurance Department's regulatory authority.

[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.]